

EMERGENCY BASE STATION AGREEMENT
(ADMINISTRATIVE AND ONLINE MEDICAL DIRECTION)
ARIZONA FACILITIES
(0426-03-106559)

This Emergency Base Station Agreement (this “Agreement”) is entered into effective as of the last date of signature (the “Effective Date”), by and between Banner Health, an Arizona nonprofit corporation d/b/a Banner Boswell Medical Center (“Medical Center”) and City of El Mirage Fire Department (“EMS Agency”).

RECITALS:

- A. Medical Center is a full-service medical and surgical facility licensed by the State of Arizona and is desirous of improving its level of patient care by serving as a basic life support (“BLS”) and advanced life support (“ALS”) base medical facility for EMS Agency.
- B. EMS Agency desires to utilize Medical Center as a base hospital medical facility and to receive Medical Center administrative medical control and online medical direction for EMS Agency’s Emergency Medical Care Technicians, as defined in A.R.S. § 36-2201, (“EMCTs”) rendering emergency care to persons.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the parties covenant and agree as follows:

AGREEMENT:

1. Medical Center Responsibilities.

- 1.1 Administrative Medical Direction. Medical Center will identify an emergency physician to act as the Administrative Medical Director (the "Administrative Medical Director"). The Administrative Medical Director will provide administrative medical direction for all EMCTs and Registered Nurses (“RNs”) assigned to the Medical Center. Medical Center will provide EMS Agency with the Administrative Medical Director's name, email address, phone number, and qualifications. The Administrative Medical Director will fulfill all obligations under Arizona Administrative Code, Title 9, Chapter 25, Article 5, Section R9-25-201(F). The Administrative Medical Director will have at least one of the following: (a) an emergency medicine certification issued by a member board of the American Board of Medical Specialties; (b) an emergency medical services certification issued by the American Board of Emergency Medicine; (c) an emergency medicine certification issued by the American Osteopathic Board of Emergency Medicine; (d) an emergency medicine certification issued by the American Board of Physician Specialties; (e) successfully completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or (f) is an emergency medicine physician in an

emergency department located in Arizona with current certification in advanced emergency cardiac life support, advanced emergency trauma life support, and pediatric advanced emergency life support. Medical Center will notify EMS Agency immediately if the Administrative Medical Director no longer meets the qualifications.

- 1.2 Online Medical Direction. Medical Center will provide at least one emergency physician who will function as the medical control authority and will be physically present 24 hours a day in Medical Center's Emergency Department in order to provide online medical direction as needed and who will be overseen by one Online Medical Director (the "Online Medical Director"). Medical Center will provide EMS Agency the Online Medical Director's name, email address, phone number, and qualifications. The Online Medical Director will be knowledgeable of the capabilities and limitations of BLS and ALS personnel, established standing orders, and treatment, triage and communication protocols. The Online Medical Director will have at least one of the following: (a) an emergency medicine certification issued by a member board of the American Board of Medical Specialties; (b) an emergency medical services certification issued by the American Board of Emergency Medicine; (c) successfully completed an emergency medicine residency training program; or (d) is an emergency medicine physician in an emergency department located in Arizona with certification in advanced emergency cardiac life support, advanced trauma life support, and pediatric advanced life support. Medical Center will notify EMS Agency immediately if the Online Medical Director no longer meets the qualifications. The Online Medical Director may designate a nurse who may function as an intermediary for online medical direction of EMCTs under the direction of the Online Medical Director (the "Nurse Intermediary").
- 1.3 Medical Center will appoint a qualified individual to oversee and monitor EMCTs in the performance of the shared responsibilities between EMS Agency and Medical Center related to defined pre-hospital care activities, (e.g., review of certifications, training, education, and skill levels) (the "Pre-Hospital Coordinator"). The Pre-Hospital Coordinator will be a RN or Paramedic who will be available to address all pre-hospital issues during reasonable business hours.
- 1.4 Medical Center will provide administrative medical direction and online medical direction to EMS Agency's EMCTs who are assigned to Medical Center.
- 1.5 Medical Center will (a) appoint a Continuous Quality Improvement Committee or (b) participate in EMS Agency's quality management program by providing review, consultation, or medical direction when deemed necessary by Medical Center or as requested by EMS Agency and approved by the Administrative Medical Director.
- 1.6 Medical Center will establish a procedure for replenishing pharmaceutical and other medical supplies expended during EMS Agency's treatment of any patients

and those persons transported to Medical Center. Medical Center and EMS Agency will enter into a separate Emergency Medical Services Restocking Agreement.

- 1.7 Medical Center may provide supervised clinical training to EMCTs as agreed upon by the Administrative Medical Director and EMS Agency.
- 1.8 Medical Center may provide continuing education as deemed necessary by the Administrative Medical Director, Pre-Hospital Coordinator or EMS Agency.
- 1.9 Medical Center will provide dedicated, operational and accessible communication equipment in its Emergency Department that will allow online medical direction to be provided to an EMCT. All telephone and radio communication between Medical Center and EMCT for the purpose of medical direction will be recorded.
- 1.10 Medical Center will have a dedicated telephone line for EMCTs to contact the Emergency Department.
- 1.11 Medical Center will utilize and adhere to the medical control plans adopted by the local Arizona Emergency Medical Services coordinating system.
- 1.12 Medical Center will maintain a current certification as an ALS base hospital from ADHS. If that certification lapses or terminates for any reason, Medical Center will immediately notify EMS Agency.

2. EMS Agency Responsibilities.

- 2.1 EMS Agency will only utilize EMCTs with valid certification by ADHS's Bureau of Emergency Medical Services as prescribed in Arizona Administrative Code, Title 9, Chapter 25, Article 4 or who are licensed by the Arizona Board of Nursing.
- 2.2 EMS Agency will verify that only EMCTs with valid certifications or licenses are assigned to Medical Center.
 - 2.2.1 EMS Agency will provide Medical Center with an accurate written list of the names of each EMCT currently assigned to Medical Center.
 - 2.2.2 EMS Agency will notify Medical Center in writing within 30 days of any termination, transfer or addition of any EMCT. Notification will include the name(s), certification expiration date(s) and the effective date(s) of employment, transfer or termination. EMS Agency will provide Medical Center with a copy of all applicable certifications for each assigned EMCT.

- 2.2.3 EMS Agency will have communication equipment in good working order that allows Medical Center to communicate with EMCTs in the field.
 - 2.3 EMS Agency will require its EMCTs to meet ADHS continuing education requirements for re-certification.
 - 2.4 EMS Agency will be responsible for drafting and implementing EMS Agency's procedures used in responding to and giving assistance at the scene of an emergency. Medical Center's medical control authorities will assist EMS Agency's personnel by radio or phone communication when requested.
 - 2.5 EMS Agency will initiate a patient care report for each patient contact. When transported to Medical Center, the patient(s), the patient care report(s) and the care of the patient(s) will immediately be transferred to Medical Center and become the responsibility of Medical Center. EMS Agency will provide Medical Center's Pre-Hospital Coordinator with copies of the patient care record(s) in a timely manner.
 - 2.6 EMS Agency will allow ride-along privileges to Medical Center's medical control authorities and intermediaries for experience and observations.
 - 2.7 If Medical Center appoints a Continuous Quality Improvement Committee, EMS Agency agrees to provide representation and participation in the Committee.
3. Term and Termination. The term of this Agreement will begin on the Effective Date, will continue for a period of one year, and will automatically renew for successive one year terms. This Agreement may be terminated by either party at any time without cause and without penalty by giving the other party at least 30 days' prior written notice.
4. Additional Requirements.
 - 4.1 Non-Employee Status. Neither EMS Agency nor its personnel are deemed employees of Medical Center. Nothing in this Agreement creates an employer-employee relationship, partnership, franchise, joint venture or agency relationship between the parties, and EMS Agency will not represent to any third party that any such relationship exists. EMS Agency has and will retain the right to exercise full control and supervision of the services described in this Agreement, and full control over the employment, direction, compensation and discharge of all personnel assisting EMS Agency in the performance of the services described in this Agreement. EMS Agency will be solely responsible for the payment of all social security, self-employment, federal, state and local income taxes, disability insurance, workers' compensation insurance, fees, licenses and any other statutory benefits provided to its personnel. EMS Agency will hold Medical Center harmless for EMS Agency's failure to comply with any of its obligations under this Section.

- 4.2 Mutual Indemnification. Each party will indemnify, defend, and save harmless the other party for, from and against all actions, liabilities, losses, damages, claims and demands whatsoever, including costs, expenses and attorneys' fees resulting from, or claimed to have resulted from, any intentional or negligent acts or omissions of the indemnifying party or its employees or agents engaged in the work under this Agreement at the time of the event or occurrence upon which such actions, claims or demands are based or a material breach by a party of any of its representations or warranties under this Agreement. Where both Medical Center and EMS Agency, including their respective employees or agents, participated in the liability causing event, each party will contribute to the common liability a pro rata share based upon its relative degree of fault.
- 4.3 Insurance. EMS Agency will maintain insurance coverage during the term of this Agreement, provided by an insurer with a minimum A-VII rating, and will provide Medical Center with 30 days' prior written notice of termination or substantial coverage change. Coverage will include professional liability, general liability, and business auto of at least \$1,000,000 per occurrence and \$3,000,000 in the annual aggregate. Where the services described in this Agreement include control of Banner Health's data or protected health information, or the use or development of information technology hardware or software, coverage also will include cyber insurance coverage of at least \$1,000,000 per occurrence and \$3,000,000 in the annual aggregate. All policies will stipulate that the insurance will be primary insurance, that any self-insurance carried by Medical Center will not be contributory insurance, and will name Banner Health and Medical Center as additional named insureds. EMS Agency will waive, and require its insurers to waive, any and all recovery rights that any insurer of EMS Agency may have against Banner Health or Medical Center by virtue of the payment of any loss under any insurance. Notwithstanding any limitations set forth in this Agreement, if a claim would be covered by the insurance required to be carried under this Agreement, then in lieu of any limitations set forth herein, the insurance required by this Agreement will apply.
- 4.4 Change in Law; Regulatory Termination. If any law, regulation or rule is enacted or modified or there is any substantial change in the judicial or administrative interpretation of an existing law, regulation or rule, in either case in a manner that materially and adversely affects a party's ability to perform under this Agreement or to realize the intended benefits of this Agreement, or if any governmental entity determines that this Agreement is illegal or jeopardizes Banner Health's tax exempt status, then either party may, in lieu of giving a notice of termination, give written notice of such event to the other party and the parties will thereafter use their best efforts to modify this Agreement in a manner that mitigates the effect of the change or removes the illegality or jeopardy to tax exempt status. If no modification can be agreed upon by the parties within a reasonable period following the notice (not to exceed 30 days), then either party, in its discretion, may terminate this Agreement immediately by written notice to the other party. If no cure is implemented by the parties, or if no cure is possible, then either party in

its discretion may terminate this Agreement with such notice as is reasonable under the circumstances.

- 4.5 Notice. Any notice required to be given under this Agreement will be in writing, and will be deemed delivered to the party to whom the notice is sent (a) when personally delivered, (b) one business day after the same is sent by overnight delivery service, or (c) three days after the same is sent by certified mail, postage prepaid, addressed to such party at the address that follows or to such other address as such party may hereinafter designate in writing:

If intended to EMS Agency: City of El Mirage Fire Department
13601 N. El Mirage Road
El Mirage, AZ 85335
Attn: Fire Chief

If intended to Medical Center: Banner Boswell Medical Center
10401 W. Thunderbird Blvd.
Sun City, AZ 85351
Attn: Chief Executive Officer

With a copy to: Banner Health
2901 N. Central Avenue, Suite 160
Phoenix, AZ 85012
Attn: General Counsel

- 4.6 HIPAA. Medical Center is required to comply with the standards for privacy of individually identifiable health information and the security standards for the protection of electronic protected health information under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended, together with its implementing regulations promulgated under HIPAA and the Health Information Technology for Economic and Clinical Health Act by the United States Department of Health and Human Services (“HHS”). If EMS Agency creates, receives, maintains or transmits protected health information for or on behalf of Banner Health or Medical Center, EMS Agency will execute a Business Associate Agreement.

- 4.7 Confidentiality and Nondisclosure. EMS Agency acknowledges that EMS Agency may have access to confidential and proprietary information of Banner Health or Medical Facility (the “Proprietary Material”) through the performance of the services described in this Agreement. EMS Agency will keep confidential all Proprietary Material by exercising the same degree of care toward such material as EMS Agency does with respect to its own confidential and proprietary information of like importance, but, in any case, using no less than a reasonable degree of care. EMS Agency will not disclose, distribute, publish, transmit, transfer or disassemble the Proprietary Material or use the Proprietary Material for its own or any other party’s benefit, except in furtherance of its obligations under this Agreement. EMS Agency will limit access to the Proprietary Material

to only those individuals who need to know such information for carrying out EMS Agency's obligations hereunder. EMS Agency will ensure that its personnel, agents, consultants and representatives who are given access to the Proprietary Material will be bound by and comply with the terms of this Agreement. The nondisclosure provisions of this Agreement will be in effect during the term of this Agreement and will survive termination, and EMS Agency's duty to hold the Proprietary Material in confidence will remain in effect until the Proprietary Material no longer qualifies as confidential information or a trade secret under applicable law. For purposes hereof, the Proprietary Material includes, but is not limited to, documents, records, reports, data, patient health information, demographic information, plans, concepts, ideas, processes, procedures, policies, designs, discoveries, inventions, marketing plans, methodologies, specifications, and other business information relating to Banner Health and Medical Center's business, assets, operations or contracts, regardless of whether such information has been expressly designated as confidential or proprietary. The Proprietary Material may be provided in written, oral, electronic or other form. The Proprietary Material will not include any information that (a) is now or becomes generally known or available to the public through no fault of EMS Agency; (b) was known by EMS Agency before receipt from Banner Health or Medical Center without any obligation of confidentiality; (c) is rightfully obtained by EMS Agency from a third party without breach of any obligation to the disclosing party; or (d) is independently developed by EMS Agency without use of or reference to any of the Proprietary Material.

- 4.8 No Referral. This Agreement is limited solely to Banner Health and Medical Centers' contractual arrangement with EMS Agency to provide the services in accordance with the terms of this Agreement. EMS Agency acknowledges and agrees that there is no intent, agreement, understanding or requirement pursuant to which EMS Agency or any other person or entity affiliated with EMS Agency has any obligation to admit, refer or recommend patients to any hospital or facility owned or operated by Banner Health.
- 4.9 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party. If consent to an assignment is obtained, this Agreement is binding on the assigns of the parties to this Agreement. Notwithstanding anything to the contrary in this Agreement, Medical Center may assign or otherwise transfer its interest under this Agreement to any "related entity" without the consent of the other party. For the purposes of this Section, a related entity will be deemed to include a parent, a subsidiary, any entity that acquires all or substantially all of Medical Center's assets or operations relating to this Agreement, and the surviving entity of any merger or consolidation involving Banner Health or Medical Center.
- 4.10 Integration and Amendment. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. All prior negotiations between the parties are merged in this Agreement, and there are no

understandings or agreements other than those incorporated herein. This Agreement may not be modified except by a written instrument signed by both parties to this Agreement.

- 4.11 Force Majeure. Neither party will be liable for any delay in performance or any failure in performance caused in whole or in part by reason of force majeure, which will be deemed to include the occurrence of any event beyond the control of the parties, including, without limitation, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot and other acts of civil disobedience, action of a public enemy, laws, regulations or acts of any national, state or local government (or any agency, subdivision or instrumentality thereof), judicial action, accident, fire, explosion, flood, storm or act of God.
- 4.12 Severability. If any provision of this Agreement, or any application thereof to any person, is determined to be invalid or unenforceable to any extent, the remainder of this Agreement, and the application thereof to other persons or circumstances, will not be impaired, and will be enforced to the fullest extent permitted by law.
- 4.13 Supersede and Replace. This Agreement is intended to supersede and replace any existing agreements between the parties with regard to the subject matter contained herein.
- 4.14 Transactional Conflicts of Interest. The parties hereto both acknowledge that this Agreement may be subject to cancellation by EMS Agency pursuant to provisions of A.R.S. § 38-511.
- 4.15 Definitions. Unless otherwise specified herein, the terms used in this Agreement will have the same meanings as those defined in Arizona Administrative Code § R9-25-101.
- 4.16 Health Standards. Banner Health has implemented health standards for all individuals providing services within a Banner Health clinical facility. If EMS Agency Personnel participate in clinical rotations or remediation involving patient care or are physically present in a Banner Health clinical facility for another reason, EMS Agency will ensure that those EMS Agency Personnel comply with such standards, which may include drug screening, annual influenza immunizations, and Measles, Mumps, and Rubella (MMR), Varicella, and Tuberculosis (TB) health standards. EMS Agency will provide proof of such tests upon request. Those EMS Agency Personnel will also obtain immunization to influenza on or before December 1st of each calendar year or have a valid medical or religious exemption. EMS Agency will maintain proof of such exemption and provide such proof to Banner Health or Medical Center upon request. If any EMS Agency Personnel are unable to comply with this Section, EMS Agency will ensure that any such EMS Agency Personnel entering any Banner Health clinical facility are wearing surgical masks. Surgical masks are provided by Banner

Health at no cost to EMS Agency. Failure by EMS Agency to comply with this requirement will be grounds for immediate termination of this Agreement.

- 4.17 Non-Exclusive Agreement. This Agreement with EMS AGENCY is not exclusive. Accordingly, Medical Center will have the right to enter into one or more agreements relating to the same or similar matters as are covered by this Agreement and execution by Medical Center of such agreements will not constitute a breach of this Agreement.
- 4.18 Governing Law. This Agreement will be governed by the internal substantive law of the State of Arizona, without regard for the conflict of law principles thereof.
- 4.19 Physician Ownership. EMS Agency expressly represents and warrants that one of the following provisions applies: (a) no physician, no physician organization and no member of any physician's immediate family owns or holds an ownership or financial interest in EMS Agency, including any affiliated or related entity or person, that is not the subject of an exception or "safe harbor" under applicable law; or (b) EMS Agency is a publicly-traded company and is the subject of an exception under 42 CFR § 411.356(a)(1) and (a)(2).
- 4.20 Retention and Inspection of Records. All records related to this arrangement will be kept on file by EMS Agency for a period of four years from the date the record is made or such longer period of time as may be required by applicable law. Upon reasonable prior notice, EMS Agency will give Banner Health or Medical Center, or their authorized representative, and any relevant regulatory agency the ability to inspect, examine, and audit, during normal business hours, such of EMS Agency's business records as are relevant to this Agreement. The cost of any Banner Health inspection, examination, and audit will be at the sole expense of Banner Health.
- 4.21 Corporate Authority. Each party represents and warrants that the individual executing this Agreement on behalf of such party is duly authorized to execute and deliver this Agreement on behalf of such corporation, person, firm, partnership or other entity and that this Agreement is binding upon such entity in accordance with its terms.
- 4.22 Waiver and Breach. No waiver of the enforcement or breach of any agreement or provision herein will be deemed a waiver of any preceding or succeeding breach thereof or of the enforcement of any other agreement or provision herein. No extension of time for performing any obligation or act will be deemed an extension of time for performing any other obligation or act. All rights and remedies provided herein are cumulative and not exclusive of any rights or remedies otherwise provided by law.
- 4.23 Counterparts. This Agreement may be executed in one or more copies or counterparts, each of which when signed will be an original, but all of which

together will constitute one instrument. Signatures submitted via telecopy or electronic signature will have the same force and effect as original signatures and, as such, will be valid and binding upon the parties hereto.

- 4.24 Applicable Standards. EMS Agency and all EMS Agency personnel will comply with all standards applicable to the services described in this Agreement, as such standards may be amended from time to time, including, but not limited to the following: federal, state and local government laws, rules and regulations, and laws relating to emergency ambulance services and the handling of controlled substances.
- 4.25 Cost of Litigation. If either party takes legal action to enforce this Agreement, the prevailing party will be entitled to recovery of its reasonable attorneys’ fees and costs incurred in connection with such action.
- 4.26 Survival. Any covenant or provision herein that requires or might require performance after the termination or expiration of this Agreement, including, but not limited to, indemnities, confidentiality, settlement of accounts, records retention and access, and insurance requirements, will survive any termination or expiration of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

MEDICAL CENTER:

EMS AGENCY:

Banner Health
d/b/a Banner Boswell Medical Center

City of El Mirage Fire Department

By: Sharon Lind

By: _____

Name: Sharon Lind

Name: _____

Title: Sharon Lind, CEO BIMC/BGFMC

Title: _____

Signature Date: May 14, 2020 | 1:03 PM MST

Signature Date: _____