

Master Service Agreement

Elevator Repair and Maintenance

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EXHIBIT B

(MEMBER NAME) ELEVATOR MAINTENANCE MASTER SERVICE AGREEMENT

This **Elevator Maintenance Service Agreement** (“**Agreement**”) is made, executed, and delivered as of [INSERT DAY, MONTH, YEAR], (“**Effective Date**”) by and between (Member Name) and (Member Name) Health System, Inc., a (State) non-profit corporation, located in (City), (State) (Zip), and any present or future subsidiaries and affiliates (**collectively referred to as, “(Member Name)”**) and [Insert Supplier Name], located at [Insert Supplier Address] hereinafter referred to as Supplier (“**Supplier**”). Individually either may be referred to as the (“**Party**”) and together as the (“**Parties**”).

WHEREAS, Supplier is in the business of providing elevator repair and maintenance services as set forth in **Exhibit A**, as may be amended in writing from time to time by the Parties, including all elevator maintenance and services required by (Member Name), in each case in accordance with the terms and conditions of this Agreement (**collectively, “Services”**) and (Member Name) desires to engage Supplier to provide such Services;

WHEREAS, Supplier has expertise and experience providing Services to operational facilities similar to (Member Name);

WHEREAS, Supplier desires to provide the Services set forth in **Exhibit A** to (Member Name), and (Member Name) desires to purchase such Services from Supplier;

NOW THEREFORE, in consideration of the foregoing premises and the covenants and agreements herein, the Parties hereby agree to the following:

Section 1. Term; Pricing; Payment.

1.1 Term and Termination.

This Agreement shall become effective on the Effective Date and shall continue for a period of three (3) years expiring on _____, 20__ (the “**Term**”). (Member Name) shall, at its sole discretion, have the right to extend this Agreement for two (2) one (1) year renewals (each the “**Renewal Term**”). In the event of any Renewal Term, then the Parties agree that all terms and conditions as set forth shall apply in full. (Member Name) shall have the right to terminate this Agreement for any reason, with or without cause, at any time, upon providing thirty (30) days written notice to Supplier. Upon termination of this Agreement, this Agreement and any exhibits, schedules, orders, amendments or other attachments shall become void with respect to the subject matter covered by this Agreement.

In the event of repeated service or preventative maintenance failures, including multiple entrapments or equipment failures within a 30-day period, Member reserves the right to initiate contract review and may impose corrective actions, including financial penalties or termination.

1.2 Pricing.

Supplier shall make available to (Member Name) the Services listed in the attached **Exhibit C**. The pricing for Services (“**Service Fees**” or “**Fees**”) set forth in **Exhibit C** shall be firm for the Term of the Agreement, as well as any Renewal Term. If Services are added or deleted from this Agreement, an amendment to **Exhibit C** shall be issued reflecting the specific additions, deletions, or changes. Any such amendments shall require written acceptance of the Parties hereto. If during the Term of this Agreement, or any Renewal Term, (Member Name) increases the purchase quantity to the point where a reduced Service

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Fee applies according to Supplier's standard pricing practices, Supplier shall extend reduced Service Fee to (Member Name) through a quote referencing this Agreement.

1.3 Invoicing/Payment Terms.

(Member Name) shall accept purchase order-based invoices in the following methods:

Email: **VendorInvoice@(Member Name).com**

US Mail:

(Member Name) Accounts Payable
(Street Address)
(City, ST Zip)

The above address is for invoices and statements only. For further assistance, the Accounts Payable department can be reached via email AccountsPayable@(Member Name).com or via telephone at (Phone Number).

(Member Name) shall release payment for each Supplier invoice within forty-five (45) days from its receipt of an accurate invoice unless otherwise agreed upon by the Parties. Supplier shall submit invoices in PDF format electronically to VendorInvoice@(Member Name).com. The following guidelines must be followed when emailing invoices:

- A. All invoice images must be submitted in PDF format.
- B. The PDF file name must not contain any special characters (only ALPHA NUMERIC) and cannot exceed 20 characters in length.
- C. A separate PDF for each invoice is required.
- D. One PDF per email is the required method for all inbound emails.
- E. The PDF cannot be secured or protected or the upload will fail.
- F. Invoice images cannot be embedded in the body of the e-mail.
- G. Invoice image must reference a (Member Name) PO number.
- H. The PDF Invoice image must contain all pages; partial invoice copies are not accepted
- I. The PDF Invoice image must be legible.
- J. Only invoices should be submitted for payment. Quotes, packing slips, statements, order acknowledgements, pro-forma invoices, estimates etc. are not used to process payments through Accounts Payable.

All invoices must include all of the following information, to the extent applicable:

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- A. Supplier phone number, email address and remit-to address
- B. invoice number and date
- C. clear label of total amount due, freight/shipping, tax
- D. purchase order number
- E. purchase order line-item number
- F. description of product or service
- G. unit of measure, unit price, item quantity
- H. DOL # of elevator of reference

Failure to provide this information will affect (Member Name) 's and (Member Name) Health System, Inc.'s ability to timely remit payment. Supplier will be notified of invalid purchase order numbers in response to payment inquiries and statements of account. For payment to be issued, matching must occur between the invoice, purchase order and goods receipt.

Invoices shall be consolidated and issued monthly unless otherwise agreed upon. As new elevators or facilities are added through acquisition or capital projects, they shall be incorporated into this agreement through a written amendment or addendum, which will specify scope, pricing, and service levels. Supplier may be eligible for performance-based incentives as detailed in an addendum, contingent upon achievement of agreed KPIs and thresholds. KPI baselines and performance thresholds may be adjusted based on changes in elevator count, number of stops, or other material factors affecting service volume or complexity.

1.4 Single Form of Invoice.

The Parties hereby agree that the Supplier shall at all times issue a singular invoice each month that shall be configured in a manner reasonably specified by (Member Name), whereas the invoice shall be configured to allocate the Service Fees by specified cost center.

1.5 Electronic Payment.

Payment shall be provided by (Member Name)'s Supplier Payment Solutions partner (company name), via ACH check and or Card payment. Accurate and qualified invoices shall be paid net 30.

1.6 Payment Inquiries.

All general inquiries regarding payments and any statements shall be sent to AccountsPayable@(Member Name).com.

1.7 Pre-Approved Expenses.

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(Member Name) shall reimburse Supplier for reasonable, pre-approved out of pocket expenses incurred in providing the Services. Such reimbursement shall be subject to receiving prior written approval from (Member Name), through the Facilities Director or their appointed designee.

1.8 Set-Off.

(Member Name) shall have the right to deduct any amount owed to (Member Name) by Supplier from any amount owed to Supplier by (Member Name).

Payment notifications shall be sent to the email address designated at the time of enrollment or as updates are provided. The payment of any invoice shall not preclude or affect (Member Name)'s right to dispute any charge made. In the event of any such protest, (Member Name) shall have the right to withhold the disputed amount from any payment otherwise due hereunder, without interest accruing thereupon. Upon notice of such dispute, Supplier shall either furnish (Member Name) with reasonable proof as to the disputed charge or modify or withdraw such change from the invoice. All payments received by Supplier from (Member Name) shall be applied to the appropriate invoice and not to any unidentified open balance.

1.9 GPO Process.

Supplier agrees to coordinate the completion process of any GPO letters of commitment, letters of participation, and other necessary paperwork to ensure that the correct Service Pricing is loaded into (Member Name)'s databases in a timely manner. Supplier shall remain responsible at all times to rebate and/or credit (Member Name) for any time period that the more favorable contract pricing was not in effect. In the event that the Supplier is not timely with such rebate or credit, (Member Name) shall have the right to offset the differences in accordance with the offset rights set forth in this Agreement or any other agreement between the Parties.

1.10 Administrative Fees.

The successful supplier, unless already a Vizient Group Purchasing Organization (GPO) contracted supplier, shall be required to enter into a custom agreement with Vizient for all material and Services rendered to (Member Name) and its entities. Supplier shall pay Vizient, as authorized collection agent for each of the Member sites, respectively (and not collectively), a GPO administrative fee ("Administrative Fees") equal to four percent (4 %) (as defined below) of the Services sold directly or indirectly to Vizient participating Members. As used in this Agreement, "Net Sales" means the net amount that Supplier invoices Participating Members for each Service transaction purchased and invoiced during the Term and during the six (6) month period following the expiration or earlier termination of this Agreement and during the remainder of the term of any End User Agreement executed during the Term of this Agreement.

1.11 Late Payment Fee.

If any payment of Administrative Fees is not received on the date such Administrative Fees are due, any amounts past due shall be subject to a late charge in an amount equal to the lesser of one and one-half

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percent (1.5%) interest per month or the maximum rate allowed by law. In the event Vizient or Supplier discovers that Service Fees were not properly reported to Vizient in accordance with this Agreement, Supplier shall pay the Administrative Fees related to those Service Fees within fifteen (15) days of discovering the error in reporting, together with a late charge in an amount equal to the lesser of one and one-half percent (1.5%) interest per month or the maximum rate allowed by law, calculated from the date the Net Sales should have been reported to Vizient.

1.12 Performance Guarantee and Incentives

1.12.1 Performance Guarantee

Supplier guarantees that no individual unit covered under this Agreement shall be out of service for more than fifteen (15) consecutive work days due to an unscheduled repair, provided the cause is equipment-related, not the result of misuse, and within Supplier's control.

If a unit remains out of service beyond fifteen (15) consecutive work days under such conditions, Supplier shall issue a credit to (Member Name) for the service maintenance charges applicable to the duration of the downtime for the affected unit.

This guarantee shall not apply in cases where the delay is due to an obsolete component, as defined in Exhibit C.

1.12.2 Guaranteed Uptime & Penalties

Supplier shall maintain an average uptime of 98% or greater:

Across all systems covered under this Agreement, **and**

At each covered campus location.

If either the overall contract-wide uptime or the uptime at any single campus location falls more than three percent (3%) below the 98% threshold in any contract year, the following penalties shall apply, based on the applicable portion of the annual contract value::

< 95% Uptime → 3% penalty of annual contract value

< 96% Uptime → 2% penalty of annual contract value

< 97% Uptime → 1% penalty of annual contract value

≥ 98% Uptime → 0% penalty and a 3% bonus of annual contract value

The penalty or bonus shall be calculated annually and paid or credited within sixty (60) days following the contract anniversary date.

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1.12.3 Overtime & Weekend Call Incentive

To encourage operational efficiency and minimize the need for non-standard hours service calls:

Supplier shall monitor and report the frequency of overtime and weekend service calls both across the contract and for each individual campus location.

If total service calls during non-standard hours are reduced by at least twenty percent (20%) year-over-year, and no individual campus location shows an increase exceeding ten percent (10%), Supplier shall be eligible for a one percent (1%) bonus of the annual contract value.

If such calls increase by more than ten percent (10%) overall or at two or more campus locations without justifiable cause, a one percent (1%) penalty shall apply.

These evaluations and corresponding adjustments shall be performed annually and settled within sixty (60) days following the contract anniversary

Section 2. Planned Maintenance.

2.1 Planned Maintenance.

Planned Maintenance shall be performed in accordance with the terms set forth in **Exhibit C. “Planned Maintenance”** means pre-scheduled maintenance Services provided under the terms of this Agreement. Where applicable, Supplier shall maintain, check, and calibrate according to written procedures supplied by Supplier and/or the relevant manufacturer. Planned Maintenance shall be performed at the intervals set forth in **Exhibit C.**

Supplier shall ensure continuity of service during pending capital replacement decisions. Maintenance should prioritize operational uptime and life extension strategies for aging equipment.

2.2 Performance Data and Metrics

Supplier shall utilize standardized performance data sources as designated by Member. Metrics including mean time between failures, response times, and service uptime shall be reported systemwide and individually each quarter.

Section 3. Warranty.

3.1 Non-Infringement Warranty.

Where applicable, Supplier represents and warrants that any computer code (including software and firmware) that Supplier provides to (Member Name) (collectively, the “**Software**”) shall not infringe or misappropriate the intellectual property rights of any third party.

3.2 Performance Warranty.

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Where applicable, Supplier represents and warrants that the Software does, and shall continue to, meet all representations and operate as set forth in Supplier's sales brochures, user manuals, and marketing materials.

3.3 Pass-Through of Third-Party Warranties.

Where applicable, to the extent Supplier may do so under agreement with any third-party software manufacturers or suppliers, Supplier passes through to (Member Name) all third party warranties for third party software or, if Supplier may not pass any such warranty, agrees that (Member Name) shall be a beneficiary of such warranty. To the extent Supplier may not pass such warranties through, Supplier hereby makes to (Member Name) the same third-party software warranties as manufacturers or suppliers make to Supplier.

3.4 Malicious Code Warranty.

Where applicable, Supplier warrants that the Software shall be free, at the time of delivery, of any potentially damaging code or program designed to effect the destruction of computer data, the permanent or temporary disabling of a computer system, or the provision of unauthorized access to a computer system, including but not limited to "Trojan horses," "time bombs," "logic bombs," "worms," "back-doors," and other computer viruses, collectively referred to as "Harmful Code". Supplier shall immediately notify Customer if Supplier becomes aware that the Software may contain Harmful Code. Supplier shall immediately notify Customer if Supplier becomes aware that the Software may contain harmful code.

Section 4. Security Requirements.

4.1 Security Requirements.

If Supplier will be providing any Services, whether through its employees, agents, contractors or otherwise, and so will have access to (Member Name) data, at all times during the Agreement Term Supplier shall:

- 4.1.1** implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, availability, and integrity of (Member Name)'s electronic data when created, received, maintained, or transmitted by Supplier;
- 4.1.2** encrypt end user devices (e.g., desktops, laptops, smart phones, tablets, etc.) or removable storage media (e.g., USB flash drives, memory cards, external hard drives, writeable CDs or DVDs, backup tapes, etc.) that store (Member Name) data;
- 4.1.3** if applicable, comply with the Payment Card Industry Data Security Standard ("PCI DSS") requirements;
- 4.1.4** not store or transmit (Member Name) data outside the United States;

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4.1.5 report Incidents involving the loss or unauthorized disclosure of your data to the (Member Name) Legal Department within a reasonable amount of time, not to exceed thirty (30) calendar days, from the occurrence of the incident; and

4.1.6 Remote access to Protected Health Information (PHI) must be protected by two-step authentications.

4.1.7 Supplier Responsibilities. Throughout the term of this Agreement, Supplier agrees to undertake the following:

In accordance with Exhibit C, Supplier shall cooperate with the (Member Name) and (Member Name)'s employees as reasonably requested or required, on a prompt and timely basis, in order to perform the Services. Supplier agrees that only appropriately qualified and licensed personnel shall provide the Services to (Member Name) hereunder. Supplier and its employees shall provide the Services in an appropriate, timely, and professional manner in accordance with all applicable laws, industry standards, and professional requirements.

4.1.8 Security Requirements:

Systems must remain non-proprietary to ensure compatibility across vendors. Supplier must support cybersecurity evaluations as required, and submit annual IT security documentation for each installation.

4.2 Staffing Education and Background Checks.

Where applicable to the Services provided under this Agreement, Supplier agrees to undertake the following throughout the Agreement Term:

4.2.1 Supplier shall hire, manage, and compensate a sufficient number of Supplier employees to provide the Services under this Agreement.

4.2.2 Supplier represents and warrants that each Supplier employee providing Services under this Agreement (including subcontractors) has the professional experience, licensure, education, and accreditation required to satisfactorily perform the Services required under this Agreement.

4.2.3 Supplier shall provide the Services in an appropriate, timely, and professional manner in accordance with all applicable laws, industry standards, and professional requirements.

4.2.4 Supplier shall ensure compliance with legally required pre-employment obligations for all Supplier employees to provide Services under this Agreement. Therefore, Supplier shall, at Supplier's expense, verify and place evidence of verification in Supplier's file for each of Supplier's employees who will be placed for assignment in any (Member Name) facility for any duration, of/that:

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- 4.2.5** the employee has any required professional license or certification or, if none is required, that the employee is a graduate of an accredited school including verification of highest level of education or has evidence of GED;
- 4.2.6** employment for the longer of (A) the last two (2) employers, or (B) the past seven (7) years;
- 4.2.7** the employee's Social Security Number;
- 4.2.8** a pre-employment 10-panel drug screening showing no illicit drug use;
- 4.2.9** criminal background checks showing no misdemeanor or felony convictions;
- 4.2.10** the employee is not found in a violent sexual offender and predator registry search;
- 4.2.11** the employee is not found on the HHS/OIG or SAM list of parties excluded from Federal Programs;
- 4.2.12** the employee is not found on the Departments of Commerce, State, and Treasury Consolidated Screening List of parties excluded from certain export transactions;
- 4.2.13** the employee has had a Tuberculosis Purified Protein Derivative ("PPD") exam certifying lack of positive test results within the past 365 days. If such a PPD exam has not been performed within the past 365 days, then a second PPD must be performed one (1) week after the first. If the PPD exam results are positive, the employee must have a negative chest X-Ray. (Chest X-Rays are adequate indefinitely, as long as an annual "signs and symptoms" form is completed and on file.) Start dates must not be delayed pending the results of the second PPD; and
- 4.2.14** the employee has current influenza and Covid vaccination records.

No person shall be placed at (Member Name) by Supplier unless Supplier certifies that such person has successfully passed these background checks. Supplier shall notify (Member Name) of any negative findings prior to placement. Placement of Supplier employees with a history of either a felony or misdemeanor conviction, including deferred adjudication, require the express approval of (Member Name)'s Manager of Human Resources prior to placement.

- 4.2.15** In the event (Member Name) is dissatisfied with the performance of any Supplier employee providing Services (including if a Supplier employee has failed to comply with (Member Name) policies applicable to on-site vendors), Supplier shall investigate the matter and cooperate with (Member Name) in addressing its concerns and take appropriate action, including, if necessary and reasonable, replacing such employee with a mutually acceptable replacement of equal skills within a reasonable time thereafter.
- 4.2.16** Supplier shall be responsible for all salaries, payroll taxes and other taxes, benefits, fees, and other charges or insurance required by any federal, state, or local law, statute, or regulation (including, but not limited to, unemployment taxes, Social Security contributions, worker's

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compensation premiums and all similar taxes and payments), attributable to each Supplier employee.

- 4.2.17** Supplier shall indemnify and hold (Member Name), its directors, officers, and employees, harmless from and against all claims, liabilities, and losses (including court costs and reasonable attorney fees and consultant fees) relating to or arising out of any claim or allegation that (Member Name) is, or is deemed to be, an employer or a joint employer of any Supplier employee(s).

4.3 Supplier Safety Responsibilities and Reports.

4.3.1. Supplier's Safety Responsibilities.

Supplier is solely responsible for the safety of any group comprised of one or more of the following, as applicable: (i) Supplier; (ii) any of Supplier's contractors of any tier; (iii) any parent, subsidiaries, or affiliates of (i) or (ii); or (iv) the officers, directors, employees, agents, successors, assigns, representatives, managers, consultants, beneficiaries, heirs, insurers, subrogees, or invitees of any of the foregoing ("Supplier Group"). Supplier Group and the training of such persons in procedures adequate to ensure safe operations generally and the safe operation of any means goods, supplies, products, raw materials, tools, equipment, machinery, or similar items ("Materials") provided by Supplier Group or to Supplier Group by (Member Name). During the performance of any one or both: (i) the performance of Services for (Member Name); or (ii) the sale, lease, or rental of Materials to (Member Name), necessary to fulfill Supplier's obligations under this Agreement, any SOW, and any Order ("Work"), Supplier shall: (i) monitor the safety habits of Supplier Group; (ii) conduct regular and frequent safety meetings; (iii) maintain Materials used in any Work in a safe operating condition; and (iv) perform routine safety inspections of operations and Materials to ensure continuous safe operations. Supplier agrees to provide Supplier Group all necessary (i) protective and safety equipment; and (ii) training on the proper use of Materials used in any Work.

4.3.2. Potential Hazards.

Prior to beginning Work, Supplier shall consult (Member Name)'s representative to obtain information on all location and job specific hazards, and shall not start Work until such information is obtained. Supplier agrees to comply with all other rules, regulations, and requirements applicable on the (Member Name) premises where Work is to be performed. During the performance of any Work, Supplier shall: (i) notify Supplier Group of any known or any reasonably foreseeable potential hazards applicable to the activities or (Member Name) premises; and (ii) ensure that all applicable members of Supplier Group comply with Supplier handbook, and all other applicable requirements. Supplier has the authority and responsibility to stop its work if unanticipated hazardous conditions are identified or suspected. In such event, Supplier must immediately notify (Member Name).

4.3.3. Reports of Accidents and Environmental Incidents.

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During the performance of any Services, Supplier shall immediately notify (Member Name) of all the following items: (i) accidents, incidents, events, or occurrences, any of which resulted in death or injuries to Contractor Group's employees or third parties, (ii) unpermitted releases of Hazardous Substance; (iii) damage to (Member Name) property or third-party property arising out of or in connection with any Work; or (iv) any other matters which might reasonably result in litigation or regulatory inquiry. In addition to the initial notification, Supplier shall follow-up with a written report to (Member Name) no later than 24 hours after the accident, incident, event, occurrence, unpermitted release, property damage, or other matter. At a minimum, the written report must: (i) explain in detail the accident, incident, event, occurrence, unpermitted release, or other matter; and (ii) provide a detailed analysis as to what steps are being taken to rectify or remedy the issue detailed in the report. Additionally, Supplier shall furnish (Member Name) with a copy of all non-privileged reports made by applicable members of Supplier Group to their respective insurers, any governmental authorities, or to any third party regarding such accidents, incidents, events, occurrences, unpermitted releases, property damage, or other matters.

4.4 Compliance.

4.4.1. Regulatory Requirements.

Supplier agrees that in the performance of the Agreement, the Supplier shall comply with all applicable local, state and federal laws.

4.4.2. Compliance with Laws.

The terms of this Agreement are intended to comply with all federal, state, and local statutes, regulations, and ordinances, including, without limitation the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and all regulations relating thereto and any other laws and regulations governing restricted access to and the confidentiality of patient clinical records and individually identifiable health information applicable on the date this Agreement takes effect. Should legal counsel for either Party reasonably conclude that any portion of this Agreement is, or may be, in violation of such requirements, or subsequent enactments by federal, state, or local authorities, or if any change or proposed change would materially increase the cost hereunder, or otherwise adversely affect either Party's ability to perform hereunder, either Party shall have the right to terminate this Agreement immediately and without penalty. Supplier agrees that in the performance of its obligations hereunder, it shall comply with all applicable laws including, but not limited to, state and federal patient confidentiality laws and the United States laws governing export controls and embargos.

4.4.3. Access to Books and Records.

If Supplier should be deemed to be a subcontractor subject to the disclosure requirements of 42 U.S.C. § 1395x(v)(1)(I), anything herein to the contrary notwithstanding, until the expiration of four (4) years after the furnishing of Services pursuant to this Agreement, upon written request of (Member Name), Supplier shall make available to the Secretary of the Department of Health and Human Services, or to the Comptroller General, or any duly authorized

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representatives, this Agreement and books, documents, and records of Supplier that are necessary to certify the nature and extent of any costs incurred by (Member Name). If Supplier carries out any of the duties of this Agreement through a subcontractor, and such duties have an aggregate value or cost of \$10,000.00 or more over a twelve (12) month period, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of the Services pursuant to such subcontract, the subcontractor shall, upon written request, make available to the Secretary of the Department of Health and Human Services, the Comptroller General, or any of their duly authorized representatives, the subcontract and the books, documents, and records of such subcontractor that are necessary to verify the nature and extent of such costs. This provision shall survive termination or expiration of this Agreement.

4.4.4. Compliance Plan Participation.

Supplier agrees to participate in any reasonable contract and claims audits by (Member Name), and to cooperate and assist during any reasonable internal compliance review, investigation, monitoring protocol, and/or audit, without regard to whether the review, investigation, or audit occurs before or after termination or expiration of the Agreement.

4.4.5. The Deficit Reduction Act.

The Deficit Reduction Act of 2005 requires (Member Name) to inform all employees, contractors, and their agents of the following:

(Member Name) receives reimbursement for many of its services from the Medicare and Medicaid programs. Under the federal False Claims Act and (State) laws, any person who knowingly submits, or causes someone else to submit, illegal claims for payment of government funds is subject to government fines and penalties. Reports of suspected illegal claim activity should be made (i) to the (Member Name) executive overseeing this Agreement; (ii) anonymously through (Member Name)'s Hotline service (1-800-500-0333); (iii) to (Member Name)'s Business Practices Officer; or (iv) to the Department of Health and Human Services Office of Inspector General or the (State) Health and Human Services Commission's Office of Inspector General. Those who report questionable practices are protected from retaliation for reports made in good faith by (Member Name) policy and by federal and state laws.

4.4.6. Compliance with Regulatory Agencies.

Supplier shall comply with national accreditation organization requirements and state or national professional ethical guidelines.

4.4.7. Non-Discrimination.

(Member Name) and Supplier hereby agree and represent to one another that neither shall discriminate in any way, in the performance of their obligations under the terms of this Agreement, against a person because of that person's race, color, national origin, gender, age,

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disability, political or religious affiliation or belief, veteran status, or status as a beneficiary of a federal or state health care program.

4.4.8. Representation of Non-Exclusion.

In accordance with Section 4304 of the Balanced Budget Act, Supplier acknowledges that (Member Name) is prohibited from contracting with a person or entity that has been excluded, debarred, or suspended from a federal or state health care program or from participation in any federal or state procurement or non-procurement programs. Accordingly, Supplier represents and warrants that as of the Effective Date, neither Supplier nor any of its employees providing Services under this Agreement are so excluded, debarred, or suspended. Supplier also represents that if it or an employee who provides items or Services under this Agreement becomes so excluded, debarred, or suspended during the Agreement Term, Supplier shall promptly notify (Member Name).

4.4.9. Adherence to (Member Name) Policies.

Supplier agrees that it shall ensure that all individuals it brings to (Member Name) pursuant to this Agreement shall adhere to (Member Name)'s applicable policies and procedures. Any individual who fails to follow instructions by (Member Name), or is causing a disturbance, may be removed immediately from (Member Name)'s premises. Supplier shall require that all Supplier employees, agents, or representatives working on (Member Name)'s premises for two (2) consecutive weeks or longer undergo and successfully pass drug and alcohol screening, TB skin test, or chest x-ray ruling out TB. Supplier shall immediately present evidence of the same upon written request by (Member Name). Supplier further agrees that it shall require all individuals coming to (Member Name) to sign (Member Name)'s confidentiality agreement and shall instruct such individuals of the confidential nature of patient information.

4.5 Insurance.

4.5.1 Supplier Insurance. Supplier shall purchase and maintain insurance in accordance with the provisions set forth in this Agreement. Subject to the terms and conditions of Supplier's insurance policies, such insurance shall be in such form and substance to reasonably and customarily protect Supplier and (Member Name) from the types of claims which may arise out of or result from Supplier providing the Services. This insurance shall be written for not less than the limits of liability specified or as required by law, whichever is the greater. Except for workers' compensation insurance, (Member Name) and such other persons or firms as Supplier and (Member Name) specify, shall be named as additional insured(s), as their interest may appear, entitling them to recover under such policies for any loss sustained by them, their agents, or employees.

4.5.2 Certificate of Insurance. Supplier shall provide (Member Name) with its current certificate of insurance for each of the policies identified by this section before Supplier delivers Services pursuant to this Agreement and at least thirty (30) days advance written notice of any changes to the coverage referenced above.

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4.5.3 If (Member Name) reasonably determines that the revised coverage is inadequate, (Member Name) shall provide Supplier with written notice of its objections and Supplier shall either: (i) revise the coverage to the satisfaction of (Member Name); or (ii) notify (Member Name) that it shall not revise the coverage to the satisfaction of (Member Name) and in that case (Member Name) may terminate this Agreement immediately.

4.5.4 Supplier shall maintain the insurance coverage set forth herein without interruption from the date of the commencement of Service supply and for the remainder of the Term of the Agreement. Supplier shall insure Supplier's property for its full value, including loss of use, and hereby releases (Member Name) from any and all liability for such property, except where such damage is caused by the willful misconduct or gross negligence of (Member Name) or its employees or agents.

4.5.5 Supplier shall ensure that certificates of insurance name (Member Name) as an additional insured as follows:

Entity Name: (Member Name)

Entity Address:

Corporate Risk Management

(Address)

Fax: (xxx) xxx-xxxx

E-mail: corprisk@(Member Name).com

4.6 **Required Coverage.**

4.6.1 Supplier shall obtain and maintain general liability, bodily injury, property damage, motor vehicle liability and workers compensation insurance covering Supplier, Supplier's property, and Supplier's personnel performing Services under this Agreement. Such insurance shall be as set forth below:

4.6.2 Statutory Workers' Compensation Insurance;

4.6.3 Commercial General Liability Insurance including:

4.6.3.1. Bodily Injury - \$2 million each person and \$5 million aggregate,

4.6.3.2. Property Damage - \$2 million each person and \$5 million aggregate, and

4.6.3.3. Products and Completed Operations - \$5 million aggregate;

4.6.4 Automobile Liability including owned, non-owned, and hired vehicles covering:

4.6.4.1. Bodily Injury - \$2 million each person and \$5 million aggregate, and

4.6.4.2. Property Damage - \$2 million each occurrence and \$5 million aggregate;

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4.6.5 Contractual Liability including:

4.6.5.1. Bodily Injury - \$2 million each person and \$5 million aggregate,

4.6.5.2. Property Damage - \$2 million each occurrence and \$5 million aggregate, and

4.6.6 Umbrella Excess Liability Insurance in the amount of \$5 million over primary insurance coverage.

4.6.7 Cyber Liability Insurance in a minimum amount of \$3 million each claim and \$3 million aggregate.

4.7 Survival.

The obligations under this Section shall survive the expiration or termination of this Agreement for a period of two (2) years.

Section 5. Confidentiality; Records Retention; Notices

5.1 Confidential Information.

The Parties acknowledge that, in connection with this Agreement and the provision of Services provided by Supplier pursuant to this Agreement, certain Confidential Information and/or trade secrets may be disclosed by either Party to the other Party. The Parties agree that each receiving Party shall not use Confidential Information of the disclosing Party except in connection with the performance of its duties pursuant to this Agreement or divulge the Confidential Information of the disclosing party to any third party, unless the disclosing Party consents, in writing, to such use or divulgence or such divulgence is compelled by a court order.

5.2 Legal Requirements.

If a receiving Party is legally compelled to disclose the disclosing Party's Confidential Information pursuant to a subpoena court order, statute, law, rule or regulation ("Legal Requirement"), the receiving Party shall provide prompt notice (if legally permissible) to the disclosing Party so that the disclosing Party can seek a protective order, other appropriate remedy, or waive compliance with the provisions of this Agreement. If the disclosing Party is not successful in obtaining a protective order or other appropriate remedy, and the receiving Party is, in the reasonable opinion of its counsel, legally compelled to disclose such Confidential Information, or if the disclosing party waives compliance with the provisions of this Agreement in writing, the receiving Party may disclose, without liability hereunder, such Confidential Information in accordance with, but solely to the extent necessary, in the reasonable opinion of its counsel, to comply with the Legal Requirement.

5.3 Terms of Confidentiality.

The receiving Party agrees not to use any Confidential Information disclosed to it hereunder for its own use or for any purpose other than to carry out its obligations under this Agreement. The receiving Party shall not disclose or permit disclosure of any Confidential Information to third parties and shall notify the

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disclosing Party in writing of any actual or suspected misuse, misappropriation, or unauthorized disclosure of Confidential Information. The receiving Party shall cause its employees and Personnel to comply with this Agreement and shall assume full responsibility for any breach of this Agreement by any such individuals given access to Confidential Information by such receiving Party. The disclosing Party shall have the right, at its option, to seek to enforce the provisions of this confidentiality covenant by means of injunctive relief in addition to any other remedies that may be available under law. The covenants contained in this Section shall survive for a period of five (5) years after the termination or expiration of this Agreement.

5.4 Exclusions from Confidential Treatment.

Specifically excluded from such confidential treatment shall be information which:

- 5.4.1** as of the date of this Agreement, is already known to the receiving Party and which knowledge was acquired on a non-confidential basis independently from the relationship contemplated hereby, as demonstrated by receiving Party's contemporaneous written records;
- 5.4.2** is or becomes part of the public domain, through no fault of the receiving Party;
- 5.4.3** is lawfully disclosed to the receiving Party without obligation of confidentiality by a third party who is not obligated to retain such information in confidence; or
- 5.4.4** is independently developed by the receiving Party by someone without access to or the assistance of the disclosing Party's Confidential Information, as demonstrated by the receiving Party's written records.
- 5.4.5** The foregoing exclusions to confidential treatment shall not apply to any personally identifiable information, including any protected health information.

5.5 Return of Confidential Information.

Upon the earlier of termination or expiration of this Agreement or upon the disclosing Party's written request and where practicable, the receiving Party shall return all copies of Confidential Information or applicable portion(s) thereof already in its possession or within its control. Alternatively, with the disclosing Party's prior written consent, the receiving Party may destroy such Confidential Information or applicable portion(s) thereof using industry standard means to protect against unauthorized access to or use of the information. Notwithstanding the foregoing, the receiving Party may retain copies of such Confidential Information as may be required by its legal department, so long as such Confidential Information is kept confidential as required under this Agreement.

5.6 Protected Health Information; FERPA; Personal Data.

Each Party agrees that it shall not share, disclose, or transfer any personally identifying information and/or Protected Health Information ("**PHI**") to the other Party under this Agreement. However, if a Party receives PHI, such Party agrees to keep confidential and protect the security and privacy of PHI, as that term is further defined in the Health Insurance Portability and Accountability Act of 1996, as

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amended, ("**HIPAA**") and shall comply with instructions from the disclosing Party regarding the return or destruction of such PHI.

5.7 Records Retention.

Supplier agrees that until the expiration of four (4) years after the furnishing of the Services provided under this Agreement, Supplier shall make available, upon written request, to the Secretary of Health and Human Services, or upon request to the Comptroller General, or any of their duly authorized representatives, this Agreement and the books, documents, and records necessary to certify the nature and extent of costs of those Services. Provided, that this requirement shall be of no effect if the value or cost for Service under this Agreement is not Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period. Provided further, that if Supplier carries out any of the duties of this Agreement through a subcontract with a related organization worth Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, such subcontract shall also contain a clause to the effect that until the expiration of four (4) years after the furnishing of such Service pursuant to such subcontract, the related organization shall make available upon written request, to the Secretary of Health and Human Services, upon request to the Comptroller General or any of their duly authorized representatives, the subcontract, and books, documents and records of such related organization that are necessary to verify the nature and extent of the costs under the subcontract.

5.8 Notices.

All notices under this Agreement by either Party to the other shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by Federal Express or Express Mail ("**Notice**"), and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, addressed as follows:

5.8.1 On Behalf of all (Member Name):

(Member Name) & (Member Name) Health System, Inc.
(Member Name) Street Address
(City, State / Zip)
Attn: Vice President Procurement and Supply Chain

With a Copy to:

(Member Name) & (Member Name) Health System, Inc.
Attn: General Counsel
Street Address
City, St Zip

(Member Name) & (Member Name) Health System, Inc.
Attn: Office of Audit, Risk and Compliance
Street Address
City, ST Zip

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5.8.2 On Behalf of Supplier:

[INSERT SUPPLIER ADDRESS AND CONTACT]

5.9 Publicity; Use of Names.

Supplier shall not in any way or in any form publicize or advertise in any manner the fact it is providing Services to (Member Name) without the express written approval of the Senior Vice President, Public Affairs and Government Relations for (Member Name) publicity matters; or the Associate Vice President, (Member Name) Medicine News and Communications for (Member Name) Medicine publicity matters, obtained in advance, for each item of advertising or publicity. However, nothing herein shall preclude Supplier from listing (Member Name) on its routine client list for matters of reference.

5.9.1 The (Member Name) name and logos are the exclusive property of (Member Name) and may only be used for approved purposes. Supplier agrees not use any (Member Name) logos outside of the sole purpose indicated in this Agreement without the expressed written consent of (Member Name). Supplier may not change or alter any (Member Name) logo in any way. Supplier is to obtain any additional approvals for the use of (Member Name)'s logos or name by contacting Procurement Services at 919-681-5900 or emailing [procurement@\(Member Name\).com](mailto:procurement@(Member Name).com) (link sends e-mail)

5.9.2 (Member Name) and (Member Name) Medicine trademarks, including the (Member Name) name and logos, may not be used in conjunction with the name or trademark(s) of any other entity without the prior written permission of that entity and (Member Name). (Member Name) trademarks may not be used in any manner that suggests or implies (Member Name)'s endorsement of other organizations, companies, products, services, political parties or views, or religious organizations or beliefs. (Member Name)'s trademarks may not be used in any way that discriminates or implies discrimination against any persons or groups based on age, ancestry, belief, color, creed, disability, national origin, race, religion, sex, sexual orientation or veteran status, or in any other way that would be a violation of (Member Name)'s anti-discrimination policies or practices. No one other than (Member Name) may claim copyright or trademark rights in or seek to register any design that uses (Member Name)'s trademarks. Approval to use a (Member Name) trademark for a one-time application (for example, a t-shirt) does not constitute approval to use the trademark again, or in connection with any other item, or to change the design in any way, without seeking additional approval. Full information regarding Trademark Licensing may be found at [www.trademarklicensing.\(Member Name\).com](http://www.trademarklicensing.(Member Name).com) (link is external), or you may contact (Member Name)'s Office of Trademark Licensing at [trademarklicensing@\(Member Name\).com](mailto:trademarklicensing@(Member Name).com) or (xxx) xxx-xxxx.

Section 6. Dispute Resolution; Governing Law; Indemnification.

6.1 Dispute Resolution.

The Parties shall in good faith attempt to resolve any controversy, dispute, or disagreement ("**Dispute**") arising out of or relating to this Agreement, or the breach thereof, first by good faith negotiation. Such negotiation shall begin promptly after one Party has delivered to the other Party a written request for

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such negotiation and setting forth the Dispute. If the Dispute cannot be resolved within sixty (60) days following the date on which the written request for negotiation is delivered, then either Party may take alternative measures to resolve such dispute, including but not limited to instituting an action in a court of proper jurisdiction for injunctive or other equitable relief.

6.2 Governing Law; Venue.

This Agreement shall be governed by the internal laws of the State of (State), without regard to principles of conflict of laws. Any action based on or arising out of this Agreement shall be brought and maintained exclusively in any court of the State of (State) or any federal court of the United States, in each case located only in (County Name) County, State of (State). Each of the Parties hereby expressly and irrevocably submits to the jurisdiction of such courts or pertinent appellate courts for the purposes of any such action and expressly and irrevocably waives, to the fullest extent permitted by law, any objection which it may have or hereafter may have to the laying of venue of any such action brought in any such court and any claim that any such action has been brought in an inconvenient forum.

6.3 Supplier Indemnification.

Supplier shall indemnify, defend, and hold harmless (Member Name), as well as all (Member Name) licensees, and each of their officers, trustees, directors, employees, and agents (**collectively, the “(Member Name) Indemnified Parties”**) from and against any and all claims, demands, proceedings, suits and actions (**“Claims”**), including any related liabilities, obligations, losses, damages, deficiencies, penalties, taxes, levies, fines, judgments, settlements, costs, expenses, legal fees and disbursements, and accountants’ fees and disbursements (**collectively, “Losses”**) incurred by or asserted against any of the (Member Name) Indemnified Parties in any way relating to, arising out of, or resulting from:

- 6.3.1** any fraud, negligence or willful misconduct of Supplier, its subcontractors or any of its or their Personnel;
- 6.3.2** the death of, or bodily injury to, any person arising out of the supply of Services by or on behalf of the Supplier;
- 6.3.3** any act or omission of Supplier, its subcontractors or any of its or their Personnel; or
- 6.3.4** breach of any representation, warranty, or covenant of Supplier contained herein or in any BAA or DSA.
- 6.3.5** Supplier shall have no indemnification obligation to the extent a claim arises out of or relates to the intentionally or grossly negligent acts or willful misconduct attributed solely to (Member Name) or its employees.

6.4 Indemnification Procedure.

(Member Name) shall provide Supplier with prompt notice of any Claim for which indemnification may be sought from Supplier hereunder. Each Party shall provide commercially reasonable cooperation to the other Party in connection with the defense, settlement, or other disposition of any such Claim by providing information reasonably requested by such other Party solely for such purpose(s). In any event,

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Supplier shall obtain (Member Name)'s prior written consent to any judgment, settlement, or other disposition of any such Claim in which the Supplier agrees to (or which contains or contemplates) any admission or finding of fault on the part of (Member Name) or the imposition of any fine, penalty, liability, damage, expense, cost or other loss or obligation on (Member Name).

Section 7. Miscellaneous Provisions.

7.1 No Assignment; Binding Effect.

Supplier shall not, without the prior written approval of (Member Name), assign, transfer, delegate, subcontract, pledge or sell, whether directly or indirectly, by operation of law, or otherwise, this Agreement or any part of it, or any rights or obligations arising under or in connection with this Agreement, or any account receivable arising from the completion of this Agreement. For the avoidance of doubt, the foregoing shall apply, without limitation, to any assignment, transfer, delegation, subcontract, pledge or sale to an owner or affiliate or in connection with, arising out of or otherwise relating to a sale of all or substantially all of Supplier's assets, a merger or consolidation in which Supplier is not the surviving entity, the acquisition directly or indirectly of a controlling share of the outstanding voting securities or equities of Supplier, a refinancing, reorganization or restructuring, or any other transaction effecting a change of control Supplier. All terms, conditions, and provisions contained herein shall be binding upon and inure to the benefit of the Parties hereto and their permitted assigns, transferees, delegees, pledgees and purchasers. Supplier shall be fully responsible and liable to (Member Name) for the acts and omissions of any and all of Supplier's, or its subcontractors', Personnel. under or in connection with this Agreement.

7.2 Remedies.

The rights and remedies available to (Member Name) as specified in this Agreement shall be cumulative, nonexclusive and in addition to any other rights and remedies available at law or in equity.

7.3 Entire Agreement; Amendments.

This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, proposals, inquiries, commitments, discussions, and correspondence, whether oral or written, not otherwise incorporated herein and all other communications between the Parties relating to such subject matter, including any request for proposals and any non-disclosure agreement that may have preceded this Agreement. This Agreement and all related Exhibits may not be amended or modified except by written agreement in advance by the Parties via an amendment to the Agreement that is signed by a duly authorized representative of each Party ("**Amendment**"). The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

7.4 Relationship of the Parties.

Supplier and (Member Name) expressly acknowledge and agree that this Agreement is not intended to create, nor does it create, any agency, partnership, employer/employee, joint venture or other relationship by and between Supplier and (Member Name). Neither Supplier nor (Member Name) shall

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have or exercise any authority, express, implied or apparent, to act on behalf of or as an agent of the other Party for any purpose, and shall not take any action which might tend to create an apparent employer/employee, joint venture, partnership, or agency relationship between Supplier and (Member Name). Supplier and (Member Name) are, and shall remain, unrelated and distinctly separate entities responsible for their separate obligations and liabilities.

7.5 Third-Party Beneficiaries.

This Agreement is for the sole benefit of the Parties and their permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. Notwithstanding the foregoing, Indemnified Parties, (Member Name)'s affiliates, and (Member Name) successors, assigns, buyers, and users of the Services are third-party beneficiaries to this Agreement.

7.6 Waiver.

A waiver by either of the Parties of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure. No failure of any Party to exercise any power given hereunder or to insist upon strict compliance with any obligations specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of any Party's right to demand strict compliance with the terms hereof; provided, however, that any Party may, at its sole option, waive in writing by an individual authorized to act on behalf of such Party any requirement, covenant or condition herein established for the benefit of such Party without affecting any of the other provisions of this Agreement. In addition to the foregoing and not in limitation thereof each Party agrees and covenants that the undertaking of any act or the failure to act in any given situation shall not be deemed to create a binding obligation on the part of such Party under a subsequent and/or future identical situation to similarly act or fail to act where such act or failure to act is not contractually required of the Party pursuant to the terms and conditions set forth in this Agreement.

7.7 Counterparts.

This Agreement and any Amendments thereto, if any, may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same document. To facilitate execution of this Agreement and any Amendments thereto, the Parties may execute and exchange by telephone facsimile copies of this Agreement and any Amendments thereto and all such copies shall be deemed to be originals.

7.8 Severability.

If any provision of this Agreement or the application thereof to any purpose or circumstance is held invalid, illegal or unenforceable for any reason by an arbitration tribunal or court of competent jurisdiction, the invalidity, illegality or unenforceability shall not affect the other provisions without the invalid or unenforceable provisions or application. To this end the remaining provisions of this Agreement shall remain in full effect and the invalid, illegal or unenforceable provision shall be replaced by a valid, legal and enforceable provision that comes closest to the intent of the Parties underlying the invalid, illegal or unenforceable provision.

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7.9 Survival.

Sections 6 (Dispute Resolution; Governing Law; Indemnification) shall survive the expiration of the Term or any such other termination. Without limiting the generality of the foregoing, the provisions of this Agreement that the Parties hereto expressly agree and covenant to survive the expiration of the Term or the termination of this Agreement for any reason whatsoever, with or without fault by either Party, prior to the expiration of the Term shall be (i) any and all obligations to provide an accounting from either Party to the other; (ii) any and all obligations to pay any and all sums of money that are due and owing as of the date thereof; and (iii) any and all obligations by either Party to the other to defend, indemnify and hold harmless.

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

**(Member Name) & (Member Name) Health
System, Inc.**

[ENTER SUPPLIER NAME]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____