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9 Attorneys for Plaintiff Dedicato Treatment Center, Inc.

10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 DEDICATO TREATMENT CENTER, ) **CASE NO.: 2:22-cv-04045-CAS-Ex**  
13 INC, a California corporation, )

14 Plaintiff, )

15 vs. )

16 )  
17 SALT RIVER PIMA-MARICOPA )  
18 INDIAN COMMUNITY, a Federally )  
19 recognized Indian Tribe, )

20 Defendant. )

21 **The Hon. Christina A. Snyder**

22 **FIRST AMENDED COMPLAINT**  
23 **FOR**

- 24 **1. Breach of Contract**
- 25 **2. Breach of Implied Contract**
- 26 **3. Breach of the Duty of Good Faith**
- 27 **and Fair Dealing**
- 28 **4. Promissory Estoppel**
- 5. Quantum Meruit**
- 6. Unfair Competition**

**JURY TRIAL DEMANDED**

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**PRELIMINARY STATEMENT**

This is a case for services rendered and unpaid. Plaintiff Dedicato Treatment Center, Inc., is a substance abuse treatment center that provided substance abuse treatment services to a patient enrolled in a health insurance plan established by Defendant Salt River Pima-Maricopa Indian Community which refuses to pay for them.

For patient confidentiality reasons under state and Federal law, the patient is not specifically identified herein and is only referred to as the “Patient” or “A.N.” Defendant is already aware of the Patient’s identity, because of correspondence between the parties.

**THE PARTIES**

**A. Dedicato Treatment Center, Inc.**

1. Plaintiff Dedicato Treatment Center, Inc., (“Dedicato”) is a California corporation, with its principal place of business in the City of Sierra Madre, County of Los Angeles, California.

2. Dedicato is a fully-licensed, fully-operating drug and alcohol treatment center offering services for patients suffering from substance abuse. Its founder, Chief Executive Officer, and Clinical Director, is Dr. Keith L. Marshall, Psy.D, M.A., C.A.T.C V. (“Dr. Marshall”), one of the very few African American doctors in the state who is certified in addictions and who owns a treatment center.

3. Moreover, Dedicato is among the scant six percent of treatment centers nationwide to have obtained accreditation for Behavioral Health Care with the Joint Commission. This coveted accreditation confirms Dedicato’s commitment to “best practices” in treatment services and validates the credibility of its services and practices. Dedicato followed these best practices in administering treatment to the Patient.

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**B. Salt River Pima-Maricopa Indian Community.**

4. The Salt River Pima-Maricopa Indian Community (the “Community”) was established by Executive Order on June 14, 1879, by President Rutherford B. Hayes. The Community operates as a full-service government and oversees department, programs, projects and facilities. The Community is located in Maricopa County and is bounded by the cities of Scottsdale, Tempe, Mesa and Fountain Hills.

5. The United States Bureau of Indian Affairs recognizes the Community as a tribe for federal law purposes. See 82 FR 4915-02 (January 17, 2017).

6. The Community maintains for the benefit of its members and employees a self-funded healthcare insurance plan known as the Salt River Pima Maricopa Indian Community Self-Funded Health Plan (the “Plan”).

7. The Community has a contract with IEC Group, Inc., dba AmeriBen (“AmeriBen”) in which the Community has delegated to AmeriBen full authority to administer claims for healthcare benefits under the Plan. AmeriBen is the third party administrator (TPA) for the Plan, in which case AmeriBen is responsible for providing customer service to Plan participants, authorizing medical treatment for Plan beneficiaries, and processing claims payments to treatment providers.

8. For all relevant purposes herein, AmeriBen was the Community’s agent and all actions taken by AmeriBen are attributable to the Community.

**JURISDICTION**

9. As a general rule, Indian Tribes are sovereign authorities and, as such, enjoy tribal sovereign immunity from lawsuit. Sovereign immunity also extends to entities that function as “an arm of the Tribe,” including non-profit healthcare plans.

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1           10. An Indian Tribe may, however, waive sovereign immunity and agree  
2 to be subject to civil claims in state or Federal court. The Community has done so  
3 here in several respects.

4           11. In establishing the Plan, and in retaining AmeriBen to administer it as  
5 its TPA, the Community agreed to waive sovereign immunity and be subject to  
6 civil claims arising under the Plan through the Employee Retirement Income  
7 Security Act (ERISA). All claims alleged herein arise in relation to the Plan.  
8 Accordingly, the Community has waived sovereign immunity in relation to the  
9 claims alleged herein.

10           12. Further, on December 12, 2016, the Community entered into a  
11 contract with AmeriBen to serve as “Plan Sponsor and/or Administrator” of the  
12 Plan. A copy of that contract is attached as Exhibit A (the “Agreement”).

13           13. Section 3.8 of the Agreement provides:

14 To the extent Client and/or the participants of Client’s Plan access stop-loss  
15 insurers, pharmacy benefit management companies, preferred provider  
16 organizations, or any other third-party service providers or vendors directly  
17 contracted with AmeriBen, Client agrees to be bound by the terms of the  
18 agreement(s) between such vendor(s) and AmeriBen. Upon request,  
19 AmeriBen will provide copies of such contract(s) to Client.

20           14. Under Section 3.8 of the Agreement, the Community agreed to be  
21 bound by the terms of the contracts AmeriBen entered into with Dedicato, because  
22 AmeriBen contracted with Dedicato, a “third-party service provider.”

23           15. Further, Section 3.9 of the Agreement provides:

24 The Client is solely responsible for all government compliance obligations,  
25 such as completing or filing government-required forms (i.e. Form 5500’s),  
26 except the 1099, which AmeriBen will file annually on behalf of the Client.

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16. Because the Community agreed under Section 3.8 of the Agreement to be “solely responsible for all government compliance obligations,” the Community agreed to be subject civil courts for enforcement of all such government compliance obligations.

17. Further, Section 4.3 of the Agreement provides:

Each party shall indemnify, defend and hold harmless the other party [sic] and its officers, directors, employees, elected officials, agents, successors and assigns (“Indemnified Parties”[D]) from and against any and all liability, loss, damage, claims or expenses of any kind whatsoever, including without limitation, reasonable attorneys’ fees and costs of defense, that may be sustained, suffered, recovered or incurred by any Indemnified Party that arise from or are in any way connected with any willful misconduct, gross negligence or other wrongful act, error or omission in the performance of duties and obligations under this Agreement by the Indemnifying Party, its subcontractors or anyone for whom the Indemnifying Party is responsible.

18. Under Section 4.3 of the Agreement, AmeriBen has agreed to “indemnify, defend and hold harmless” the Community “from and against any all liability, loss, damage, claims or expenses of any kind whatsoever, including without limitation, reasonable attorneys’ fees and costs of defense, that may be sustained, suffered, recovered or incurred” by the Community “that arise from or are in any way connected with any . . . wrongful act, error or omission in the performance of duties and obligations under this Agreement” by the Community.

19. Because of Section 4.3, and other provisions of the Agreement, the Community entered into the Agreement knowing it would be subject to civil claims in state or Federal court regarding the administration and payment of benefits under the Plan, and it ensured that AmeriBen would defend and indemnify the Community for all such claims.

1           20. Assuming AmeriBen is not in breach of the Agreement, AmeriBen  
2 will defend the Community against the instant action and, if necessary, indemnify  
3 the Community for all liability the Community incurs in relation to this action.

4           21. AmeriBen is not an Indian Tribe that enjoys sovereign immunity. It is  
5 an Idaho corporation with its principal place of business in Meridian, Idaho.

6           22. AmeriBen admits the Community has waived sovereign immunity in  
7 this case. In its Memorandum of Points and Authorities In Support of Its Motion  
8 To Dismiss the Complaint (Dkt. 17-1), at 4:23-28, AmeriBen stated: “[I]t bears  
9 noting that Ninth Circuit authority holds that Indian tribes waive their sovereign  
10 immunity when they operate health plans governed by [ERISA].”

11          23. This Court has jurisdiction over the Community and the Plan.

12                                           **VENUE**

13          24. Venue is proper within this district under 28 U.S.C. §1391(b)(2).

14                                           **GENERAL ALLEGATIONS**

15           **A. The Patient’s Admission to Treatment.**

16          25. At all relevant times herein, an individual who, for confidentiality  
17 purposes is identified as “D.N.,” was an employee of the Community and a  
18 participant in the Plan. D.N. paid premiums to the Plan, and the Plan accepted  
19 those premiums, for the purpose of allowing D.N., and D.N.’s dependents, to  
20 receive healthcare benefits to be paid, subject to certain terms and conditions of the  
21 Plan, none of which are relevant here.

22          26. On September 25, 2019, A.N. (the “Patient”) sought treatment for  
23 substance abuse from Dedicato.

24          27. Dedicato asked the Patient whether the Patient was covered under any  
25 health insurance policy that would provide treatment for substance abuse. The  
26 Patient presented Dedicato with a medical ID card showing the Patient was  
27 enrolled in the Plan.

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1           28. On reviewing the information on the medical ID card, Dedicato  
2 provided a copy to its billing agent, Vertex Healthcare Services, Inc. (“Vertex”), to  
3 confirm whether the Patient was eligible for substance abuse treatment benefits  
4 under the Plan and to obtain certification and authorization for treatment.

5           29. On or about September 25, 2019, a Vertex representative spoke with  
6 an AmeriBen representative and confirmed the following:

- 7           (a) The Patient was covered under the Plan;  
8           (b) Dedicato was eligible to provide substance abuse treatment to the  
9 Patient;  
10          (c) Dedicato had diagnosed the Patient in need of certain treatment,  
11 namely ten days of partial hospitalization (PHP);  
12          (d) No additional pre-certification was necessary and Dedicato could  
13 proceed to provide its recommended course of treatment to the  
14 Patient.

15          30. According to the custom and practice in the healthcare industry, after  
16 a TPA confirms that an insured is eligible for treatment benefits, and after a TPA  
17 authorizes a specific course of medical treatment for the insured, the TPA is  
18 deemed to have agreed to pay the healthcare provider for the treatment provided.  
19 That payment will either be the healthcare provider’s routine, normal rates or the  
20 healthcare provider’s reasonable rates, which in Dedicato’s case are the same.

21          31. While AmeriBen had advised Dedicato that no additional pre-  
22 certification was necessary for Dedicato to proceed with treating the Patient, in an  
23 abundance of caution, Dedicato sought, and obtained, AmeriBen’s authorization  
24 before proceeding with further treatment. Dedicato wanted to specifically ensure  
25 that AmeriBen agreed with the treatment recommended for the Patient and that  
26 AmeriBen would agree to pay for that treatment after Dedicato provided it.

1           **C.    AmeriBen’s Treatment Authorizations.**

2           32.    On 09/25/19, Vertex requested, and AmeriBen approved, 10 days of  
3    PHP (from 09/25/19 to 10/05/19). AmeriBen requested a review of the treatment  
4    by 10/04/19.

5           33.    On 10/03/19, Vertex contacted AmeriBen to provide an update on the  
6    Patient’s condition and a review of the treatment. AmeriBen advised that no  
7    authorization would be required for treating the Patient with PHP, and that an  
8    additional 10 sessions were authorized.

9           34.    On 10/07/19, the Patient was discharged, but returned on 10/13/19.  
10    On 10/13/19, Vertex again contacted AmeriBen seeking authorization to provide  
11    PHP treatment for the Patient. AmeriBen advised, again, that no authorization was  
12    necessary for this treatment, and that another 10 sessions were authorized with  
13    review set for 10/22/19.

14           35.    Thereafter, Vertex requested, and AmeriBen approved, the following  
15    treatment recommendations for the Patient:

16                   On 10/22/19: 10 days of PHP (from 10/23/19 to 11/01/19);

17                   On 11/01/19: 10 days of PHP (from 11/02/19 to 11/11/19);

18                   On 11/12/19: 10 days of PHP (from 11/12/19 to 11/21/19).

19           36.    On 11/15/19, the Patient was discharged, having completed treatment.

20           37.    On the basis of the above authorizations, Dedicato provided a total of  
21    42 days of PHP treatment to the Patient.

22           38.    Dedicato sent AmeriBen two invoices for services rendered during  
23    this period – one for \$26,000, a second for \$83,200. Both invoices represented  
24    Dedicato’s normal fee for services rendered.

25           39.    In authorizing each of the above recommended courses of treatment,  
26    AmeriBen was promising Dedicato that it would either pay Dedicato’s its normal  
27    fee or a reasonable fee for the services rendered.



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1           40. On or about November 1, 2019, AmeriBen paid \$3,809.85 on the first  
2 invoice. On or about January 3, 2020, AmeriBen paid \$12,191.52 on the second  
3 invoice.

4           41. Ten months later, on 09/19/20, the Patient was re-admitted to  
5 treatment.

6           42. On each for the following dates below, Vertex requested, and  
7 Ameriben approved, the following treatment recommendations for the Patient:

8                   On 09/21/20: 10 days of PHP (from 09/19/20 to 09/28/20);

9                   On 09/28/20: 10 days of PHP (from 09/29/20 to 10/08/20);

10                  On 10/09/20: 10 days of PHP (from 10/09/20 to 10/18/20);

11                  On 10/19/20: 10 days of PHP (from 10/19/20 to 10/28/20);

12                  On 10/28/20: 5 days of PHP (from 10/29/20 to 11/02/20);

13                  On 11/03/20: 6 days of PHP (from 11/03/20 to 11/08/20);

14                  On 11/09/20: 10 days of IOP<sup>1</sup> (from 11/09/20 to 11/18/20);

15                  On 11/18/20: 10 days of IOP (from 11/19/20 to 11/28/20);

16                  On 12/01/20: 10 days of PHP (from 11/29/20 to 12/08/20);

17                  On 12/08/20: 10 days of PHP from (12/09/20 to 12/18/20).

18           43. On 12/10/20, the Patient was discharged, having completed treatment.

19           44. On the basis of the above authorizations, Dedicato provided a total of  
20 91 days of PHP and/or IOP to the Patient.

21           45. Dedicato sent AmeriBen seven invoices for services rendered during  
22 this period for the following amounts: \$39,000, \$58,500, \$46,800, \$27,300,  
23 \$23,200, \$20,300, \$20,300. All of these invoices, which totaled \$235,400,  
24 represented Dedicato’s normal fee for services rendered.

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27 \_\_\_\_\_  
28 <sup>1</sup> Intensive Out-Patient treatment.

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1           46. On these invoices totaling \$235,400, AmeriBen paid only \$34,517.88.  
2 Despite Dedicato’s repeated requests, AmeriBen refused to pay the balance owed  
3 for these and the previous invoices.

4           47. On 01/07/21, about three weeks after the Patient was discharged, the  
5 Patient was re-admitted to treatment.

6           48. On 02/12/21, Vertex requested, and Ameriben approved, the  
7 following treatment recommendations for the Patient:

8                   33 days of PHP from 01/07/21 to 02/08/21;

9                   10 days of IOP from 02/09/21 to 02/18/21.

10           49. On 02/25/21, the Patient was discharged, having completed treatment.

11           50. Dedicato sent six invoices for services rendered during this period for  
12 the following amounts totaling \$163,400: \$39,000, \$35,100, \$42,900, \$29,000,  
13 \$14,500, \$2,900.

14           51. Again, in authorizing each of the above eighteen recommended  
15 courses of treatment, AmeriBen was promising Dedicato on eighteen occasions  
16 that it would either pay Dedicato’s normal fee for services or a reasonable fee.

17           52. Throughout this time Vertex representatives spoke with AmeriBen  
18 representatives who indicated that more payments would be coming. AmeriBen, in  
19 fact, sent more payments, but for only a fraction of the amounts billed. On  
20 invoices totaling \$163,400, AmeriBen has paid only \$21,745.63.

21           53. Further appeals by Vertex went unheeded; AmeriBen refused to  
22 respond to Vertex inquiries and it has made no further payment since February,  
23 2022.

24           54. AmeriBen has strung Dedicato along, offering the expectation of  
25 payment, while effectively refusing to pay any further amounts altogether.

26           55. Dedicato has demanded that AmeriBen, on behalf of the Community  
27 and the Plan, pay the balance owed. AmeriBen refuses to do so.



**SECOND CAUSE OF ACTION**  
**FOR BREACH OF IMPLIED CONTRACT**  
**(PLAINTIFF v. DEFENDANT)**

65. Dedicato hereby incorporates paragraphs 1 through 64.

66. An implied contract is one, the existence and terms of which are manifested by conduct.

67. An implied contract existed between Dedicato and the Community in that the parties knew and understood that, each of the eighteen times the Community (through AmeriBen) authorized Dedicato to treat the Patient, the Community agreed it would pay Dedicato for its services when invoiced.

68. Dedicato has performed all conditions required of it by providing treatment services to the Patient with the Community’s treatment authorizations.

69. All conditions required for the Community’s performance have occurred.

70. The Community refuses to pay Dedicato for amounts it promised to pay for its treatment of the Patient.

71. Dedicato has been harmed by the Community’s failure to pay Dedicato for its treatment of the Patient.

72. The Community is in breach of its promise to pay Dedicato for its treatment of the Patient.

**THIRD CAUSE OF ACTION**  
**FOR BREACH OF THE COVENANT OF**  
**GOOD FAITH AND FAIR DEALING**  
**(PLAINTIFF v. DEFENDANT)**

73. Dedicato hereby incorporates paragraphs 1 through 72.

74. An implied covenant of good faith and fair dealing is implicit in every California contract. A party breaches that covenant when the party unreasonably or without proper cause fails to make payments timely, knowing that the other

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1 party is performing services and incurring costs in anticipation of receiving  
2 payments timely.

3 75. An implied covenant of good faith and fair dealing is implicit in the  
4 contract between the Community and Dedicato to pay for services timely once the  
5 Community authorized Dedicato to provide treatment services for the Patient.

6 76. The Community (through AmeriBen) breached its implied covenant  
7 of good faith and fair dealing by authorizing Dedicato to treat the Patient on  
8 eighteen occasions, knowing Dedicato would be performing services and incurring  
9 costs in anticipation of receiving payments timely, and then refusing to pay  
10 Dedicato for those services.

11 77. Dedicato has been harmed by the Community’s failure to pay  
12 Dedicato for its treatment of the Patient.

13 78. The Community is in breach of its promise to pay Dedicato for its  
14 treatment of the Patient.

15 **FOURTH CAUSE OF ACTION**  
16 **FOR PROMISSORY ESTOPPEL**  
17 **(PLAINTIFF v. DEFENDANT)**

18 79. Dedicato hereby incorporates paragraphs 1 through 78.

19 80. The required elements for a claim for promissory estoppel are (1) a  
20 promise clear and unambiguous in its terms; (2) reliance by the party to whom the  
21 promise is made; (3) the party’s reliance must be both reasonable and foreseeable;  
22 and (4) the party asserting the estoppel must be injured by his reliance.

23 81. In authorizing treatment for the Patient, the Community (through  
24 AmeriBen) clearly and unambiguously promised Dedicato it had authorized  
25 Dedicato to provide treatment services to the Patient.

26 82. Dedicato relied on AmeriBen’s eighteen separate treatment  
27 authorizations, the Community knew and intended that Dedicato would act on each  
28 of those authorizations, and it knew that Dedicato would in fact provide that

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1 treatment. In short, the Community could foresee that Dedicato would rely on  
2 those authorizations to treat the Patient.

3 83. Dedicato was ignorant that the Community never intended to  
4 reimburse Dedicato for the services it provided to the Patient.

5 84. Dedicato reasonably and actually relied on each of AmeriBen’s  
6 eighteen treatment authorizations.

7 85. Dedicato was injured by its reliance on AmeriBen’s eighteen separate  
8 treatment authorizations, because it proceeded to treat the Patient, without knowing  
9 that the Community never intended to pay Dedicato for that treatment.

10 86. Accordingly, the Community is estopped from contending that the  
11 services it authorized for the Patient are not payable due to lack of authorization,  
12 and it is further estopped from refusing to pay the reasonable and customary value  
13 for Dedicato’s services, which are the above-described fully billed charges.

14 **FIFTH CAUSE OF ACTION**  
15 **FOR QUANTUM MERUIT**  
16 **(PLAINTIFF v. DEFENDANT)**

17 87. Dedicato hereby incorporates paragraphs 1 through 86.

18 88. The Community became indebted to Dedicato for health care services  
19 rendered by Dedicato to the Community’s insured at AmeriBen’s special insistence  
20 and request.

21 89. The Community is obligated to pay Dedicato for the reasonable and  
22 customary value of Dedicato’s services, which are the above-described fully billed  
23 charges.

24 90. Despite Dedicato’s demand for payment, the Community has failed to  
25 pay, and refuses to pay, Dedicato for the services provided.

26 91. Dedicato has been damaged, and continues to be damaged, to the  
27 extent the Community has not paid, in whole or in part, for the services Dedicato  
28 provided to the Patient, in an amount to be proven at trial, plus interest.

**SIXTH CAUSE OF ACTION**  
**FOR UNFAIR COMPETITION**  
**(PLAINTIFF v. DEFENDANT)**

92. Dedicato hereby incorporates paragraphs 1 through 91.

93. Section 17200, et seq., of the California Business and Professions Code (“UCL”) prohibits unfair competition, which “shall mean and include any unlawful, unfair or fraudulent business act or practice.”

94. “Unfair competition” is defined as any of these wrongs: (1) an “unlawful” business act or practice; (2) an “unfair” business act or practice; (3) a “fraudulent” business act or practice; (4) “unfair, deceptive, untrue or misleading advertising.”

95. Section 1378.1 of the California Health and Safety Code provides: A health care service plan that authorizes a specific type of treatment by a provider shall not rescind or modify this authorization after the provider renders the health care service in good faith and pursuant to the authorization for any reason, including, but not limited to, the plan's subsequent rescission, cancellation, or modification of the enrollee's or subscriber's contract or the plan's subsequent determination that it did not make an accurate determination of the enrollee's or subscriber's eligibility.

96. On eighteen separate occasions, the Community, through its duly authorized agent, AmeriBen, authorized Dedicato to provide a specific type of treatment. Dedicato provided that treatment to the Patient in good faith reliance on each of AmeriBen’s authorizations. AmeriBen thereafter rescinded its authorizations of that treatment.

97. The Community, through its duly authorized agent, AmeriBen, has engaged in an “unlawful” business act or practice, because it has effectively rescinded each of the treatment authorizations in violation of Section 1378.1 of the California Health and Safety Code.

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1           98. The Community, through its duly authorized agent, AmeriBen, has  
2 engaged in an “unfair” business act or practice, because its practice in authorizing,  
3 and then rescinding, treatment authorizations deceives members of the public,  
4 especially out-of-network healthcare providers who provide healthcare services to  
5 individuals covered under the Plan.

6           99. The representations of the Community, through its duly authorized  
7 agent, AmeriBen, are likely to deceive, and do in fact deceive, members of the  
8 public, because AmeriBen fails to inform out-of-network healthcare providers that  
9 it will not pay for treatment AmeriBen in fact authorizes. Out-of-network  
10 healthcare providers are especially vulnerable to deceptive conduct, because they,  
11 by definition, have no prearranged contractual relationship with the Community or  
12 the Plan to provide services and are entirely dependent on the good faith conduct  
13 of TPAs to honor commitments made to healthcare providers that they will pay for  
14 the treatment authorizations of Plan patients that TPAs in fact authorize.

15           100. Dedicato, as an out-of-network healthcare provider, has suffered  
16 injury in fact and has lost money to which it is entitled as a result of AmeriBen’s  
17 UCL violations. Specifically, AmeriBen has failed and refused, and continues to  
18 fail and refuse, to properly advise Plan participants and out-of-network healthcare  
19 providers that it will not pay for treatment that it has, in fact, authorized.

20           101. Dedicato is entitled to an injunction to enjoin AmeriBen’s unfair  
21 conduct and to compel AmeriBen to refrain from authorizing out-of-network  
22 treatment providers to treat patients covered under the Plan without a promise to  
23 pay for that treatment.

24           102. Dedicato is entitled to an award of attorney’s fees under section  
25 1021.5 of the California Code of Civil Procedure under the Private Attorney  
26 General Doctrine.



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**PRAYER FOR RELIEF**

WHEREAS Dedicato prays for judgment against the Community as follows:

ON THE FIRST CAUSE OF ACTION FOR BREACH OF CONTRACT:

1. Compensatory damages;
2. Loss of interest and other amounts to be proven at trial;
3. Costs of suit.

ON THE SECOND CAUSE OF ACTION FOR BREACH OF IMPLIED CONTRACT:

1. Compensatory damages;
2. Loss of interest and other amounts to be proven at trial;
3. Costs of suit.

ON THE THIRD CAUSE OF ACTION FOR BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING:

1. Compensatory damages;
2. Loss of interest and other amounts to be proven at trial;
3. Costs of suit.

ON THE FOURTH CAUSE OF ACTION FOR PROMISSORY ESTOPPEL:

1. An order estopping the Community from (1) contending that the services it authorized for the Patient are not payable; (2) refusing to pay Dedicato for the reasonable and customary value for its services;
2. Loss of interest and other amounts to be proven at trial;
3. Costs of suit.

ON THE FIFTH CAUSE OF ACTION FOR QUANTUM MERUIT:

1. Compensatory damages representing the reasonable value of services Dedicato provided to the Patient, to be proven at trial;
2. Loss of interest and other amounts to be proven at trial;

The Alvarez Firm, a Law Corp.  
24005 Ventura Boulevard  
Calabasas, CA 91302

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3. Costs of suit.

**ON THE SIXTH CAUSE OF ACTION FOR UNFAIR COMPETITION:**

1. An order to enjoin the Community from authorizing out-of-network healthcare providers to provide medical treatment for Plan participants without agreeing to pay such providers for the treatment it has authorized;

2. Costs of suit;

3. Reasonable attorney’s fees.

**DATED: December 13, 2022**

**THE ALVAREZ FIRM**

/s/ David A. Shaneyfelt  
**David A. Shaneyfelt**  
**Attorneys for Dedicato Treatment**  
**Center, Inc.**

**DEMAND FOR JURY TRIAL**

Plaintiff Dedicato Treatment Center, Inc., hereby demands a jury trial in the above-captioned proceeding.

**DATED: December 13, 2022**

**THE ALVAREZ FIRM**

/s/ David A. Shaneyfelt

**David A. Shaneyfelt  
Attorneys for Dedicato Treatment  
Center, Inc.**

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# **Exhibit A**

**THIRD-PARTY ADMINISTRATIVE AND  
UTILIZATION MANAGEMENT  
SERVICES AGREEMENT**

This Third-Party Administrative Services ("Agreement") is made and entered into by and between IEC Group, Inc. dba AmeriBen/IEC Group ("AmeriBen") and Salt River Pima – Maricopa Indian Community ("Client"), as Plan Sponsor and/or Administrator of the Salt River Pima – Maricopa Indian Community Employee Benefit Plan (the "Plan").

**ARTICLE I – SERVICES**

**1.1** AmeriBen will perform the following Administration Services ("Services") in accordance with the terms of the Plan, subject to the review and direction of the Client and applicable law:

- (a) Receive and review claims and claims-related documents.
- (b) Based strictly on information provided by Client, confirm eligibility of participants to receive payments under the Plan. Retroactive terminations are limited to ninety (90) days. If claims have been paid during the time period that a plan participant was not eligible for coverage, AmeriBen will make every attempt to recover monies paid to provider. AmeriBen cannot guarantee that providers will reimburse the plan.
- (c) Calculate amounts payable under the Plan, utilizing industry-standard codes and tables (e.g., for diagnosis, procedure, place and type of service, etc.), in accordance with the terms of the Plan, including any summaries or other descriptions of the Plan as may be approved by the Plan Sponsor or Plan Administrator.
- (d) Correspond with claimants and/or their providers to obtain any required additional information.
- (e) Prepare and mail explanations of benefits and benefit payment checks drawn on a demand deposit account designated by Client, as further described in Article 5 below.
- (f) Provide client a monthly accounting of payments made from its account.
- (g) Provide any insurance carrier from which Client or the Plan obtains stop-loss or other coverage with information reasonably required by the carrier for payment of claims under such coverage; however, AmeriBen assumes no responsibility or liability for the non-payment of such claims by any insurance carrier.
- (h) Based on information received from Client, provide claimants and their health care providers with information concerning Plan eligibility and benefits provisions. Such information will not constitute a determination of benefits that are covered by the Plan or a certification or guarantee that any amount will be paid, and Client understands and agrees that AmeriBen's provision of such information does not, under any circumstances, make AmeriBen substantively responsible for the payment of Plan benefits.
- (i) Coordinate with Client on any appeals of denied claims for review and decision by the Plan Administrator, who will make all final benefit determinations in such cases. Client delegates to AmeriBen non-discretionary authority to assist in the coordination and

calendar days of the postmark date on the invoice. Fees received after this date will be considered past due. Interest will accrue on any past-due amounts at the lesser of twelve percent per annum or the maximum rate allowed by law. When fees are past due, AmeriBen may, in its sole discretion, suspend its performance of Services until fees are paid in full, provided that AmeriBen notifies the Client in writing of said suspension with at least thirty (30) days notice prior to the effective date of the suspension.

- 2.5 Additional Compensation.** AmeriBen may receive additional compensation in the form of sales or override commissions or similar profit-sharing arrangements with stop-loss insurers, prescription drug administrators, preferred provider organizations, or other service providers to the Plan. AmeriBen may also receive expense reimbursement from such organizations. Any or all additional compensation has been disclosed in Exhibit A (see attached).
- 2.6 SBC Fees.** Client will pay a preparation fee to AmeriBen of \$100.00 per hour, for AmeriBen's consultation, preparation, revision and finalization of SBCs for the Client. AmeriBen will remit an invoice to Client, reflecting the services rendered and amount owed, following preparation of the SBCs. Client will remit payment of the fully invoiced amount, to AmeriBen, within twenty (20) days of receipt of the invoice.

### ARTICLE III - AUTHORITY

The parties expressly acknowledge and agree that:

- 3.1** AmeriBen is a duly organized corporation that is in good standing under the laws of the state of its incorporation and is properly licensed and in good standing with the State of Arizona;
- 3.2** Ameriben is, and will remain for the duration of the Agreement, in compliance with all applicable federal, state and SRPMIC laws, rules and regulations related to the conduct of business, including, but not limited to, all permit and license requirements;
- 3.3** AmeriBen is engaged to perform the Services as an independent contractor only and under no circumstance as a fiduciary of the Plan or as an employee or agent;
- 3.4** The Utilization Management Services involve administration of the utilization management provisions of the Plan and do not constitute medical advice or the practice of medicine. AmeriBen is not responsible for the health care or treatment decisions of Plan participants, responsibility for which remains with Plan participants and their health care providers;
- 3.5** AmeriBen has no discretionary authority or control over the management or disposition of Plan assets, and no authority over or responsibility for Plan administration other than the Services;
- 3.6** AmeriBen has no responsibility for any funding of Plan benefits, or decisions regarding Plan design, including adoption of or amendments to the Plan document or Summary Plan Description;
- 3.7** The Client is solely responsible for the negotiation and substance of any contracts with stop-loss insurers, pharmacy benefit management companies, preferred provider organizations and any other third-party service providers or vendors directly contracted by the Client;

- 3.8 To the extent Client and/or the participants of Client's Plan access stop-loss insurers, pharmacy benefit management companies, preferred provider organizations, or any other third-party service providers or vendors directly contracted with AmeriBen, Client agrees to be bound by the terms of the agreement(s) between such vendor(s) and AmeriBen. Upon request, AmeriBen will provide copies of such contract(s) to Client; and
- 3.9 The Client is solely responsible for all government compliance obligations, such as completing or filing government-required forms (i.e., Form 5500's), except the 1099, which AmeriBen will file annually on behalf of the Client.

#### ARTICLE IV - LIABILITIES OF PARTIES

- 4.1 **Disputes Regarding Claims for Payment of Benefits.** The parties each acknowledge that Client, and not AmeriBen, has the final discretionary authority to determine what benefits will be paid by the Plan. Accordingly, Client will defend AmeriBen against any third-party claims for payment of benefits relating to the Plan and indemnify AmeriBen against any expense or liability (including reasonable attorneys' fees) arising from such claims; provided, however, that Client will not be required to defend or indemnify AmeriBen hereunder, and AmeriBen will defend and indemnify Client, if and to the extent that such claim, expense or liability is due to AmeriBen's breach of its obligations under this Agreement, including those set forth in Article I above.
- 4.2 **Other Disputes.** Each party shall indemnify, defend and hold harmless the other party and its officers, directors, employees, elected officials, agents, successors and assigns ("Indemnified Parties" from and against any and all liability, loss, damage, claims or expenses of any kind whatsoever, including without limitation, reasonable attorneys' fees and costs of defense, that may be sustained, suffered, recovered or incurred by any Indemnified Party that arise from or are in any way connected with any willful misconduct, gross negligence or other wrongful act, error or omission in the performance duties and obligations under this Agreement by the Indemnifying Party, its subcontractors or anyone for whom the Indemnifying Party is responsible.
- 4.3 **Liability.** The work performed by AmeriBen under this Agreement will be performed solely and entirely at AmeriBen's own risk. AmeriBen specifically assumes all responsibility for the instrumentalities in its performance of this Agreement.

#### ARTICLE V - BANKING ARRANGEMENTS

- 5.1 **Client Account.** All Plan benefit payments made by AmeriBen will take the form of checks drawn on a demand deposit account designated by Client for such purpose. Such account will be established, maintained and reconciled by Client, who will be responsible for any applicable account fees.
- 5.2 **Funding.** Client will ensure that the account contains sufficient funds at all times for the continuous and timely payment of benefit claims processed by AmeriBen. If AmeriBen determines that the account lacks sufficient funds, AmeriBen may so notify Client and suspend further performance of services until the account is sufficiently funded. Client acknowledges and agrees that it retains sole financial responsibility for funding benefit payments under the Plan.

IN WITNESS WHEREOF, this Agreement has been executed this 12 day of December, 2016

**CLIENT**

Salt River Pima - Maricopa Indian Community

Signature: Patty Powers

Name: Patty Powers

Title: Employee Services Manager

Date: 12-12-16

Address: 10005 E. Osborn  
Scottsdale, AZ 85256

**THIRD PARTY ADMINISTRATOR**

IEC Group, Inc. dba AmeriBen/IEC Group

Signature: Bryan Hall

Name: Bryan W. Hall

Title: Corporate Counsel

Date: December 20, 2016

Address: 3449 E. Copper Point Dr.  
Meridian, ID 83642