

**New York City Health and Hospitals Corporation's
Standard Terms and Conditions**

These terms and conditions ("Terms and Conditions") are entered into by and between New York City Health and Hospitals Corporation, located at 50 Water Street, 17th Floor, New York, New York 10004, ("NYC Health + Hospitals") and _____ located at _____ ("Vendor"), each individually referred to as a party ("Party") and collectively referred to as the parties ("Parties"). These Terms and Conditions shall be effective upon _____ ("Effective Date").

Definitions

Agreement: the agreement between the Parties that consists of these Terms and Conditions, and any other documents relating to the subject matter hereof ("Incorporated Documents"), including NYC Health + Hospitals' solicitation document (such as an RFP or Bid), Vendor's response to such solicitation, Vendor's quote or proposal, Vendor's terms and conditions, terms and conditions relating to an applicable group purchasing organization or a governmental contract, Vendor's invoice, as well as other schedules and/or exhibits that may be included. The Incorporated Documents shall be made part of this Agreement unless specifically stated otherwise in writing signed by both Parties.

The City: The City of New York.

Diverse Vendor: a company that is certified as diverse by the City of New York or the State of New York.

Goods: items provided under this Agreement, which include tangible items, such as commodities (e.g., gloves, paper, furniture, pharmaceuticals, computers), equipment (e.g., x-rays, generators), and intangible items where most of the cost is not attributable to a service (e.g., stock software would be considered a Good whereas a custom developed interface would be considered a Service).

NYC Health + Hospitals: New York City Health and Hospitals Corporation, a public benefit corporation established by the laws of the State of New York.

Services: actions provided by a Vendor under this Agreement for the benefit of NYC Health + Hospitals, such as software support, equipment maintenance, professional services (e.g., legal), non-professional services (e.g., cleaning), consultations, and the like.

Vendor: the individual or entity providing Goods or Services under this Agreement.

Vendor Employee(s): owners, partners, members, officers, directors, employees, agents, or any other person under the reasonable control of Vendor.

Article I. General Business Terms

1. Term and Extension of Term

The term of this Agreement shall be the Effective Date through _____ (the "Initial Term"). NYC Health + Hospitals may renew this Agreement for two consecutive six-month periods by providing written notice to Vendor (the "Renewal Term").

2. Termination

This Agreement may be terminated at any time during the term of this Agreement in whole or in part (i) by NYC Health + Hospitals with or without cause upon thirty days written notice and without liability for any damages resulting therefrom, (ii) if either Party breaches this Agreement, and has failed to cure such breach within thirty days after receiving written notice from the non-breaching Party, provided, however, that if the breach is of such a nature that it cannot be cured within such thirty day period, the breaching Party shall be allowed a reasonable time within which to cure, provided that the breaching Party gives notice to the non-breaching Party within such thirty day period of its intention to cure and the manner in which it intends to cure, or (iii) immediately if a Party becomes insolvent, a Party has a proceeding under the federal or State Bankruptcy Act, either voluntarily or involuntarily, or a Party has a receiver appointed. If this Agreement is terminated before the end of the Term Vendor shall terminate work in progress expeditiously and without incurring further costs.

If NYC Health + Hospitals terminates this Agreement because Vendor has breached the Agreement and failed to cure the breach as set forth above, NYC Health + Hospitals may have the services under the Agreement completed by such means and in such manner, by contract with or without public letting, or otherwise, as he or she may deem advisable in accordance with its procurement rules. After completion of the Agreement, NYC Health + Hospitals shall certify the expense incurred in such completion, which shall include the cost of re-letting. Should the expense of such completion exceed the total sum which would have been payable under this Agreement if it had been completed by the Vendor, any excess shall be promptly paid by the Vendor upon demand by NYC Health + Hospitals. The excess expense of such completion, including any and all related and incidental costs may be charged against and deducted out of monies earned by the Vendor.

3. Payment

3.1 Vendor shall invoice NYC Health + Hospitals for all Goods or Services provided under this Agreement and NYC Health + Hospitals shall pay all undisputed invoices within ninety days of receipt of invoice. NYC Health + Hospitals shall not pay penalties or interest charges on any late payments. NYC Health + Hospitals shall not pay any amounts in advance unless otherwise expressly agreed to in writing. In the event of a dispute of invoice amount the time to pay an invoice shall be tolled until said dispute is resolved. Vendor shall upon NYC Health + Hospitals' request submit documentation and justification supporting the amounts charged.

3.2 NYC Health + Hospitals represents that it is exempt from the payment of sales and excise taxes and will provide Vendor documentation of such exemption upon request.

4. Price File Adjustments

4.1 The fees for Goods or Services provided under this Agreement by Vendor to NYC Health + Hospitals are set forth in the price file attached hereto as Exhibit A.

4.2 The fees for Goods or Services provided under this Agreement shall remain firm for the Initial Term of the Agreement. Thereafter, the fees for Goods or Services may be adjusted only by prior written Agreement between the Parties.

4.3 All notices or communications regarding price file adjustments must reference this Agreement and include a proposed effective date of the price file adjustment.

5. Return and Destruction of Data

5.1 NYC Health + Hospitals retains all rights to its own data, including but not limited to files, documents, and metadata generated, stored or shared with Vendor (“NYC Health + Hospitals’ Data”) pursuant to this Agreement.

5.2 Within 30 days of expiration or termination of the Agreement Vendor shall at no additional cost to NYC Health + hospitals recover any and all NYC Health + Hospitals’ Data and/or Confidential Information in the possession of its employees, agents or subcontractors and:

5.2.1 Provide a comprehensive, complete and accurate export of all such data to NYC Health + Hospitals’ in a commercially readable format that maintains the integrity and accessibility of the data for NYC Health + Hospitals’ future use;

5.2.2 Destroy all NYC Health + Hospitals’ Data and/or Confidential Information consistent with industry best practices within Vendor’s possession or control; and

5.2.3. Provide certification of proof of destruction of such data upon request by NYC Health + Hospitals.

5.3 This section shall survive expiration or termination of this Agreement.

Article II. Mandatory Terms and Conditions

1. Order of Precedence

These Terms and Conditions shall prevail in the event of a conflict between these Terms and Conditions and any Incorporated Documents.

2. Governing Law

This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York without giving effect to its principles of conflicts of laws.

3. Legal Disputes

3.1 Pursuant to New York City Health and Hospitals Corporation Act, Chapter 1016-69, Section 20, all actions against NYC Health + Hospitals shall be brought in the City, in the county in which the cause of action arose, or if it arose outside of the City, in the City, County of New York. The Parties consent to the dismissal or transfer to any claims asserted inconsistent with this section. If Vendor initiates any action in breach of this section, Vendor shall promptly reimburse NYC Health + Hospitals for any attorneys' fees incurred to remove the action to the contractually agreed upon venue.

3.2 Actions against NYC Health + Hospitals by Vendor arising out of this Agreement must be commenced within six months of the expiration or termination of this Agreement.

3.3 Neither Party shall make a claim for personal liability against any individual, officer, agent or employee of the other, nor of the City, pertaining to anything done or omitted in connection with this Agreement.

3.4 This section shall survive expiration or termination of this Agreement.

4. Diversity Contracting

As a material inducement to the award of this Agreement to Vendor and consistent with NYC Health + Hospitals' Vendor Diversity Policy, OP 100-10, Vendor has promised to make a good faith effort to subcontract 30% of the total value of this Agreement, including any renewal terms, to entities certified as minority or women owned by the City of New York or the State of New York ("Diverse Contractors"). Vendor shall report such efforts on a monthly basis to NYC Health + Hospitals in NYC Health + Hospitals' compliance software, as well as provide such information with each and every payment requisition, which shall contain at a minimum the legal name and address of each Diverse Vendor receiving payment from Vendor and the amount each Diversity Vendor received since the prior payment requisition.

Failure to make such good faith efforts will be considered a material breach of this Agreement and may result in NYC Health + Hospitals taking any of the following remedies: (i) requiring Vendor to present to the Board of Directors or a committee of the Board of Directors explaining and evidencing its M/WBE efforts under this Agreement and providing a corrective action plan to remedy its failure to meet the proscribed goal, (ii) be declared non-responsive or non-responsible for a particular procurement, (iii) be debarred from participating in future procurement opportunities for a period of three years, (iv) have this Agreement terminated by NYC Health + Hospitals without penalty or damages resulting from such termination, (v) have liquidated damages assessed commensurate with NYC Health + Hospitals' efforts that result from Contractor's non-compliance, bad faith or breach of this section, which shall in no event

be less than \$5,000.00, or the amount represented by the difference between the subcontracting goal dollar value set forth in Vendor's Utilization Plan and the amount actually paid by Vendor to Diverse Vendors.

This section shall survive expiration or termination of this Agreement.

5. Investigations

5.1 Vendor shall fully cooperate with any investigation, audit or inquiry related to this Agreement conducted by NYC Health + Hospitals or the City In compliance with the provisions of Chapter 34 of the New York City Charter.

5.2 If Vendor, an officer or director of Vendor, or any person under the reasonable control of Vendor refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit, or inquiry conducted by NYC Health + Hospitals or the City pursuant to Chapter 34, then the City or NYC Health + Hospitals on behalf of the City may convene a hearing, upon not less than five days written notice to the parties involved, to determine if any penalties shall attach for the failure of such person to testify.

5.3 The penalties that may attach after a final determination may include but shall not exceed: (i) the disqualification of Vendor for a period not to exceed five years from the date of an adverse determination for any person or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from NYC Health + Hospitals or the City, and/or (ii) the cancellation or termination of any and all such existing NYC Health + Hospitals or City contracts, leases, permits, or licenses that the refusal to testify concerns and that have not been assigned as permitted hereunder, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without NYC Health + Hospitals or the City incurring any penalty or damages on account of such cancellation or termination. Any monies lawfully due for goods delivered, work done, or fees accrued prior to the cancellation or termination shall be paid by NYC Health + Hospitals or the City, as applicable. As used in this paragraph license or permit shall be defined as a license, permit, franchise, or concession not granted as a matter of right.

5.4 This section shall survive expiration or termination of this Agreement.

6. Audit

6.1 Pursuant to Chapter 5 of the New York City Charter, at NYC Health + Hospitals' reasonable request made upon reasonable notice, Vendor shall make available all records and books pertaining to this Agreement during normal business hours for audit, inspection and/or investigation by NYC Health + Hospitals, the City, acting through its Comptroller, the U.S. government or any other persons authorized by NYC Health + Hospitals. Such audit, inspection and/or investigation may include examination and review of the source and application of all funds from NYC Health + Hospitals, the City, the State of New York, the federal government, private sources, or any other source. If an audit, inspection, or investigation

is commenced as set forth in this section, NYC Health + Hospitals may withhold payment hereunder until Vendor provides the cooperation required hereunder.

6.2 Vendor shall maintain accurate books and records in accordance with generally accepted accounting principles. Vendor shall retain such documents for six years after the final payments, expiration or termination of this Agreement, whichever is later.

6.3 This section shall survive expiration or termination of this Agreement.

7. Fair Practices

7.1 Any violation of the representations or warranties set forth in this section shall constitute a material breach of this Agreement, and NYC Health + Hospitals shall have the right to immediately terminate this Agreement without liability for any damages resulting therefrom.

7.2 Vendor warrants that no Vendor Employee is an elected official, officer or employee of NYC Health + Hospitals or the City.

7.3 Vendor and Vendor Employees shall not directly or indirectly give any gift in any form, including but not limited to money, service, loan, travel, entertainment to members of NYC Health + Hospitals' Board of Directors, Community Advisory Boards, officers, employees, or personnel.

7.4 Vendor shall not represent any party other than NYC Health + Hospitals related, or substantially related, to the Services to be performed under this Agreement without NYC Health + Hospitals' advance written consent.

7.5 Vendor warrants that neither Vendor nor any Vendor Employee has any conflict of interest relating to the performance of this Agreement which is materially adverse to NYC Health + Hospitals or the City and shall not acquire such conflict of interest during the term of this Agreement.

8. Responsibility Determination

8.1 Vendor represents and warrants that any information submitted as part of NYC Health + Hospitals' vendor responsibility determination process, including PASSPort, have been, or will be, fully answered in accordance with the requirements set forth by the New York City Mayor's Office of Contract Services. The veracity of the information submitted is a material inducement to NYC Health + Hospitals' execution of this Agreement.

8.2 If clearance from the City's Office of Inspector General cannot be obtained prior to execution of this Agreement and if subsequent to the execution of this Agreement NYC Health + Hospitals receives information from the Office of the Inspector General of the kind that would typically lead to a finding that a vendor is not responsible to receive a contract from NYC Health + Hospitals, then NYC Health + Hospitals may terminate this Agreement immediately without liability for any damages resulting therefrom.

8.3 Vendor must submit new PASSPort questionnaires every three years from the date of its last submission of PASSPort questionnaires so long as this Agreement is in effect.

9. Vendor Representations

9.1 Vendor represents and warrants that it and each of its Vendor Employees providing Services under this Agreement are properly licensed to perform such Services by the applicable licensing entities.

9.2 Vendor represents and warrants that it is registered do business in the State of New York and the City of New York.

9.3 Vendor represents and warrants that it is financially capable of fulfilling all requirements of this Agreement, that there are no legal proceedings against it that could threaten performance of this Agreement, and that it is a validly organized entity that has the authority to enter into this Agreement. Vendor is not prohibited by any loan, contract, financing arrangement, trade covenant, or similar restriction from entering into this Agreement.

10. Vendor Employee Screening

NYC Health + Hospitals may require Vendor Employees that enter NYC Health + Hospitals premises to participate in its Vendor Employee screening system and Vendor shall comply with all requirements of such system. NYC Health + Hospitals shall have sole discretion as to whether any Vendor Employees may access NYC Health + Hospitals premises.

11. Criminal Background Checks

11.1 Vendor shall perform a criminal background check of each Vendor Employee performing under this Agreement and such check shall include a search of New York State Office of Court Administration's records for all New York counties, and a search through the records for any other state in which the person resided in the last three years (a "Background Check"), and shall be conducted prior to the effective date of this Agreement, unless such a Background Check was conducted on the Vendor Employee within the past year. A Background Check shall be conducted annually thereafter for the duration of this Agreement for each of Vendor's Employees performing under this Agreement.

11.2 NYC Health + Hospitals may require Vendor to perform a more extensive background check on Vendor Employees that will have direct contact with mentally ill or minor patients, provide nursing home or home health care services or in certain other situations.

11.3 Vendor shall notify NYC Health + Hospitals in writing if a Vendor Employee has (i) been convicted of, or was placed in a pre-trial diversion program for, any crime involving dishonesty or breach of trust including but not limited to, drug trafficking, forgery, theft, perjury, fraud, money laundering, or (ii) been convicted of any sex, weapons or violent crime including but not limited to homicide, attempted homicide, rape, child molestation, extortion, terrorism or terrorist threats, kidnapping, assault, battery, or illegal weapon possession, sale or use. Any such Vendor Employee shall not perform under this Agreement without the express written consent of NYC Health + Hospitals.

11.4 NYC Health + Hospitals may audit Vendor's records to verify compliance with this section.

11.5 Failure to comply with this section shall constitute a material breach of this Agreement and NYC Health + Hospitals shall have the right to immediately terminate this Agreement without liability for any damages resulting therefrom.

12. Excluded Providers

12.1 Vendor represents and warrants that Vendor and Vendor Employees are not individuals or entities excluded from participation in federal or state health care programs. Vendor shall ensure the eligibility of Vendor and Vendor Employees to participate in federal and state health care programs and further warrants that it will notify NYC Health + Hospitals in writing if Vendor or any Vendor Employees become excluded from such participation during the term of this Agreement. NYC Health + Hospitals may terminate this Agreement immediately without liability for any damages resulting therefrom should Vendor or Vendor Employees be excluded from participation in federal or state health care programs.

12.2 Vendor warrants that it is not currently a party to a Corporate Integrity Agreement or Certification of Compliance Agreement with any state or federal governmental agency. Vendor shall promptly notify NYC Health + Hospitals if it becomes a party to such agreement during the term of this Agreement.

13. Reserved

14. Reserved

15. Nondiscrimination

NYC Health + Hospitals has adopted the New York City Mayor's Executive Order 50, dated April 25, 1980, as amended ("E.O. 50") and the rules and regulations promulgated thereunder at Title 66 of the Rules of the City of New York Chapter 10 ("Title 66"). Vendor shall comply with all rules and regulations under Title 66, and shall not engage in any unlawful discrimination. This section applies to all Vendor subcontractors and Vendor Employees. Vendor understands that in the event of its noncompliance with the nondiscrimination clauses of this contract or with any of the rules, regulations, or orders contained in E.O. 50 or Title 66, such noncompliance shall constitute a material breach of the contract and noncompliance with E.O. 50 and Title 66. As such, noncompliance may result in termination of this Agreement and/or a declaration of non-responsibility by NYC Health + Hospitals or the City.

16. MacBride Fair Employment Principles

This section does not apply if Vendor is a not-for-profit corporation or governmental entity. Pursuant to the MacBride Fair Employment Principles (Section 165 of the New York State Finance Law), Vendor warrants that it (i) has no business operations in Northern Ireland, or (ii) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles, and shall permit independent monitoring of compliance with such principles by NYC Health + Hospitals or the City.

17. Reserved

18. Reserved

19. Reserved

Article III. General Terms and Conditions

1. Independent Contractor

Vendor's relationship with NYC Health + Hospitals and the City is that of an independent contractor and not that of an employee. Vendor covenants that neither it nor any Vendor Employees nor any Vendor subcontractors will hold themselves out as, nor claim to be, employees of NYC Health + Hospitals or the City, and that they will not make any claim, demand, or application to or for any right or privilege applicable to an employee of NYC Health + Hospitals or the City including, but not limited to, Workers' Compensation, benefits, pension, payroll taxes, or Social Security.

2. Subcontractors

2.1 Vendor is not permitted to subcontract, in whole or in part, performance of any obligation under this Agreement without the prior written consent of NYC Health + Hospitals. Approval by NYC Health + Hospitals of subcontractors specifically set forth in an approved Diversity Vendor Utilization Plan shall be considered prior written consent by NYC Health + Hospitals.

2.2 If NYC Health + Hospitals authorizes in writing Vendor's use of a subcontractor, then Vendor shall not be relieved of any obligation under this Agreement and shall ensure all work performed by such subcontractor is in accordance with this Agreement. Upon request, a copy of each proposed subcontract shall be provided to NYC Health + Hospitals.

3. Indemnification

3.1 To the fullest extent of the law, Vendor shall defend and indemnify NYC Health + Hospitals and the City, their respective agents and employees from and against all actions, proceedings, claims (even if such claims are without merit), damages, losses, and expenses, including reasonable attorney fees, arising out of Vendor's performance, or failure to perform, under this Agreement except to the extent caused by the negligence or wrongful acts of NYC Health + Hospitals or the City or their agents or employees. If the facts or law relating to any of the foregoing would preclude NYC Health + Hospitals from being completely indemnified by Vendor, NYC Health + Hospitals shall be partially indemnified by Vendor to the fullest extent permitted by Law.

3.2 Vendor's obligation to indemnify, defend and hold harmless NYC Health + Hospitals shall not be (i) limited in any way by Vendor's obligations to obtain and maintain insurance under this Agreement, nor (ii) adversely affected by any failure on the part of NYC Health + Hospitals to avail itself of the benefits of such insurance.

3.3 The foregoing right of indemnification is exclusive of any other rights to which NYC Health + Hospitals may be entitled hereunder and shall survive the expiration or termination of this Agreement.

3.4 This section shall survive expiration or termination of this Agreement.

4. Limitation of Liability

4.1 NYC Health + Hospitals' liability to Vendor arising out of this Agreement shall not exceed the amount that is unpaid to Vendor at the time such liability accrued.

4.2 Neither Party, nor their respective employees or agents, shall be liable to the other for indirect, punitive, exemplary or consequential damages. Neither Party's officers, directors, agents or employees shall have personal liability to the other Party under this Agreement except in cases of fraud.

4.3 This section shall survive expiration or termination of this Agreement.

5. Notices

5.1 All notices or communications required or permitted to be given hereunder shall be in writing and if to NYC Health + Hospitals shall be sent to 50 Water Street, New York, New York 10004, Attn: General Counsel and if to Vendor at the address specified below. Notices may be sent by hand delivery, U.S. Postal Service certified mail return receipt requested or by nationally recognized courier next business day delivery. Notices shall be deemed given upon delivery if delivery is made by hand, within three business days if sent by certified mail and on the next business day if sent by recognized courier with next business day delivery specified.

5.2 Notices to Vendor shall be sent to:

5.3 This section shall survive expiration or termination of this Agreement.

6. Compliance with Law

Vendor shall comply with all applicable laws, rules and regulations, including New York State and the City's wage laws. Each and every provision of law required to be inserted in this Agreement shall be and is deemed to be included.

7. Intellectual Property Infringement

7.1 Vendor warrants that the sale and use of Goods or Services provided shall not give rise to any claim of infringement of any third-party patent, copyright, trademark, or trade secret rights.

7.2 Notwithstanding any other section of this Agreement, Vendor shall indemnify and defend NYC Health + Hospitals and the City, their respective directors, officers, employees and agents, from and against any and all losses, liabilities, judgments, awards and costs (including legal fees and out-of-pocket expenses reasonably incurred) arising out of or related to any claim that NYC Health + Hospitals' or the City's use of the Services or Goods infringes, induces the infringement of, or violates and any third-party's intellectual property rights. . If the facts or law relating to any of the foregoing would preclude NYC Health + Hospitals from being completely indemnified by Vendor, NYC Health + Hospitals shall be partially indemnified by Vendor to the fullest extent permitted by Law.

7.3 If, as a result of any such claim, NYC Health + Hospitals is enjoined from use of any Services or Goods, or if Vendor believes that NYC Health + Hospitals is likely to become the subject of such a claim, Vendor, at its option and expense shall (i) procure the right for NYC Health + Hospitals to continue to use the Services or Goods, (ii) modify the Services or Goods so that they are not infringing, while remaining functionally equivalent to the Services or Goods to have been provided, or (iii) provide a refund to NYC Health + Hospitals for the infringing Services or Goods.

7.4 This section shall survive expiration or termination of this Agreement.

8. Insurance

8.1 Vendor shall not commence performing under this Agreement unless and until all insurance required by this Agreement is in effect and satisfactory proof of such insurance (such as certificates of insurance, amendatory endorsements, additional insured endorsement where applicable, or copy of the declarations and endorsements page) has been provided to and approved by NYC Health + Hospitals. All insurance shall be primary with respect to Vendor and the additional insureds and issued by an insurer with an A.M. Best rating of A-, Class VII or better. All insurance policies must be issued by insurance companies authorized to do business in New York State. Such insurance shall waive any right of subrogation against NYC Health + Hospitals. The limits of coverage for all insurance required under this Agreement shall be the greater of (i) the minimum limits set forth herein or (ii) the limits available to Vendor under all primary, excess, and umbrella policies. NYC Health + Hospitals reserves the right to increase the minimum acceptable limits of coverage depending upon the scope of services and the potential risk exposures involved in this Agreement. Vendor's failure to maintain any of the insurance required by this Agreement shall constitute a material breach of this Agreement.

8.2 There shall be no self-insurance program or self-insured retention in excess of \$25,000 with regard to any insurance required under this Agreement unless approved in writing by NYC Health + Hospitals. Any self-insurance program shall provide NYC Health + Hospitals with all rights that would be provided by traditional insurance.

8.3 Vendor shall provide NYC Health + Hospitals with a copy of any policy required under this Agreement upon the demand for such policy by NYC Health + Hospitals.

8.4 Any subcontract shall conform to the insurance requirements set forth in this Agreement.

8.5 Vendor shall maintain occurrence based commercial general liability insurance with limits no less than \$2,000,000 per occurrence, \$4,000,000 in the aggregate. Such insurance shall name (i) "New York City Health and Hospitals Corporation, its officials, and employees" and (ii) "The City of New York, its officials and employees" as additional insureds. Such insurance shall cover claims for property damage, bodily injury, including death, products liability, and ongoing and completed operations liability. Such insurance shall state that coverage shall not be canceled except with notice to the additional insureds.

8.6 If the Services under this Agreement are professional services, then Vendor shall maintain professional liability insurance with limits no less than \$1,000,000 per occurrence \$2,000,000 in the aggregate. Any policy that is claims-made shall have at least a three-year reporting period.

8.7 If Vendor uses vehicles under this Agreement, then Vendor shall maintain business automobile liability insurance with limits no less than \$2,000,000 and at least as broad as the current ISO form CA0001. Such insurance shall name (i) "New York City Health and Hospitals Corporation, its officials, and employees" and (ii) "The City of New York, its officials and employees" as additional insureds. Such insurance shall state that coverage shall not be canceled except with notice to the additional insureds. If vehicles are transporting hazardous materials, the insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

8.8 Vendor shall maintain statutory limits of Worker's Compensation insurance and employer's liability insurance with limits no less than \$5,000,000 per accident for injury or disease.

9. Intellectual Property

9.1 Any reports, documents, data, photographs, deliverables, and/or other materials ("Copyrightable Material") produced for NYC Health + Hospitals pursuant to this Agreement, and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to this Agreement, shall upon their creation become the exclusive property of NYC Health + Hospitals.

9.2 Any Copyrightable Materials in any format developed by Vendor under this Agreement constitutes "work made for hire" under Section 101 of the Copyright Act of the United States and NYC Health + Hospitals shall be the copyright owner thereof and of all aspects, elements, and components thereof in which copyright protection might exist. If for any reason the Copyrightable Materials do not qualify as "work made for hire" under the copyright laws of the United States, Vendor hereby irrevocably assigns and conveys exclusive right, title and interest in and to the Copyrightable Materials to NYC Health + Hospitals worldwide and in perpetuity. Vendor shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by Vendor for no purpose other than in the performance of this Agreement without the prior written permission of the NYC Health + Hospitals.

9.3 Vendor acknowledges that NYC Health + Hospitals may, in its sole discretion, register copyright in the Copyrightable Materials with the United States Copyright Office or any other government agency authorized to grant copyright registrations. Vendor shall fully cooperate in this effort, and agrees to provide any and all documentation necessary to accomplish this.

9.4 Vendor represents and warrants that the Copyrightable Materials: (i) are wholly original material not published elsewhere (except for material that is in the public domain); (ii) do not violate any copyright Law; (iii) do not constitute defamation or invasion of the right of privacy or publicity; and (iv) are not an infringement, of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original material, Vendor has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Agreement, copies of which shall be provided to NYC Health + Hospitals upon execution of this Agreement.

9.5 If the services under this Agreement are supported by a federal grant of funds, the federal and State government reserves a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for federal or State government purposes, the copyright in any Copyrightable Materials developed under this Agreement.

9.6 Any discovery or invention arising out of this Agreement shall be promptly and fully reported to NYC Health + Hospitals in writing and Vendor hereby irrevocably assigns to NYC Health + Hospitals worldwide and in perpetuity without additional consideration, any right, title or interest in any such discovery or invention immediately as of the vesting of such right, title or interest in Vendor. Vendor hereby appoints NYC Health + Hospitals as its attorney-in-fact to execute and deliver any such assignments or other documents on Vendor's behalf.

9.7 If Vendor publishes a work dealing with any aspect of performance under this Agreement, or with the results of such performance, NYC Health + Hospitals shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use such work for its non-commercial purposes.

9.8 This section shall survive expiration or termination of this Agreement.

10. Use of NYC Health + Hospitals' Marks

The prior written approval of NYC Health + Hospitals is required before Vendor or any Vendor Employee may (i) use NYC Health + Hospitals or any of its facilities' names, logos, marks, seals, insignia, symbols or brands or the like in any material for publication through any media of communication, or (ii) make any statement to the press or issue any material for publication through any media of communication relating to this Agreement. The foregoing restriction does not prohibit Vendor from using any such name in direct communications (including marketing materials that contain a list of Vendor's customers) with current or identified prospective customers (such as in a response to a solicitation or another direct communication).

11. Entire Agreement

This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous oral or written communications or agreements with respect to such matters.

12. Amendments

This Agreement may not be modified or amended except in writing and signed by both Parties.

13. Assignment

13.1 Neither Party shall assign, subcontract, transfer or otherwise dispose of this Agreement or any interest herein without first obtaining the other Party's prior written consent; if a Party does so without consent of the other Party ("non-consenting Party") it shall constitute a material breach of this Agreement and the non-consenting Party shall have the right to immediately terminate this Agreement without liability for any damages resulting therefrom, except however, NYC Health + Hospitals may assign this agreement to the City of New York or its agencies.

13.2 Should this Agreement be assigned, all rights, benefits and obligations shall be binding upon and inure to the benefit of the Parties, and their respective successors and permitted assigns.

14. Severability

If any section of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining sections shall remain in full force and effect.

15. Waiver

The failure to enforce any right or remedy under this Agreement or at law shall not constitute a waiver of such right or remedy.

16. Delay

16.1 The time of delivery of Goods or performance of Services may be extended in the following ways and with the following consequences:

16.1.1 If delivery or performance by Vendor is delayed by an act or omission of NYC Health + Hospitals, Vendor shall be allowed a corresponding extension of time for performance.

16.1.2 If delivery or performance by Vendor is delayed by a force majeure event such as war, civil insurrection, strikes, weather, etc., Vendor shall promptly give notice to NYC Health + Hospitals of the circumstances and the anticipated delay duration, and Vendor shall be allowed a corresponding extension of time.

16.1.3 Should a delay necessitate NYC Health + Hospitals to purchase Goods or Services from a third-party, NYC Health + Hospitals may do so without liability to Vendor and NYC Health + Hospitals shall be relieved of the obligation to purchase such Goods or Services from Vendor.

17. Confidentiality

Each Party has materials and information that have been or might be made available to the other in connection with this Agreement and may consist of confidential and proprietary information ("Confidential Information") of the other Party and shall not disclose the Confidential Information of the other Party except as otherwise set forth in this section. Confidential Information shall include any information relating to the Services, identity of customers or patients, business practices, trade secrets, business opportunities, pricing terms, and financial information. Only those employees or consultants requiring the use of Confidential Information in the performance of this Agreement shall receive such Confidential Information and only if such employees or consultants are bound by a confidentiality agreement as protective as this section. Neither Party shall be liable to the other with regard to any Confidential Information that: (i) was publicly known at the time it was disclosed, (ii) was legally known to the receiving party at the time of disclosure, (iii) was disclosed pursuant to law or court order, or (iv) was disclosed with the prior written approval of the disclosing party. This section shall survive the termination or expiration of this Agreement.

18. Execution

This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original, and when taken together shall constitute one and the same agreement. Electronic, facsimile or PDF image signatures shall be treated as original signatures.

Article IV. Terms and Conditions Specific to Goods

The following shall apply if Vendor provides Goods under this Agreement.

1. Quantities

1.1 The quantity of Goods to be provided by Vendor are indefinite and NYC Health + Hospitals shall not be obligated to purchase any minimum amount of Goods.

1.2 If Vendor ships more Goods than ordered, or duplicate Goods, then Vendor shall remove such Goods at its own expense upon request by NYC Health + Hospitals. If Vendor fails to remove such Goods within thirty days of NYC Health + Hospitals' request, such Goods shall become the property of NYC Health + Hospitals, and NYC Health + Hospitals may dispose of them and charge Vendor with the reasonable cost of such disposal.

2. Labels

When a label or marking is required by any regulatory agency, it must be affixed to all Goods delivered. Failure to comply with this section may be considered sufficient cause for rejection of Goods.

3. Packing Slips

Each shipment shall contain a packing slip with the order date, purchase order number, a description and count of the items within the shipment, and the place of delivery (building, floor, and room number).

4. Shipping Costs

NYC Health + Hospitals shall not pay any shipping costs.

5. Acceptance and Rejection

NYC Health + Hospitals shall have a reasonable period of time to inspect, test, and reject Goods. Receipt of Goods does not constitute acceptance. Vendor shall remove any rejected Goods at its own expense within a reasonable time after being notified of a rejection. Rejected Goods left longer than thirty days after notice of rejection may be regarded as abandoned ("Abandoned Goods") and NYC Health + Hospitals may dispose of such Goods at the reasonable cost of Vendor. NYC Health + Hospitals shall not be obligated to sell or resell any Abandoned Goods to minimize Vendor's damages.

6. Risk of Loss

Vendor shall bear the risk of loss of all Goods until NYC Health + Hospitals has accepted them. If NYC Health + Hospitals rejects the Goods as non-conforming, Vendor bears the risk of loss thereafter.

7. Defective Goods

If Vendor fails to repair or replace any defective Goods within thirty days from the date of notice of rejection, NYC Health + Hospitals, without limiting any other remedy available to it, may repair or replace such defective Goods at its own reasonable expense, and may subtract such cost from any money due to Vendor. If there is no money due to Vendor, Vendor shall reimburse NYC Health + Hospitals for such costs. This remedy is in addition to, and not a substitution for, any other right or remedy whether express or implied and any guarantee or warranty whether existing by contract or as a matter of law.

8. Warranty for Goods

8.1 Vendor warrants that all Goods delivered will conform to applicable specifications, drawings, instructions, data, samples, standards and regulations, and will be merchantable, free from defects in design, material and workmanship, will be as described, of good quality, fit for the intended purposes, and will be free from all liens and encumbrances. These warranties are in addition to all other warranties, express, implied or statutory, which may be applicable.

8.2 Vendor shall repair or replace within fifteen days from date of notice by NYC Health + Hospitals, at its own expense and to the reasonable satisfaction of NYC Health + Hospitals, any Goods that have become defective within one year from date of acceptance of such Goods by NYC Health + Hospitals, provided that such defect was not caused solely by negligence of NYC Health + Hospitals.

8.3 Unless expressly agreed to in writing, any limitations on NYC Health + Hospitals' remedies under a claim of warranty or any disclaimer of warranty are void. This section shall survive any inspection, acceptance, payment, or use of the Goods as well as the termination or expiration of this Agreement.

Article V. Terms and Conditions Specific to Services

The following shall apply if Vendor provides Services under this Agreement.

1. Warranty for Services

Vendor warrants that the Services will be performed (i) in a diligent, professional and workmanlike manner in accordance with the highest applicable industry standards and applicable laws and regulations, (ii) in accordance with the requirements under this Agreement, and (iii) by experienced, qualified and properly trained and appropriately licensed personnel. If Vendor fails to meet the specifications as set forth herein, Vendor will, without additional compensation, promptly correct or revise any errors or deficiencies in the Services provided.

2. Exclusivity and Quantity of Services

The Vendor recognizes and acknowledges that they may not be the exclusive provider of the Services to the System. The quantity of Services to be provided by Vendor under this Agreement provided for herein or in any applicable Statement of Work are estimates only, and NYC Health + Hospitals shall not be obligated to purchase any minimum amount of Services.

Article VI. FEMA Terms

1. FEMA Reimbursement Documentation

Some or all of the cost of the services herein may qualify for reimbursement by the Federal Emergency Management Administration (“FEMA”) or other federal programs. Accordingly, Vendor shall at its own reasonable expense invoice NYC Health + Hospitals as directed by NYC Health + Hospitals to meet FEMA standards. Further, Vendor shall prepare at its own reasonable expense any reports required or useful in applying for FEMA reimbursement. Should the cost of preparing documents for FEMA reimbursement become unreasonable, NYC Health + Hospitals shall at its own expense offer to Vendor the services of a third-party to perform such services, and Vendor shall cooperate with such third-party.

2. Debarment

Vendor certifies that neither it nor its principals is currently in a state of debarment, suspension, or other ineligible status as a result of prior performance, failure, fraud, or violation of applicable laws. Vendor further certifies that neither it nor its principals is debarred, suspended, otherwise excluded from or ineligible for participation in federal assistance programs. NYC Health + Hospitals reserves the right to terminate this Agreement if knowledge of debarment, suspension or other ineligibility has been withheld by the Vendor. Vendor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

3. Lobbying

Vendor certifies, to the best of its knowledge and belief, that:

3.1 No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement;

3.2 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal agreement, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL.

3.3 It will require that the language of this Section E be included in the award documents for all subcontracts at all tiers.

3.4 This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

4. Records Access

Vendor shall grant access to NYC Health + Hospitals, New York State, New York City or any other pass-through entity, FEMA, Inspectors General, and/or the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and/or records of Vendor that are pertinent to the Agreement for the purpose of making audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion related to such documents. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.

5. Agreement Changes

If not provided elsewhere in the Agreement, NYC Health + Hospitals and the Vendor must agree in writing to any changes to the Agreement, including changes to pricing and scope. All changes must meet the requirements of 2 C.F.R. Part 200, including Subpart E entitled "Cost Principles."

6. Logos

Vendor shall not use Department of Homeland Security ("DHS") seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval.

7. Federal Government not a Party

Vendor acknowledges and understands that the federal government is not a party to this Agreement and is not subject to any obligations or liabilities to NYC Health + Hospitals, Vendor or any other party pertaining to any matter resulting from the Agreement.

8. Program Fraud and False or Fraudulent Statements or Related Acts

Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this Agreement.

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