

CONSULTING AND SERVICES AGREEMENT

THIS CONSULTING AND SERVICES AGREEMENT (this "Agreement") is entered into and considered effective) this 1st day of May 2002 between Magnet Solutions, Inc. ("Consultant"), a Wyoming corporation, and Banner Health System, an Arizona Non-Profit Corporation, d/b/a Ogallala Community Hospital ("CLIENT").

WHEREAS, CONSULTANT is engaged in the business of providing consulting and related services to medical institutions in order to foster and expedite the collection of cash receivables for its CLIENTS from patients; and

WHEREAS, the CLIENT desires to engage the services of CONSULTANT on the terms and conditions stated herein.

NOW, THEREFORE, in consideration of the promises, covenants, and agreements herein contained, the parties agree as follows:

1. **ENGAGEMENT.** The CLIENT hereby engages CONSULTANT and CONSULTANT agrees to provide the services (the "Services") being described in detail in Exhibit A, which is attached hereto and made a part hereof. In performing such Services, CONSULTANT will function and act as an extension of the CLIENT'S business office and shall perform the Services in the name of the CLIENT (or as otherwise directed by the CLIENT). The CLIENT will designate the particular patient accounts and exert its best efforts to only deliver to CONSULTANT those accounts on which CONSULTANT shall perform the services. The CLIENT shall have the right to review and approve the course of action for all accounts, both number and type of billing statements and number of phone calls to patients or guarantors in connection with performance of services. The CLIENT shall have the right to review and approve all accounts that have been through the services outlined in this Agreement and are deemed ready for collection action. The Services will be provided in accordance with applicable laws, rules, regulations, statutes, and ordinances of any governmental authority applicable thereto. All accounts receivable balances remain the sole and exclusive property of the CLIENT. All payments associated with the accounts receivable balances, received as a result of the Services performed by CONSULTANT, shall be paid directly to the CONSULTANT in the CLIENT'S name, and shall be and remain the sole and exclusive property of the CLIENT. In connection with performing the Services, CONSULTANT is acting as an independent contractor to CLIENT and accepts responsibility for and will furnish the coordinating management and special project personnel required to perform the Services. These personnel shall be direct agents and employees of CONSULTANT. CONSULTANT will pay the salaries, taxes, insurance, and other fringe benefits of all of its personnel performing services hereunder.

2. **PROVISION OF ACCESS TO ACCOUNTS RECEIVABLE SYSTEM.** The CLIENT agrees to provide, at no cost to CONSULTANT and on a timely basis, for non-exclusive use by CONSULTANT in connection with its performance of Services hereunder, during ordinary business hours and outside thereof with prior approval of the CLIENT, access to CLIENTS patient accounting computer system, deemed by CONSULTANT and the CLIENT to be reasonably necessary for CONSULTANT to perform the services and presently utilized by the CLIENT in its business operations. At no time will CONSULTANT, allow access to the CLIENT'S patient accounting system or records for purposes other than those delineated in this agreement.
3. **COMPENSATION.** In consideration of performance of the Services, the CLIENT shall make payment to CONSULTANT in the amount of 3% of collected principle receipts plus a per statement fee of \$.07 AND All interest collected. Upon receipt of cash, remittance advices, other forms of payment, or other relevant account-related transactional activity made in response to services rendered by CONSULTANT, the CLIENT shall record these transactions on a timely basis and in a manner agreed to with CONSULTANT. CONSULTANT will render a statement (which may be on an estimated basis if the CLIENT does not furnish timely billing data to CONSULTANT) to the CLIENT on a weekly basis for Services rendered during the preceding week. The CLIENT agrees that consultant shall withhold its compensation from each statement/remittance. The statement shall contain such detail as the parties may agree to so that the amounts due CONSULTANT as reflected in the statement, and the basis of the computations contained therein, can be determined and verified to the reasonable satisfaction of the CLIENT. Amounts not paid to CONSULTANT when due under this Agreement shall bear interest, payable on demand and computed on the basis of a year of 365 days, from their due date to the date of actual payment at the rate of 18% per annum.
4. **TERM.** The term of this agreement shall be for 12 months commencing on May 1, 2002, and shall automatically renew for successive one-year terms thereafter, however, in no event shall this Agreement extend beyond April 30, 2005
5. **TERMINATION OF AGREEMENT BY NOTICE:** Either party may terminate this Agreement upon 60 days notice by registered or certified mail, return receipt requested, addressed to the other party, outlined in 13(f) herein. Notice shall be deemed to have been delivered three days after the postmark date.

The CLIENT shall, by written notice, give CONSULTANT thirty (30) days, commencing with receipt of notice, to correct any alleged breach of the suggested services outlined in this Agreement including Exhibit A.. In the event the alleged breach is not corrected within the thirty- (30) day period, the CLIENT may, at its sole discretion, thereafter deem this Agreement immediately terminated.

IF this Agreement is terminated other than for breach, CONSULTANT shall be entitled to receive compensation for up to 60 days after the termination date for all Services rendered prior to termination, including, but not limited to, payments received by the

CLIENT from patients after termination of this Agreement as a result of Services rendered by CONSULTANT prior to termination.

6. **INSURANCE.** CONSULTANT will have and maintain, during the term of this Agreement, the insurance coverage(s) in the minimum amounts set forth below:
 - a. Comprehensive General Liability, with bodily injury limits of \$1,000,000 each occurrence and \$3,000,000 annual aggregate, and property damage limits of \$200,000;
 - b. Workers' Compensation, in amounts as required under the Workman's Compensation Act of the law of the State of Nebraska.

No later than the date on which CONSULTANT is to commence performing Services hereunder, if requested, CONSULTANT will deliver to the CLIENT certificate(s) indicating that the aforesaid insurance coverage's are in effect and evidencing the undertaking of the insurance company or agent involved that such insurance will not be canceled without at least ten (10) days' prior written notice to the CLIENT.

7. **EXCLUSIVITY AND RESTRICTIVE COVENANTS: PROPRIETARY DATA.** The CLIENT acknowledges that CONSULTANT has devoted considerable time and expense to the training of CONSULTANT employee(s) providing services within the scope of this Agreement. This employee(s) represent a valuable business asset of CONSULTANT. Therefore, the CLIENT will not, during the term of this engagement and for a period of one (1) year immediately following the termination of this engagement, call upon any employee of CONSULTANT for the purpose of employing, hiring, or otherwise interfering with the contractual relationship of such employee with CONSULTANT, and/or will not employ or hire any such employee of CONSULTANT without, in any case, the prior written approval of CONSULTANT. In addition, CONSULTANT will not, during the term of this engagement and for a period of one (1) year immediately following the termination of this engagement, call upon any employee of the CLIENT for the purpose of employing, hiring or otherwise interfering with the contractual relationship of such employee with the CLIENT, and/or will not employ or hire any such employee of the CLIENT without, in any case, the prior written approval of the CLIENT. If either party breaches this provision, it agrees to pay the other party, as liquidated damages and not as a penalty, an amount equal to one and one-half times the annual compensation payable by the party to the employee involved.
8. **ACCESS TO BOOKS AND RECORDS.** Until the expiration of four (4) years after the furnishing of Services, CONSULTANT, its related organizations or subcontractors, as appropriate, shall make available, upon written request, to the Secretary of the United States Department of Health and Human Services, or upon request, to the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, and any books, documents and records of CONSULTANT (or of its related organizations or subcontractors, as appropriate) that are necessary to certify the nature

and extent of costs incurred by the CLIENT in connection with the performing of the Services. It is understood and agreed by Consultant and the CLIENT that this paragraph shall be deemed amended as necessary to conform to any new, different or additional requirements as may be imposed under regulations implementing Public Law 96-499.

9. **RELATIONSHIP OF PARTIES.** The parties acknowledge and agree that in all respects in providing Services hereunder, CONSULTANT shall be an independent contractor and shall provide services on behalf of the CLIENT'S business office.
10. **REPRESENTATIONS AND WARRANTIES OF CONSULTANT.** CONSULTANT represents and warrants that:
 - a. It is an Equal Opportunity Employer and does not and shall not discriminate against any of its employees or applicants for employment on the basis of race, color, creed, sex, national origin, physical condition or age. CONSULTANT will furnish the CLIENT with all information, data and certificates that may be required by the CLIENT in order for it to comply with governmental non-discrimination requirements.
 - b. Neither CONSULTANT, nor any shareholder, director, officer or employee of CONSULTANT is now or ever has been the subject of any governmental investigation into the legality or propriety of actions, practices or procedures of CONSULTANT for purposes of any government-sponsored, financed or assisted health insurance programs. In the event CONSULTANT, a shareholder, director, officer or employee of CONSULTANT does become the subject of any such investigation, CONSULTANT shall disclose said investigation to CLIENT and CLIENT may, at its option, immediately terminate this Agreement.
 - c. Neither CONSULTANT, nor any shareholder, director, officer or employee of CONSULTANT, has any interest in the CLIENT or its affairs except with respect to providing Services under this Agreement, or has paid or promised to pay any remuneration to any employee of the CLIENT in consideration of obtaining this Agreement. Further, CONSULTANT hereby expressly acknowledges and agrees that it has fully disclosed to CLIENT all members of the corporation executing this Agreement and has fully disclosed to CLIENT all CLIENT and CLIENT related boards, committees and the like in which the signator or any member of the corporation or a member of his/her or any member's family participates. All such disclosures have been made in writing and delivered to CLIENT on or before execution of this Agreement.
 - d. **HIPAA.** CONSULTANT agrees to comply with the provisions of the Health Insurance Portability and Accountability Act ("HIPAA") and regulations applicable to Business Associates of CLIENT.

- e. **Compliance.** In its relationship with CLIENT, CONSULTANT shall cooperate with any reasonable requests by CLIENT to comply with CLIENT's corporate compliance program.

- 11. **CONFIDENTIALITY.** CONSULTANT acknowledges that patient medical and billing information is confidential and is the property of the patient and/or the CLIENT. CONSULTANT shall not disclose any of such information to any third party except as required to perform Services hereunder. All files, records and documents relating to the CLIENT'S business, to which CONSULTANT has access, shall remain the exclusive property of the CLIENT and shall not be removed from the CLIENT'S premises without the written consent of the CLIENT. All work papers prepared by CONSULTANT, which do not contain any patient identifiable information, shall remain the property of CONSULTANT.

- 12. **INDEMNIFICATION.** CONSULTANT shall indemnify and hold the CLIENT and its affiliates, employees, and agents harmless from any and all claims or causes of action arising out of or in connection with the acts or omissions of CONSULTANT or its employees under this Agreement and shall reimburse the CLIENT for any and all cost, including reasonable attorneys' fees, incurred in defending against any such claim or cause of action. The CLIENT shall indemnify and hold CONSULTANT and its affiliates, employees, and agents harmless from any and all claims or causes of action arising out of or in connection with the acts or omissions of the CLIENT or its employees under this Agreement and shall reimburse CONSULTANT for any and all cost, including reasonable attorneys' fees, incurred in defending against any such claim or cause of action. This covenant shall survive any termination or expiration of this Agreement.

- 13. **MISCELLANEOUS**
 - a. This Agreement (together with any attachments and exhibits) contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any prior agreements, promises, negotiations, or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. No amendment or variations of the provisions of this Agreement shall be valid unless in writing and signed by both parties.

 - b. This Agreement is entered into, shall be performed in, and shall be governed by and construed in accordance with the laws of the State of Nebraska.

 - c. This agreement may not be assigned or subcontracted by either party without the prior written consent of the other party, which shall not be unreasonably withheld. This Agreement shall be binding upon the parties hereto, their successors, and permitted assigns or subcontractors. However, the parties agree that CLIENT may assign this Agreement to a parent, affiliate or successor in interest without the prior consent of CONSULTANT.

- d. If any provision of this Agreement shall be held invalid under applicable laws, such invalidity shall not affect any other provision of this Agreement that can be given effect without the invalid provision, and, to this end, the provisions hereof are severable.
- e. The laws of the State of Nebraska shall govern all matters concerning the construction, interpretation, performance, and enforcement of this Agreement. In the event of any litigation in connection with this Agreement, jurisdiction shall be exclusively in the courts of the State of Nebraska, state and federal.
- f. Any notice required or permitted to be given to either party in writing under this Agreement may either be personally delivered or sent by registered or certified mail, return receipt requested, postage paid, addressed to each party as follows:


To: Magnet Solutions
P.O. Box 1826
Scottsbluff, Nebraska 69363-1826
Attn: Mr. Andy Laws

To: Banner Health System,
Operator of, Ogallala Community Hospital
Attn: Legal Department
1801 16th Street
Greeley, CO 80631

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Banner Health Systems, d/b/a
Ogallala Community Hospital

MAGNET SOLUTIONS Inc.

By:  Dana Klechman

By: 

Title: CEO Operations Administrator

Title: CEO

Date: 5-2-02 5-21-02

Date: 5-30-02

EXHIBIT A
TO
Consulting And Services Agreement
Between Magnet Solutions And
Banner Health System d/b/a Ogallala Community Hospital

The Compensation payable to CONSULTANT by CLIENT shall be determined as follows:


CONSULTANT will be compensated 3% of collected principle receipts for the services provided on private pay accounts plus \$.07 per statement AND all interest collected. This is an all-inclusive amount that covers CONSULTANT's professional services, travel and accommodation expenses. The CLIENT will be invoiced at the end of each week.

CONSULTANT will provide private pay account balance follow-up services in order to collect the maximum amount of money on each account turned over to CONSULTANT under this Agreement. Each account will receive the following minimum attention:

- CONSULTANT receives the account from CLIENT
- Review any prior payment arrangement on each account & make contact if inappropriate
- Advance file to agreed upon date
- If unable to increase payment, send budget statement. (to be returned in 10 days)
- CONSULTANT sends statements with CONSULTANT's managed P.O. Box 367, Ogallala, NE 69153-0367

	10 Days	20 Days	5 Days	25 Days	20 Days	10 Days
MS Load Acct & Review	1 st Stmt	Due Date	5 day late Call 2 Attempts	Late Notice Sent	Final Call 2 attempts	Acct To Collection

CLIENT agrees to provide, maintain, and pay for phone extension(s) including long distance tolls required to provide described service.

 5-30-02

**FIRST AMENDMENT TO
CONSULTING AND SERVICES AGREEMENT**

THIS FIRST AMENDMENT TO CONSULTING AND SERVICES AGREEMENT (this "Amendment") is made and entered into as of the signature dates set forth below, to be effective as of May 1, 2005 (the "Effective Date"), by and between BANNER HEALTH, an Arizona nonprofit corporation, d/b/a OGALLALA COMMUNITY HOSPITAL ("Client"), f/k/a Banner Health System, and MAGNET SOLUTIONS, INC., a Wyoming corporation ("Consultant").

W I T N E S S E T H:

WHEREAS, Client and Consultant are parties to that certain Consulting and Services Agreement dated effective as of May 1, 2002 (the "Agreement"), pursuant to which Consultant agreed to provide certain services related to collection of cash receivables for Client, as more particularly described therein; and

WHEREAS, the parties desire to amend the Agreement to extend the term of the Agreement in accordance with the terms and conditions hereof.

NOW, THEREFORE, the parties hereto agree as follows:

1. Amendment of Agreement.

a. Section 4 of the Agreement is hereby amended to extend the term of the Agreement for a period of one (1) year, commencing as of the Effective Date, and continuing until April 30, 2006, subject to earlier termination as provided in the Agreement.

b. Section 10.d. of the Agreement is hereby deleted in its entirety and the following provision is substituted in its place:

d. **Compliance with HIPAA.** Under the Health Insurance Portability and Accountability Act of 1996, Client is required to comply with the Standards for Privacy of Individually Identifiable Health Information contained in 45 CFR Parts 160 and 164 (the "HIPAA Privacy Standards"), as of the effective date of the HIPAA Privacy Standards on April 14, 2003, or as may be later determined. If the Agreement must be amended to secure such compliance, the parties shall meet in good faith to agree upon such amendments. If the parties cannot agree upon such amendments, then either party may terminate the Agreement upon thirty (30) days' prior written notice to the other party.

2. Agreement Effective. Except as otherwise expressly provided herein, all terms and conditions of the Agreement shall remain unmodified and in full force and effect.

3. Precedence of Amendment. In the event of a conflict between the terms and conditions of this Amendment and the terms and conditions of the Agreement, the terms and conditions of this Amendment shall govern and control.

4. Capitalized Terms. All capitalized terms used in this Amendment and not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

5. Incorporation. This Amendment shall be attached to, and made a part of, the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the signature dates set forth below, to be effective as of the Effective Date.

CLIENT:

BANNER HEALTH
d/b/a OGALLALA COMMUNITY
HOSPITAL

By: Dena Klochman
Name: Dena Klochman
Margie H. Malton
Title: Chief Executive Officer
Date: 5-12-05

CONSULTANT:

MAGNET SOLUTIONS, INC.

By: [Signature]
Name: Andy Laus
Title: CEO
Date: 4-29-05