

**CITY CLERK
ORIGINAL**

**C-10651
02/09/2016**

**Intergovernmental Agreement
Between the City of Glendale and the City of Surprise
for
Helicopter Air-Medical Logistics Operations
(H.A.L.O.)**

THIS INTERGOVERNMENTAL AGREEMENT ("IGA") is entered into to be effective beginning June 26, 2015 pursuant to Arizona Revised Statutes § 11-952 between the City of Glendale, an Arizona municipal corporation ("Glendale") and the City of Surprise ("Surprise"), a political subdivision of the State of Arizona, for their respective fire departments (hereinafter collectively referred to as the "Departments" and individually as a "Department").

WHEREAS, Glendale has an existing contract with PHI AIR MEDICAL, L.L.C., a Louisiana limited liability company ("PHI"), Contract No. C-10076, and its first amendment No. C-10076-1 which are attached hereto as Exhibit A ("PHI Agreement"); and

WHEREAS, Glendale and PHI have established a public-private air medical program to provide air medical transportation services to the residents of the City of Glendale and its automatic aid and mutual aid partners; and

WHEREAS, the Departments are parties to the automatic aid agreement for Maricopa County; and

WHEREAS, the Departments desire to provide firefighter paramedic services to support the staffing of one or more medical helicopters in conjunction with the PHI contract; and

WHEREAS, the Departments desire to provide emergency medical, special operations, aerial reconnaissance, command and control and other services to automatic aid and mutual aid jurisdictions and communities within the prescribed response areas of Helicopter Air-Medical Logistics Operations ("H.A.L.O.") medical transport aircraft.

NOW, THEREFORE, the Departments hereby agree to enter into this IGA to cooperatively provide the necessary firefighter paramedics, emergency medical services and special operations personnel services to support the H.A.L.O. program, as needed, according to the terms and conditions set forth below.

I. Purpose.

The purpose of this IGA is to provide fire services personnel to co-staff the H.A.L.O. program within the jurisdictional boundaries of the automatic aid consortium. H.A.L.O. will provide pre-hospital emergency medical and other fire service support in the Departments' jurisdictions and in other automatic aid jurisdictions within the state of Arizona (hereinafter referred to as "Fire Department Consortium"). Through this IGA, the Departments intend to provide air medical transport personnel, emergency on scene command and control, EMS and special operations services by maximizing cooperation and integrating the Departments' personnel assets.

II. Organizational Structure.

The Departments shall each provide qualified personnel to staff the H.A.L.O. program pursuant to the PHI Agreement. Personnel provided by a Department are hereinafter referred to as "Participating Personnel." Glendale will provide three (3) Participating Personnel and Surprise shall provide one (1) Participating Personnel. Each Department shall also have the mutually agreed upon number of qualified back-up personnel, depending on the department work schedule, for each Participating Personnel position. The Departments acknowledge and agree that this IGA may be amended to access additional personnel for the program, if required. H.A.L.O. program participation will be limited to automatic aid jurisdictions in Maricopa County. It is agreed that no new IGA will be entered into with any additional department related to the subject of this Agreement, nor will any amendment to this IGA be made regarding an additional department, except upon the consensus of the Departments. Notwithstanding the forgoing, the Departments acknowledge that Glendale and the North County Fire and Medical District have or will have an IGA to supply Participating Personnel.

III. H.A.L.O. Personnel.

A. The personnel qualifications and requirements for H.A.L.O. personnel are set forth in the H.A.L.O. Operations Manual, and the Departments agree that all Participating Personnel will comply with such qualifications and requirements.

B. General Orders: Participating Personnel shall be subject to both their "home" department's General Orders and the H.A.L.O. Operations Manual. If a conflict arises between one's "home" department General Orders and the H.A.L.O. Operations Manual, the H.A.L.O. Operations Manual will apply.

C. Discipline/Personnel Review: If, in the reasonable opinion of PHI or any Department, any Participating Personnel do not demonstrate a high degree of aptitude for the type of operations or customer service required for the H.A.L.O. program, including good interpersonal relations, PHI or any Department may make a written request to the Glendale Fire Chief to conduct a prompt review of the performance of the individual and to take appropriate action. Glendale reserves the right to "ground" personnel pending decision of a review board. All such employment actions will be handled by Glendale on a case-by-case basis. If, at any time, the conduct or performance of Participating Personnel comes into question, Glendale will convene a review board comprised of one representative from each Department, PHI, and the Medical Directors. The review board shall have the authority to disqualify any individual from further participation in the program. The decision of the review board may be appealed, upon written request of the individual, to an appeal board comprised of the Fire Chief, or designee, of each Department and a PHI designee. The action of the board shall not prevent additional disciplinary action by the Departments for violations of General Orders, policies or procedures.

D. Command and Control:

1. All Departments acknowledge that command and control of daily (non-incident) operational issues shall be Glendale's duty and responsibility.

Command and control of H.A.L.O. Participating Personnel during incidents will remain the responsibility of the assigned Incident Commander.

2. A H.A.L.O. Operations Manual will be promulgated and maintained by Glendale. This manual will address operational issues including, but not limited to, command, control, training, administration and marketing. Glendale will promptly notify the Departments of any changes in the H.A.L.O. Operations Manual.
3. In the event a Department fails to provide Participating Personnel for a shift, Glendale shall assign qualified personnel from the Glendale Fire Department or from another participating Department.

E. Compensation:

1. Surprise will provide personnel and be reimbursed at the initial rate of \$45.41 per hour for each hour a H.A.L.O position is occupied by Participating Personnel provided by Surprise. Payments will be made each month by Glendale based upon invoices submitted to Glendale by Surprise monthly, no later than the 10th of each month. Surprise will receive payment for time worked in a H.A.L.O. position. Adjustments in the future reimbursement rate will be governed by the contract between PHH and Glendale and will be the same for all Departments.
2. All costs associated with the initial training and continued education of the flight paramedics will be the responsibility of the city of Glendale. The city of Glendale will reimburse the city of Surprise the contractual rate for all mandated flight paramedic training.
3. Each Department shall be individually responsible for the payment of wages, including overtime, and benefits for its Participating Personnel.
- 4.. Payment by Glendale to a Department is to be made within 30 days of receipt of an invoice.

F. Uniform:

H.A.L.O personnel will wear such uniforms as prescribed in the H.A.L.O. Operations Manual.

IV. Insurance/Indemnification.

A. Each Department assumes responsibility for all liabilities relating to its Participating Personnel and will save harmless, defend and indemnify all other Departments in any actions related to such employment.

B. Each Department will maintain responsibility for all of their employees' benefits, including but not limited to sick leave, vacation, alternative duty assignments, worker's compensation and other associated life insurance requirements. Glendale will only

insure Glendale personnel related to the H.A.L.O. project and Surprise will only insure Surprise personnel related to the H.A.L.O. project. The Departments further agree that they are not joint employers for the purpose of workers compensation coverage and that any Department's employee assigned to work as Participating Personnel shall remain an employee of such Department. To the extent that employees of one Department perform duties on behalf of another Department, such employee shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of ARIZ. REV. STAT. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each Party shall post a notice pursuant to the provisions of ARIZ. REV. STAT. § 23-1022 in substantially the following form:

"All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of worker's compensation."

C. Each Department (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

V. Media Releases and Relations.

Any release of information to the media pertaining to H.A.L.O., other than a public records release, will be coordinated by the Glendale Fire Department Public Information Officer ("Glendale PIO") in cooperation with and with input from the Departments. No Department will distribute any unilateral media releases without prior coordination with the Glendale PIO. A copy of all public record and media releases regarding H.A.L.O. shall be provided to the Glendale PIO. Departments will not reveal any investigative information or operational procedures of the H.A.L.O. project outside the Departments except as required by law or competent authority. If an incident is primarily focused upon or concerned with the actions of a Department's Participating Personnel, that Department will be responsible for the release of information to the media relative to the incident.

VI. Arizona Department of Health Services Certification.

A. Relative to its Participating Personnel, each Department agrees that it will be responsible to the Arizona Department of Health Services ("ADHS") for complying with all requirements mandated by ADHS for Emergency Medical Care Technicians (EMCTs). By way of example only, and not by way of limitation, this means each Department, relative to its Participating Personnel, agrees to be responsible to ADHS for the record-keeping, training and testing requirements imposed upon fire departments employing personnel in Arizona.

B. Departments agree to cooperate to assure any issues that arise relative to EMCT certification are resolved in a reasonable and efficient manner.

VII. Execution, Duration and Renewal.

A. This IGA will be effective upon the approval and execution by both Glendale and Surprise.

B. This IGA may be executed in counterparts.

C. This IGA will remain in effect for three (3) years ending June 25, 2018, subject to the renewal and termination provisions set forth below.

D. This IGA may be renewed for successive additional three (3) year periods upon mutual written agreement of the parties.

VIII. HIPAA.

To the extent Surprise shall be deemed a "Business Associate" (as such term is defined in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as may be amended, and regulations promulgated thereunder by the U.S. Department of Health and Human Services and other federal agencies ("HIPAA") in connection with PHI's provision of services under the PHI Agreement) of PHI or Glendale, Surprise shall comply with the terms and conditions of the business Associate Agreement attached as Schedule A to the PHI Agreement.

IX. General Provisions.

A. Entire Agreement. This IGA embodies the entire understanding of the Departments and supersedes any other agreement or understanding between the parties relating to the subject matter. The Departments agree that should any part of this IGA be held to be invalid or void, the remainder of the IGA shall remain in full force and effect and shall be binding upon the parties.

B. Governing Law. This IGA shall be governed by and construed in accordance with the laws of the State of Arizona.

C. Conflict of Interest. This IGA is subject to termination pursuant to the provisions of A.R.S. § 38-511.

D. Termination. Either party may terminate this IGA by giving the other party not less than thirty (30) days prior written notice.

E. Non-Discrimination. Surprise must not discriminate against any employee or applicant for employment on the basis race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Surprise will require any Sub-contractor to be bound to the same requirements as stated within this section. Surprise, and on behalf of any subcontractors, warrants compliance with this section.

F. **Dispute Resolution.** In the event of any dispute, claim, question, or disagreement arising from or relating to this IGA or the breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If that fails, the matter shall be submitted to a body consisting of one voting representative from each Department plus a third member mutually agreed upon by the Departments for a majority vote recommendation. The Fire Chief of Glendale has the final authority to decide and resolve the dispute, claim, question or disagreement.

G. The provisions of this Agreement for payment of funds by the Parties shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Parties shall be the sole judge and authority in determining the availability of funds under this Agreement and each Party shall keep the other Parties fully informed as to the availability of funds for its program. The obligation of the Parties to make any payment pursuant to this Agreement is a current expense of the Parties, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Parties. If the City Councils of the Parties fail to appropriate money sufficient to pay the reimbursements as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the Parties shall be relieved of any subsequent obligation under this Agreement.

H. **Notice:** All notices relating to this IGA shall be deemed given when mailed, by certified or registered mail, or overnight courier, to the other Department at the address set forth below or such other address as may be given in writing from time to time:

If to Glendale: Glendale Fire Department
 Attn: Fire Chief
 5800 West Glenn Drive, Suite 350
 Glendale, Arizona 85301

with a copy to: Glendale City Attorney
 5850 West Glendale Avenue, Suite 450
 Glendale, Arizona 85301

If to Surprise: City of Surprise
 Attn: Fire Chief
 14250 W. Statler Plaza. Ste. 101
 Surprise, Arizona 85374-9002

I. **Immigration Compliance:** The Departments warrant they will abide by those federal and state immigration laws and regulations applicable to its employees. The Departments retain the legal right to inspect the papers of the Departments to ensure that the Departments are compliant with the warranty under this Section. The Departments may conduct random inspections, and upon request of a Department, the other Department shall provide copies of papers and records demonstrating continued compliance with the warranty under this Section. The Departments agree to keep papers and records available for inspection during normal business hours and will cooperate with the other Department in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of

enforcement of this Section. The Departments' warranty and obligations under this Section are continuing throughout the term of this IGA or until such time as the Departments determine that Arizona law has been modified in that compliance with this Section is no longer a requirement. The "E-Verify Program" means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

DATED: December 2nd, 2015

CITY OF SURPRISE



City Manager

ATTEST:

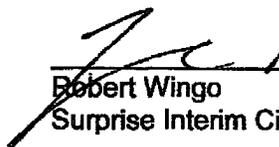


City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Surprise granted under the laws of the State of Arizona.

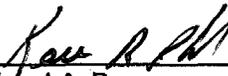
APPROVED AS TO FORM AND AUTHORITY:



Robert Wingo
Surprise Interim City Attorney

DATED: February _____ 9, 2015

CITY OF GLENDALE


Richard A. Bowers
Acting City Manager **KEVIN R. PHELPS**
CITY MANAGER

ATTEST:

Pam Hanna, City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Glendale granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

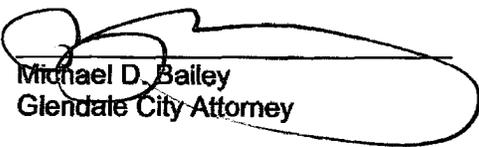

Michael D. Bailey
Glendale City Attorney

EXHIBIT A

**Air Ambulance Service Agreement (Contract No. C-10076)
Between City of Glendale and PHI Air Medical, L.L.C.
and
Amendment No. 1 to Air Ambulance Service Agreement (Contract No. C-10076)**

AIR AMBULANCE SERVICES AGREEMENT

This Air Ambulance Services Agreement (this "Agreement") is made effective as of June 23, 2015 (the "Effective Date"), by and between PHI Air Medical, L.L.C., a Louisiana limited liability company ("PHI"), and City of Glendale ("Glendale") (PHI and Glendale, collectively, the "Parties," individually, a "Party").

RECITALS

WHEREAS, PHI provides air medical transportation services; and

WHEREAS, Glendale has identified the opportunity to improve customer service to its constituents and more effectively deliver emergency services, which are core to its public safety mission; and

WHEREAS, Glendale and PHI have agreed to work cooperatively to establish a public-private air medical program to provide air medical transportation and other emergency services to the residents of the City of Glendale and its automatic aid and mutual aid partners (the "Program").

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

AGREEMENT

1. Services Provided by PHI.

- 1.1 Air Medical Transport Services. As authorized in accordance with this Agreement, PHI shall provide air ambulance flight services to patients (the "Flight Services") in accordance with (i) local, State and Federal protocols, (ii) Glendale protocols in existence on the Effective Date which have been furnished to PHI on or before the Effective Date and (iii) Glendale protocols as they may be amended after the Effective Date which have been furnished to PHI and approved by PHI (which approval will not be unreasonably withheld).
- 1.2 Flight Service Guidelines. PHI shall provide the Flight Services in accordance with the standards set forth by the Commission on Accreditation of Medical Transport Services ("CAMTS"). The PHI Medical Director for the Program, working with the PHI Manager of Clinical Standards, shall establish standards for appropriate patient care during air transport.

- 1.3 PHI Flight Operations. PHI shall provide one (1) turbine engine helicopter (the "Aircraft") with service available for the Program twenty-four (24) hours a day, three hundred sixty-five (365) days per year, except for maintenance and repair activities. The Aircraft shall be based in a mutually agreed upon West Valley location. PHI shall use its commercially reasonable efforts to promptly respond to transportation requests from Glendale to the extent the Aircraft is available and not then in use or subject to maintenance or repair activities. PHI shall provide not less than four (4) pilots and one (1) mechanic (collectively, the "Flight Team") for the Program. At least one (1) pilot shall be on-duty at all times. Each Flight Team member shall be trained to PHI standards. Each Flight Team member shall meet all educational and experience standards recommended by CAMTS. All personnel of PHI providing services pursuant to this Agreement are subject to the general approval of Glendale. The pilot in command of the aircraft shall have complete power and authority to make and shall make all decisions concerning the suitability of weather and landing areas, condition of the aircraft for flight, and all other factors affecting flight safety. In accordance with Federal Aviation Regulations and PHI General Operations Manual, the pilot in command of the aircraft will at all times maintain "Operational Control" of the Aircraft.
- 1.4 Medical Director and Medical Direction. PHI will provide physician medical director services for the Program (the "Medical Director") through Banner University Medical Center subject to the approval of Glendale, which approval shall not unreasonably be withheld. The Medical Director shall be an employee or a contractor of PHI and shall not be deemed an employee, contractor or agent of Glendale. The Medical Director must meet all licensure, education, and certification requirements as set forth by any state or federal oversight body, and CAMTS.
- 1.5 General Financial Responsibility. Each Party shall assume full responsibility and oversight for its independently incurred costs and fees associated with the Program. Costs and fees incurred for the Program that are not clearly within the responsibility of either Party will be negotiated on a case by case basis, excluding any costs or fees incurred as a result of a claim by a third-party. For purposes of this section, "third-party" means a person other than the Parties.
- 1.6 Billing and Collection Obligations. PHI shall seek payment for all Flight Services by directly billing and collecting from the patients and other persons for whose benefit such Flight Services are provided under this Agreement, including, without limitation, the transported persons, their insurance carriers, or county, state or federal agencies. Compensation received by PHI for Flight Services shall remain the property of PHI. All patient charges by PHI shall be in accordance with applicable governmental regulations. Glendale is not responsible for non-payment of bills by individuals or other responsible parties to whom patient care and transportation services, including Flight Services, have been rendered by PHI. PHI represents that its charges to patients and other persons served for services rendered under this Agreement shall be fair and competitive.

- 1.7 HIPAA. To the extent either Party shall be deemed a "Business Associate" (as such term is defined in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as may be amended, and regulations promulgated thereunder by the U.S. Department of Health and Human Services and other federal agencies ("HIPAA") in connection with PHI's provision of services under this Agreement) of the other Party, the Parties shall comply with the terms and conditions of the Business Associate Agreement attached as Schedule A.

2. Services Provided by Glendale.

- 2.1 Clinical Services on Flights. Glendale shall be responsible for providing 24-hour paramedic staffing for the Program. In accordance therewith, Glendale shall provide a total of five (5) paramedics, up to two of which may be nurse paramedics if mutually-agreed to by the Parties, trained to a standard agreed upon by the Parties for the Program (the "Glendale Medical Providers"). PHI shall pay Glendale Seventy-Four Thousand and 00/100 Dollars (\$74,000.00) per month for the Glendale Medical Providers. This rate will increase by 2.5% on each yearly anniversary of the Effective Date of this Agreement. Payments made to Glendale shall be due and payable on or before the first day of each month, to the order of the City of Glendale, 5850 W. Glendale Avenue, Glendale Arizona 85301, Attn: Finance Department, Contract No. C-_____. Payments received after the 15th day of any month shall be assessed a late charge of 15% per month. The Glendale Medical Providers shall be employees of Glendale or sub-contractors and under the control of Glendale and shall not be deemed employees or agents of PHI. Two (2) Glendale Medical Providers shall be on-duty at all times.
- 2.2 Dispatch Services. Glendale will provide all dispatch and communication services for the Program through the Phoenix Regional Dispatch and Deployment Center. These services will be conducted in accordance with the standards established by CAMTS.
- 2.3 Program Management. Glendale will designate one or more individuals to act as the supervisor over the Glendale Medical Providers from the Emergency Medical Services Division of the Glendale Fire Department ("GFD"), as provided for herein. Glendale's on duty Shift Commander will work with PHI in an advisory capacity to oversee the daily operations of the Program. All personnel provided by Glendale (including supervisors and the Glendale Medical Providers) shall be either employees or contractors of Glendale and under the control of Glendale and shall not be deemed employees or agents of PHI. Glendale shall be solely responsible for and shall pay, or cause to be paid, all salary, fringe benefits, worker's compensation benefits, professional liability insurance, all employment related taxes and any other related employment expenses associated with the personnel provided by Glendale.

- 2.4 **Medical Crew Review.** If, in the reasonable opinion of PHI, any personnel provided by Glendale pursuant to this Agreement do not demonstrate a high degree of aptitude for the type of operations or customer service required, including good interpersonal relations, PHI may make written request to Glendale to conduct a prompt review of the performance of the individual and to take appropriate prompt action. All such employment actions will be handled by Glendale on a case-by-case basis in accordance with Glendale policy and procedure. All Glendale employees shall conform to the rules and requirements jointly approved by Glendale and PHI concerning dress and conduct and other applicable PHI and Glendale policies while providing services pursuant to this Agreement, and in connection with referring/receiving agency personnel interface.
- 2.5 **Preferred Provider.** Glendale agrees that PHI shall be its "preferred provider" and shall have first right of refusal for all air medical transport requests received by, through or from GFD. If for reasons other than dangerous weather conditions, PHI is unable to timely initiate or complete any requested air medical transport, PHI will provide GFD with its best estimate of alternative aircraft response time. If GFD determines that the response time is not acceptable based on the circumstances of the transport, GFD shall be free to solicit and utilize any other appropriate resource or transport service to meet patient transfer needs without violating the preferred provider status of PHI. PHI shall have no liability to Glendale or GFD as a result of PHI's inability to fulfill a request for air medical transport unless caused by PHI's willful misconduct. GFD will encourage regional support and utilization of PHI as the regional air medical transport program. Notwithstanding PHI's preferred provider status hereunder, the party to be transported or the attending physician or health care provider shall always have the right to direct that another air medical transporter be used for the transport.
3. **Utilization of Corporate Identity or Likeness.** PHI and Glendale will use their commercially reasonable efforts to participate in mutually beneficial public relations and marketing activities. Neither PHI nor Glendale will utilize the others' markings or identities without express written permission from the other Party. PHI will allow Glendale to place Glendale's identity on aircraft dedicated to this Agreement, provided that PHI will only use Glendale's trade names, trademarks, and logos in accordance with this Agreement. All marketing materials of PHI that names or makes reference to Glendale or the Glendale trade names, trademarks and logos must be approved in writing by Glendale prior to distribution.
4. **Relationship of the Parties.** The relationship of the Parties as set forth in this Agreement is that of independent contractor to the other Party. PHI shall be an independent contractor of Glendale pertaining to the Flight Services and the Program pursuant to this Agreement. Glendale shall be an independent contractor of PHI in furnishing the Glendale Medical Providers and any and all supervisory and communications personnel for the Program. Nothing in this Agreement is intended or shall be construed as creating any kind of partnership, joint venture, or agency relationship between the Parties.

5. **Term.** Subject to Section 11.3, the term of this Agreement commences upon the Effective Date and continues for a two (2) year initial period (the "Term"). Glendale may, at its option and with the approval of PHI, extend the Term of this Agreement an additional three (3) years, renewable on an annual basis (each an "Extended Term"). PHI shall be notified in writing by Glendale of its intent to extend the Agreement at least 30 calendar days prior to the expiration of the Term or any Extended Term. There are no automatic renewals of this Agreement.
6. **Termination for Convenience.** Notwithstanding anything herein to the contrary, this Agreement may be terminated by either Party for convenience and with or without cause upon ninety (90) days written notice. The terms of this Agreement will apply until the date of termination (not the date of notice).
7. **Representations, Warranties and Covenants of PHI.** PHI hereby represents, warrants and covenants as follows:
 - 7.1 **Organization.** PHI is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Louisiana, and has the power and authority to execute, deliver and perform its obligations under this Agreement. PHI is qualified and authorized to do business in the State of Arizona.
 - 7.2 **Authorization.** The execution, delivery and performance of PHI of this Agreement have been authorized by all necessary corporate action on the part of PHI.
 - 7.3 **FAA Regulations.** PHI shall comply with all regulations of the Federal Aviation Administration ("FAA") pertaining to air medical transport services being furnished by PHI under this Agreement and, in that connection, PHI represents that the Aircraft and the members of the Flight Team are properly licensed and certified and meet the minimum requirements as set forth in the applicable FAA regulations.
 - 7.4 **Compliance.** In addition to the FAA regulations referenced in Section 7.3, PHI shall comply with all federal, state and local laws and regulations applicable to the Flight Services provided by PHI under this Agreement.
8. **Representations, Warranties and Covenants of Glendale.** Glendale hereby represents, warrants and covenants as follows:
 - 8.1 **Organization.** Glendale is a duly organized municipal fire department validly existing and in good standing under the laws of the State of Arizona, and has the power and authority to execute, deliver and perform its obligations under this Agreement.
 - 8.2 **Authorization.** The execution, delivery and performance of Glendale of this Agreement have been authorized by all necessary government action on the part of Glendale.

- 8.3 Governmental Approvals. Glendale has obtained, and shall maintain and keep in force, all consents, licenses, permits, approvals and authorization of federal, state and local governmental authorities which may be required to execute, deliver and perform its obligations under this Agreement.

9. PHI Insurance Requirements.

- 9.1 Policies and Amounts. PHI shall, during the Term or any Extended Term, maintain the following minimum insurance coverage:

- (a) Commercial General Liability Insurance in the minimum amounts indicated below or such additional amounts as required by the City of Glendale, including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of any agreement with the City of Glendale, Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of your performance of work for the City of Glendale. Said insurance shall have minimum limits for Bodily Injury and Property Damage Liability equal to the policy limits, but not less than \$2,000,000 each occurrence and \$4,000,000 aggregate.
- (b) All risk ground and flight aircraft hull insurance. Aircraft liability insurance covering injuries to passengers or third parties and damage to property in an amount not less than \$50,000,000 for any one accident or series of accidents arising out of any one event. Such aircraft insurance excludes medical malpractice coverage and aggravation of injuries to passengers.
- (c) Workers' compensation insurance for its employees at Arizona statutory limits including a waiver of subrogation in favor of the City of Glendale.
- (d) With the exception of Workers' compensation insurance and the incidental medical malpractice protection afforded PHI as an extension of its aircraft liability policy, to the extent of PHI's Indemnification Obligations, Glendale shall be included as an additional insured on each and every one of PHI's policies described above, waive subrogation, be primary to any other insurance or self-insurance covering the same risks maintained by Glendale, and provide Glendale 60 days' written notice of cancellation, non-renewal or material change.
- (e) "Best's Key Rating Guide" – All insurance shall be issued by a company or companies licensed to do business in Arizona and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-;VII or its equivalent. Any exception to these requirements must be approved by the City.
- (f) 30-Day Cancellation Notice. The above stated insurance coverage's required to be maintained by PHI shall be maintained until the completion of all of PHI's obligations under any agreement, and shall not be reduced, modified, or canceled without thirty (30) days prior written notice to the Certificate Holder. PHI shall immediately obtain replacement coverage for any insurance policy

that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

- (g) **Primary and Non-Contributory.** All insurance carried by PHI shall be primary and non-contributory with any insurance carried by the City of Glendale to the extent of the risks and liabilities assumed by PHI hereunder. The policy must be endorsed to include this verbiage and evidence of coverage provided with the certificate.
- (h) **Notice of Cancellation.** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.
- (i) **Waiver of Subrogation.** PHI hereby grants to the City of Glendale a waiver of any right to subrogation to the extent of the risks and liabilities assumed by PHI hereunder, which any insurer of said PHI may acquire against the City by virtue of the payment of any loss under such insurance. PHI agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
- (j) **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the City of Glendale. The City of Glendale may require the PHI to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. If PHI maintains higher limits than the minimums shown above, then the City requires and shall be entitled to coverage for the higher limits maintained by the PHI to the extent of the risks and liabilities assumed by PHI hereunder.
- (k) **The City of Glendale Risk Manager may make reasonable changes to the required insurance based on the circumstances.**

9.2 Glendale shall, during the Term or any Extended Term, maintain the following minimum insurance coverage and, to the extent of Glendale's Indemnification Obligations, all such policies of insurance shall name PHI as an additional insured (except with respect to workers' compensation coverage), waive subrogation (except with respect to workers' compensation coverage), be primary to any other insurance or self-insurance covering the same risks maintained by PHI, and provide PHI 30 days written notice of cancellation, non-renewal or material change, only with respect to work performed pursuant to or the operations of the City of Glendale related to this Agreement and the Program.

- (a) **Professional/Paramedic errors and omissions liability insurance in amounts of not less than \$4,000,000 single and \$6,000,000 aggregate limits.**
- (b) **Workers' Compensation insurance for its employees at Arizona statutory limits.**

10. **Indemnification.** The Parties agree to indemnify each other (the "Indemnification Obligations") as follows:

- 10.1 PHI's Indemnification Obligations. PHI agrees to defend, protect, indemnify and hold harmless Glendale, its mutual aid partners, subsidiaries, affiliates and subcontractors and their respective directors, officials, officers, agents, employees, representatives and agents, including, without limitation, the Glendale Medical Providers and all supervisory and communications personnel (collectively, the "Glendale Group") from every kind or character of damages, losses, liabilities, expenses, demands or claims (collectively, "Losses") arising out of, connected with, incident to, resulting from or relating to, the performance of Flight Services under this Agreement, including but not limited to the operation and maintenance of the Aircraft, after the Effective Date, to the extent and only to the extent such Losses are caused by the negligence, fault, or other legal liability of PHI, its parent, any subsidiaries, affiliates and other contractors and subcontractors (not including Glendale) and their respective directors, officers, agents, employees, and representatives, including, without limitation, the members of the Flight Team and the Medical Director (collectively, the "PHI Group"), which obligation shall not be diminished in any regard if such Losses were caused in part by the concurrent or joint negligence, either active or passive, of any member of the Glendale Group; provided, however, that, in the event of joint or concurrent negligence or fault of any member of the Glendale Group and any member of the PHI Group, PHI's indemnification obligation shall be limited to PHI's allocable share of such joint or concurrent negligence or fault.
- 10.2 Glendale's Indemnification Obligations. Glendale agrees to defend, protect, indemnify and hold harmless the PHI Group for Losses, to the extent and only to the extent such Losses are caused by the negligence, fault, or other legal liability of any member of the Glendale Group, which obligation shall not be diminished in any regard if such Losses were caused in part by the concurrent or joint negligence, either active or passive, of any member of the PHI Group; provided, however, that, in the event of joint or concurrent negligence or fault of Glendale and PHI, Glendale's indemnification obligation shall be limited to Glendale's allocable share of such joint or concurrent negligence or fault.
- 10.3 Limitations. Neither PHI nor Glendale shall indemnify the other Party for any Losses resulting from the intentional, willful or negligent acts of the other Party or members of its organization. In no event, whether as a result of contract, tort, strict liability or otherwise, shall either Party be liable to the other for any punitive, special, indirect, incidental or consequential damages, including without limitation loss of profits, loss of use or loss of contract. The Indemnification Obligations shall not be reduced nor limited by any insurance coverage or insurance proceeds an Indemnified Party may have for its own account with respect to a claim.
- 10.4 Procedures. PHI or Glendale shall promptly notify the other Party of the existence of any claim, or the threat of any claim, to which the Indemnification Obligations might apply. Upon written request by the Party entitled to indemnification (the "Indemnitee"), the other Party (or its insurer) (the "Indemnitor") shall select,

manage, and pay the claim investigation and legal defense costs as a part of the indemnity obligation including any settlement and/or judgment amounts awarded. Each Indemnitee shall have the right, at its option and sole expense, to participate in the defense or claim without relieving the Indemnitor of any obligation hereunder. The Indemnitee shall cooperate and comply with all reasonable requests that the Indemnitor may make in connection with the defense and any settlement of a claim.

- 10.5 Duration. The Indemnification Obligations shall continue after the termination of this Agreement, and all rights associated with the Indemnification Obligations shall inure to the benefit of the successors or assigns of PHI and Glendale.

11. Miscellaneous.

- 11.1 Force Majeure. Neither Party shall be liable to the other Party for failure to perform its respective obligations under this Agreement if and to the extent that such failure results from causes beyond the non-performing Party's reasonable control, including without limitation such causes as strikes, lockouts, riots, fires, floods or other weather conditions, natural disasters, acts of God, acts of public enemy, or any regulations, orders or requirements of any duly authorized governmental body or agency (collectively, "Force Majeure"). If either Party is unable to perform as a result of Force Majeure, it shall promptly notify the other Party in writing of the beginning and estimated ending of each such period. If any period of Force Majeure continues for thirty (30) days or more, the Party not so failing in performance shall have the right to terminate the Agreement upon written notice to the other Party. Notwithstanding anything contained herein to the contrary, PHI shall use its commercially reasonable efforts to provide a backup helicopter and associated flight services as required by this Agreement during the period of Force Majeure.
- 11.2 Default. A material breach by either Party of any representation, warranty or covenant contained in this Agreement or the failure of either Party to comply with any material terms or conditions set forth in this Agreement shall constitute an event of default ("Default").
- 11.3 Termination. This Agreement shall terminate and, except as otherwise set forth herein, shall be of no further force and effect sixty (60) days after the non-defaulting Party provides the defaulting Party with written notice of a Default (the "Cure Period"), unless the non-defaulting Party cures the Default prior to the expiration of the Cure Period. Further, this Agreement may be terminated for convenience, as set forth in Section 6, or by reason of Force Majeure, as set forth in Section 11.1, above.
- 11.4 Severability. In the event that any provision of this Agreement is determined to be unlawful or contrary to public policy, such provision shall be severed here from,

shall be deemed null and void, but shall in no way affect the remaining provisions outlined herein.

- 11.5 Proprietary Information. PHI shall cause its employees, agents and affiliates to hold as confidential all patient information, except as may otherwise be reasonably necessary for PHI's routine business functions to the extent it is deemed a Business Associate. Glendale shall cause its employees, agents and affiliates to hold confidential all patient information, except as may otherwise be reasonably necessary for Glendale's routine business functions to the extent it is deemed a Business Associate.
- 11.6 Assignment. Neither Party shall assign this Agreement, in whole or in part, without the prior written consent of the other.
- 11.7 Waiver. The waiver by one Party of any breach or failure of the other Party to perform any covenant or obligation contained in this Agreement shall not constitute a waiver of any subsequent breach or failure.
- 11.8 Entire Agreement. This Agreement and any exhibits or schedules attached thereto or referred to herein, represent the entire agreement between the Parties, with respect to the subject matter hereof, all other prior agreements being merged herein, and this Agreement shall not be modified except in writing signed by the Party against whom such modification is sought to be enforced.
- 11.9 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona, without giving regard to its conflicts of law rules or principles.
- 11.10 Non-Discrimination. Neither Party will discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Each Party will require any sub-contractor to be bound to the same requirements as stated within this section.
- 11.11 Cancellation. This Agreement is subject to cancellation for conflicts of interest under the provisions of A.R.S. § 38-511.
- 11.12 Immigration Compliance.
- 11.12.1 PHI, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.

- 11.12.2 Any breach of warranty under subsection 11.12.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 11.12.3 Glendale retains the legal right to inspect the papers of PHI or subcontractor employee who performs work under this Agreement to ensure that PHI or any subcontractor is compliant with the warranty under subsection 11.12.1 above.
- 11.12.4 Glendale may conduct random inspections, and upon request of the Glendale, PHI shall provide copies of papers and records demonstrating continued compliance with subsection 11.12.1 above. PHI agrees to keep papers and records available for inspection by Glendale during normal business hours and will cooperate with Glendale in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this Section.
- 11.12.5 PHI agrees to incorporate into any subcontracts directly related to this Agreement the same obligations imposed upon it as set forth in this Section 11.12 and expressly accrue those obligations directly to the benefit of Glendale. PHI also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of Glendale.
- 11.12.6 PHI's warranty and obligations under this Section to Glendale are continuing throughout the Term of this Agreement or until such time as Glendale determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 11.12.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.
- 11.13 Notice. All notices relating to this Agreement shall be deemed given when mailed, by certified or registered mail, or overnight courier, to the other Party at the address set forth below or such other address as may be given in writing from time to time:

If to Glendale: Glendale City Clerk:
5850 West Glendale Avenue.
Glendale, Arizona 85301
Telephone: (623) 930-2030

With a copy to: Glendale Fire Chief
6829 N. 58th Drive
Glendale, Arizona 85301

Telephone: (623) 930-4406
Fax: (623) 623-847-5313

Glendale City Attorney
5850 West Glendale Avenue.
Glendale, Arizona 85301
Telephone: (623) 930-2930
Fax: (623) 915 2391

If to PHI: PHI Air Medical, L.L.C.
Attn: David Motzkin, President
2800 N. 44th Street, Suite 800
Phoenix, AZ 85008

Copy to: PHI Air Medical, L.L.C.
Attn: Jeff Stanek, Director of Finance
2800 N. 44th Street, Suite 800
Phoenix, AZ 85008
Telephone: (602) 273-9349
Fax: (602) 224-1601

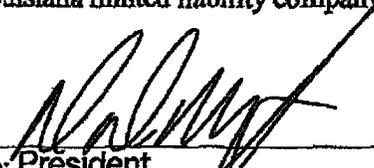
11.14 Recitals. The recitals contained in the first portion of this Agreement are made an integral part of this Agreement.

11.15 No Referral Relationship. The Parties acknowledge and agree that the amounts being paid or reimbursed by PHI hereunder are fair and reasonable and reflective of the actual cost of such services and that there is no expectation of any referral relationship or any other form of remuneration by Glendale as a result of the arrangements set forth in this Agreement.

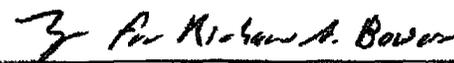
[Signature Page Follows]

The Parties, through their respective undersigned authorized officers, have duly executed this Agreement as of the Effective Date.

PHI:
PHI Air Medical, L.L.C.,
a Louisiana limited liability company

By: 
Title: President

GLENDALE:
City of Glendale,
an Arizona municipal corporation


Dick Bowers
Acting City Manager

ATTEST:


Pam Hanna
City Clerk

(SEAL)

APPROVED AS TO FORM:


Michael D. Bailey
City Attorney

SCHEDULE A
Business Associate Agreement

CITY CLERK ORIGINAL

C-10076-1
07/22/15

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is made effective the 22 day of July, 2015 ("Effective Date"), by and between the City of Glendale ("Glendale"), and PHI Air Medical, L.L.C. ("PHIAM"). Glendale and PHIAM may from time to time be either a Covered Entity or a Business Associate as such terms are used in this Agreement and defined under applicable law. Accordingly, the terms Covered Entity and Business Associate used herein shall apply to Glendale and/or PHIAM, as applicable, and solely to the extent such parties are deemed either a Covered Entity or a Business Associate under applicable law. (Glendale and PHIAM may sometimes be referred to individually as a "Party" and collectively as the "Parties.")

WITNESSETH

WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, known as "the Administrative Simplification provisions," direct the Department of Health and Human Services ("HHS") to develop standards to protect the security, confidentiality and integrity of health information;

WHEREAS, pursuant to the Administrative Simplification provisions, the Secretary of Health and Human Services issued regulations modifying 45 CFR Parts 160 and 164 (the "HIPAA Privacy and Security Rule");

WHEREAS, the Health Information Technology for Economic and Clinical Health Act, and regulations thereunder (collectively, "HITECH Act"), codified at 42 U.S.C. 17921-17954, provides modifications to the HIPAA Privacy and Security Rule;

WHEREAS, pursuant to the HITECH Act, the Secretary of HHS has issued regulations at 45 C.F.R. Part 164, Subpart D (the "Data Breach Rule", together with the HIPAA Privacy and Security Rule and any and all regulations promulgated under the HITECH Act, the "HIPAA Rules") and may issue additional regulations in the future to further protect the security, confidentiality, and integrity of health information;

WHEREAS, the Parties wish to enter into or have entered into an arrangement whereby each Party will provide services to or on behalf of the other Party (the "Contract") and, pursuant to such Contract, each of the Parties may be considered a "business associate" of the other Party as defined in the HIPAA Rules;

WHEREAS, in connection with these services, each of the Parties, when acting as a Covered Entity, may disclose to the other Party, when acting as a Business Associate, certain Protected Health Information that is subject to protection under the HIPAA Rules; and

WHEREAS, both Parties agree that the HIPAA Rules require that the Covered Entity receive adequate assurances that the Business Associate will comply with certain obligations with respect to the Protected Health Information received in the course of providing services to

or on behalf of the Covered Entity, and the purpose of this Agreement is to comply with the requirements of the HIPAA Rules.

NOW THEREFORE, in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. Definitions. Except as otherwise defined in this Agreement, any and all capitalized terms shall have the same meaning as the definitions set forth in the HIPAA Rules, as amended from time to time. In particular, the following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Privacy Rule, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Rules, as amended, the HIPAA Rules shall control.

B. Purposes for which PHI May Be Disclosed to Business Associate. In connection with the services provided by Business Associate to or on behalf of Covered Entity described in this Agreement, Covered Entity may Disclose Protected Health Information ("PHI") to Business Associate solely for the purposes described in the Contract.

C. Obligations of Business Associate. Business Associate acknowledges that sections of the HIPAA Rules apply directly to Business Associate as they apply to Covered Entity and agrees to comply with such rules and regulations, including:

1. Use and Disclosure of PHI. Except as otherwise permitted by this Agreement or Required by Law, Business Associate shall not Use or Disclose PHI except as necessary to provide the services as described in the Contract to or on behalf of Covered Entity, and shall not Use or Disclose PHI in a manner that would violate the Privacy Rule if Used or Disclosed by Covered Entity. Notwithstanding the foregoing, Business Associate may access, create or receive PHI and Use and Disclose PHI as necessary for the proper management and administration of Business Associate, or to carry out its legal responsibilities, provided that Business Associate shall in such cases:

a) provide information to members of its workforce Using or Disclosing PHI regarding the confidentiality requirements of the HIPAA Rules and this Agreement; and

b) unless such Disclosure is Required by Law, obtain reasonable assurances from the person or entity to whom the PHI is Disclosed that: (a) the PHI will be held confidential and further Used and Disclosed only as Required by Law or for the purpose for which it was Disclosed to the person or entity; and (b) the person or entity will notify Business Associate of any instances of which it is aware in which confidentiality of the PHI has been breached.

Business Associate must also comply with the HIPAA Privacy and Security Rule (45 C.F.R. §§ 164.314(a)(2)(i)(A), 164.504(e)(2)(ii)(B)) as well as Covered Entity's minimum necessary policies.

2. Incident Reporting. Business Associate shall report, in writing, to Covered Entity any Breach, Security Incident, or Use, Disclosure or unauthorized access of PHI that is not permitted by this Agreement within two (2) calendar days after discovery (as provided in (45 C.F.R. §§ 164.314(a)(2)(i)(C), 164.504(e)(2)(ii)(C)). The report shall include, at a minimum, the identification of each affected individual. The Covered Entity retains control over breach notification procedures, including risk assessment, provision of breach notification to affected patients and communications to other entities as required, such as media outlets and the Secretary ("Breach Notification Procedure"). Business Associate shall cooperate with Covered Entity in any investigation of the incident and the Breach Notification Procedure, to include a review of breach notification and other communications as requested. In addition, Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement, the HIPAA Rules, or in violation of any applicable state law.

3. Data Aggregation. In the event that Business Associate works for more than one covered entity, Business Associate is permitted to Use PHI for Data Aggregation purposes only in order to analyze data for permitted Health Care Operations, to the extent that such Use is permitted under the Privacy Rule and the Contract.

4. Safeguards. Business Associate shall implement reasonable and appropriate administrative, physical and technical safeguards to ensure that PHI is not Used or Disclosed in any manner inconsistent with this Agreement and to protect the confidentiality, integrity, and availability of any electronic PHI it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the Security Rule. Further, Business Associate will implement any other security requirements to the extent required by Section 17931(a) of the HITECH Act and any applicable regulations. Business Associate will ensure that any agent, including a Subcontractor, to whom it provides such electronic PHI agrees to implement reasonable and appropriate safeguards to protect it.

5. Minimum Necessary. Business Associate and its agents or Subcontractors, if any, shall request, Use and Disclose only a Limited Data Set, if practicable; if not practicable, Business Associate and its agents or Subcontractors, if any, shall request, Use and Disclose only the minimum amount of PHI necessary to accomplish the purpose of the request, Use or Disclosure, unless an exception in 45 C.F.R. § 164.502(b)(2) applies; provided that, when effective, Business Associate agrees to comply with the Secretary's guidance on what constitutes minimum necessary as required by HITECH Act Section 13405.

6. Disclosure to Agents and Subcontractors. If Business Associate Discloses PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, to agents, including a Subcontractor, Business Associate shall require the agent or Subcontractor to agree in writing to the same or substantially similar restrictions and conditions as apply to Business Associate under this Agreement (45 C.F.R. §§ 164.314(a)(2)(i)(B)). To the extent that the Business Associate is to carry out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate must comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations. Business Associate further expressly warrants that its agents or Subcontractors will be specifically advised of, and will comply in all respects with, the terms of this Agreement.

7. Individual Rights.

a) Individual Right to Copy or Inspection. Business Associate agrees that if it maintains a Designated Record Set for Covered Entity that is not maintained by Covered Entity, it will permit an Individual to inspect or copy PHI about the Individual in that set as directed by Covered Entity to meet the requirements of 45 C.F.R. § 164.524, the HITECH Act, and applicable state law. Covered Entity is required to take action on such requests as soon as possible, but not later than fifteen (15) days following receipt of the request. Business Associate agrees to make reasonable efforts to assist Covered Entity in meeting this deadline. If Business Associate maintains PHI electronically, it agrees to make such PHI electronically available to the applicable Individual. If Covered Entity maintains the requested records, Covered Entity, rather than Business Associate, shall permit access according to its policies and procedures implementing the HIPAA Rules.

b) Individual Right to Amendment. Business Associate agrees, if it maintains PHI in a Designated Record Set, to make amendments to PHI at the request and direction of Covered Entity pursuant to 45 C.F.R. § 164.526. If Business Associate maintains a record in a Designated Record Set that is not also maintained by Covered Entity, Business Associate agrees that it will accommodate an Individual's request to amend PHI only in conjunction with a determination by Covered Entity that the amendment is appropriate according to 45 C.F.R. § 164.526.

c) Accounting of Disclosures. Business Associate agrees to maintain documentation of the information required to provide an accounting of Disclosures of PHI in accordance with 45 C.F.R. § 164.528 and Section 17935(c) of the HITECH Act, and to make this information available to Covered Entity upon Covered Entity's request, in order to allow Covered Entity to respond to an Individual's request for accounting of Disclosures.

8. Internal Practices, Policies and Procedures. Except as otherwise specified herein, Business Associate shall make available its internal practices, policies and

procedures relating to the Use and Disclosure of PHI received from or on behalf of Covered Entity to the Secretary or his or her agents for the purpose of determining Covered Entity's compliance with the HIPAA Rules, or any other health oversight agency, or to Covered Entity. Records requested that are not protected by an applicable legal privilege will be made available in the time and manner specified by Covered Entity, the applicable health oversight agency, or the Secretary.

9. Notice of Privacy Practices. Business Associate shall abide by the limitations of Covered Entity's Notice of which it has knowledge. Any Use or Disclosure permitted by this Agreement may be amended by changes to Covered Entity's Notice; provided, however, that the amended Notice shall not affect permitted Uses and Disclosures on which Business Associate relied prior to receiving notice of such amended Notice.

10. Withdrawal of Authorization. If the Use or Disclosure of PHI in this Agreement is based upon an Individual's specific authorization for the Use or Disclosure of his or her PHI, and the Individual revokes such authorization, the effective date of such authorization has expired, or such authorization is found to be defective in any manner that renders it invalid, Business Associate shall, if it has notice of such revocation, expiration, or invalidity, cease the Use and Disclosure of the Individual's PHI except to the extent it has relied on such Use or Disclosure, or if an exception under the Privacy Rule expressly applies.

11. Knowledge of HIPAA. Business Associate agrees to review and understand the HIPAA Rules as they apply to Business Associate, and to comply with the applicable requirements, as well as any applicable amendments thereto.

12. Remuneration and Marketing. Business Associates will not directly or indirectly receive remuneration in exchange for any PHI, subject to the exceptions contained in the HITECH Act, without a valid authorization from the applicable Individual. Business Associate will not engage in any communication which might be deemed to be "marketing" under the HITECH Act.

D. Term and Termination.

1. Term. This Agreement shall be effective as of the Effective Date and shall run coterminous with the Contract. At the termination of this Agreement, all PHI provided to Business Associate by Covered Entity, or created or received by Business Associate on behalf of Covered Entity, shall be destroyed or returned to Covered Entity, unless Covered Entity permits Business Associate to use or disclose PHI for its own management and administration or to carry out its legal responsibilities, in which case the PHI retained shall be limited to the Minimum Necessary for such use or disclosure.

2. Termination for Breach. If Business Associate, or its agents or Subcontractors, if any, violates any material term of this Agreement, as determined by Covered Entity, Covered Entity may, in its discretion: (i) immediately terminate this

Agreement; (ii) provide an opportunity for Business Associate to cure the Breach or end the violation and terminate this Agreement if Business Associate does not promptly cure the Breach or end the violation within a period not to exceed thirty (30) days; or (iii) report the violation to the Secretary if neither termination nor cure is feasible.

Covered Entity may terminate this Agreement effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of the HIPAA Rules or other security or privacy laws or (ii) there is a finding or stipulation that the Business Associate has violated any standard or requirement of the HIPAA Rules or other security or privacy laws in any administrative or civil proceeding in which Business Associate is involved. Business Associate agrees to report the commencement of any legal action or investigation against Business Associate arising from an alleged violation of the HIPAA Rules or any other security or privacy laws.

3. Effect of Termination. Upon termination of this Agreement for any reason, Business Associate agrees to return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, maintained by Business Associate in any form. If Business Associate determines that the return or destruction of PHI is not feasible, Business Associate shall inform Covered Entity in writing of the reason thereof, and shall agree to extend the protections of this Agreement to such PHI and limit further Uses and Disclosures of the PHI to those purposes that make the return or destruction of the PHI not feasible for so long as Business Associate retains the PHI.

E. Miscellaneous.

1. Independent Contractors. It is expressly agreed and stipulated by and between the Parties hereto that Business Associate and Covered Entity are independent contractors, and neither Party shall be deemed or construed to be an agent, servant, or employee of the other or of any affiliates within the meaning of the Workers' Compensation Act of the applicable State.

2. Insurance. Unless greater coverage is required under any other agreement between Covered Entity and Business Associate for the provision of services related to the Contract and this Agreement, Business Associate shall maintain or cause to be maintained the following insurance covering itself and each Subcontractor or agent, if any, through whom Business Associate provides services: (i) a policy of commercial general liability and property damage insurance, and electronic data processing insurance, with limits of liability not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate; and (ii) such other insurance or self-insurance as shall be necessary to insure it against any claim or claims for damages arising under this Agreement or from violating Business Associate's own obligations under the HIPAA Rules, including but not limited to, claims or the imposition of administrative penalties and fines on Business Associate or its Subcontractors or agents, if any, arising from the loss, theft, or unauthorized use or disclosure of PHI. Such insurance coverage shall apply to all site(s) of Business Associate and to all services

provided by Business Associate or any of its Subcontractors or agents under the Contract or this Agreement.

3. Indemnification. To the extent permitted by law, Business Associate agrees to indemnify and hold harmless Covered Entity from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, reasonable attorney's fees, defense costs, and equitable relief) (collectively, "Claims"), for any damage or loss incurred by Covered Entity arising out of, resulting from, or attributable to any negligence, fault or other legal liability of Business Associate or its Subcontractors or agents in connection with the performance of Business Associate's duties under this Agreement. This indemnity shall not be construed to limit Covered Entity's rights, if any, to common law indemnity.

To the extent permitted by law, Covered Entity agrees to indemnify and hold harmless Business Associate from and against all Claims for any damage or loss incurred by Business Associate arising out of, resulting from, or attributable to any negligence, fault or other legal liability of Covered Entity or its Subcontractors or agents in connection with this Agreement. This indemnity shall not be construed to limit Business Associate's rights, if any, to common law indemnity.

The Party receiving indemnification ("Indemnified Party") shall have the option, at its discretion, to employ attorneys selected by it to defend any such action, the reasonable costs and expenses of which shall be the responsibility of the Party providing indemnification (the "Indemnifying Party"). The Indemnified Party shall provide the Indemnifying Party with timely notice of the existence of such proceedings and such information, documents and other cooperation as reasonably necessary to assist the Indemnifying Party in establishing a defense to such action.

These indemnities shall survive termination of this Agreement.

4. Rights of Proprietary Information. Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate. Business Associate agrees that it acquires no title or rights to PHI as a result of the Contract or this Agreement.

5. Survival. The respective rights and obligations of Business Associate under Sections C, D, E.2, E.3, and E.4 of this Agreement shall survive the termination of this Agreement for any reason.

6. Notices. Any notices pertaining to this Agreement shall be given in writing and shall be deemed duly given when personally delivered to a Party or a Party's authorized representative as listed below or sent by means of a reputable overnight carrier, or sent by means of certified mail, return receipt requested, postage prepaid. A notice sent by certified mail shall be deemed given on the date of receipt or refusal of receipt. All notices shall be addressed to the appropriate Party as follows:

If to Glendale: Glendale City Clerk
5850 West Glendale Avenue.
Glendale, Arizona 85301
Telephone: (623) 930-2030

With a Copy to: Glendale City Attorney
5850 West Glendale Avenue.
Glendale, Arizona 85301
Telephone: (623) 930-2930
Fax: (623) 915 2391

If to PHIAM: PHI Air Medical, L.L.C.
2800 N. 44th Street, Suite 800
Phoenix, Arizona 85008
Attn: David Motzkin, President

With a Copy to: PHI Air Medical, L.L.C.
2800 N. 44th Street, Suite 800
Phoenix, Arizona 85008
Attn: Jeff Stanek, Director of Finance

7. Amendments. If any modification to this Agreement is required by HIPAA, the HITECH Act, the HIPAA Rules, or any other federal or state law affecting this Agreement or if Covered Entity reasonably concludes that an amendment to this Agreement is needed because of a change in federal or state law or changing industry standards, Covered Entity shall notify Business Associate of such proposed modification(s) ("Legally-Required Modifications"). Such Legally Required Modifications shall be deemed accepted by Business Associate and this Agreement so amended, if Business Associate does not, within thirty (30) calendar days following the date of the notice (or within such other time period as may be mandated by applicable state or federal law), deliver to Covered Entity its written rejection of such Legally-Required Modifications. If the Parties cannot agree on the effect of any such amendment or interpretation, this Agreement may be terminated upon written notice to the other Party.

8. Choice of Law. This Agreement and the rights and the obligations of the Parties hereunder shall be governed by and construed under the laws of the State of Arizona, without regard to applicable conflict of laws principles.

9. Assignment of Rights and Delegation of Duties. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns. However, neither Party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

Notwithstanding any provisions to the contrary, however, Covered Entity retains the right to assign or delegate any of its rights or obligations hereunder to any of its wholly owned subsidiaries, affiliates or successor companies. Assignments made in violation of this provision are null and void.

10. Nature of Agreement. Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the Parties or any of their affiliates, (ii) any fiduciary duty owed by one Party to another Party or any of its affiliates, or (iii) a relationship of employer and employee between the Parties.

11. No Waiver. Failure or delay on the part of either Party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. No provision of this Agreement may be waived by either Party except by a writing signed by an authorized representative of the Party making the waiver.

12. Equitable Relief. Business Associate agrees that any disclosure of misappropriation of PHI by Business Associate or its agents or Subcontractors, if any, in violation of this Agreement will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain. Business Associate therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining Business Associate from any such further Disclosure or Breach, and for such other relief as Covered Entity shall deem appropriate. Such rights are in addition to any other remedies available to Covered Entity at law or in equity.

13. Severability. The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.

14. No Third Party Beneficiaries. Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not party to this Agreement nor imposing any obligations on either Party hereto to persons not a party to this Agreement.

15. Headings. The descriptive headings of the articles, sections, subsections, exhibits and schedules of this Agreement are inserted for convenience only, do not constitute a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.

16. Entire Agreement. This Agreement, together with the all Exhibits, Riders and amendments, if applicable, which are fully completed and signed by authorized persons on behalf of both Parties from time to time while this Agreement is in effect, constitutes the entire Agreement between the Parties hereto with respect to the subject matter hereof and supersedes all previous written or oral understandings, agreements,

negotiations, commitments, and any other writing and communication by or between the Parties with respect to the subject matter hereof. In the event of any inconsistencies between any provisions of this Agreement in any provisions of the Exhibits, Riders, or amendments, the provisions of this Agreement shall control.

17. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Rules. In the event of an inconsistency between the provisions of this Agreement and any mandatory provisions of the HIPAA Rules, as amended, the HIPAA Rules shall control. Where provisions of this Agreement are different from those in the HIPAA Rules, as amended, but are nonetheless permitted by the HIPAA Rules, the provisions of this Agreement shall control.

18. Regulatory References. A citation in this Agreement to the Code of Federal Regulations shall mean the cited section as that section may be amended from time to time.

19. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the month, date, and year indicated below, but which shall be deemed effective as of the Effective Date.

PHI AIR MEDICAL, L.L.C.:

By: 
Name: David Motzkin
Title: President
Date: 06/18/2015

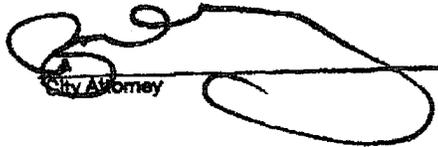
CITY OF GLENDALE:

By: 
Name: Richard A. Bowers
Title: Acting city manager
Date: 7-22-15

ATTEST:

City Clerk

Approved as to form


City Attorney