TARRANT COUNTY

HOSPITAL DISTRICT d/b/a

JPS HEALTH NETWORK

REQUEST FOR PROPOSAL #20221020158
Pressure Ulcers Patient Monitoring System

The Tarrant County Hospital District d/b/a JPS Health Network (the “District”) is seeking proposals for the provision of a Pressure Ulcers Patient Monitoring System.

**The District will reject any proposal that fails to comply in all respects with the instructions set forth herein for responding to this Solicitation. NO EXCEPTIONS WILL BE MADE, even if you are a current or prior vendor for the District. The contract awarded, if any, under and pursuant to this Solicitation shall supersede any previous contract, bid, or GPO agreement for the products or services described herein.**

Release Date: 06-16-2022

Response Deadline: 07-13-2022, 2:00 p.m. CST

1. **OVERVIEW**
	1. **INTRODUCTION AND OVERVIEW**

The District desires to award a contract or contracts based upon vendor proposals (“Solicitation Response(s)”) to this Solicitation (“Solicitation”). The District is soliciting vendor proposals from vendors capable of supplying the District with a Pressure Ulcers Patient Monitoring System (the “Product(s)”), as set forth and specified herein (See Section II below, Business Requirements, attached hereto and incorporated herein for all purposes). All Solicitation Responses must be delivered to the District by the date and time, and in the manner specified in Section I.B hereof to be considered a Solicitation Response by the District. It is the sole responsibility of the vendor submitting a Solicitation Response (“Respondent”) to ensure that its Solicitation Response is delivered to the proper location on time and in the manner set forth herein.

A Solicitation Response does not commit the District to accept such Solicitation Response or to award a contract based on any Solicitation Response (“Contract Award”) merely because a Solicitation Response may propose the lowest price for the Products. The District expressly reserves the right to base any Contract Award hereunder upon its evaluation of all relevant factors regarding the vendor, including, but not limited to, Product pricing and terms, management experience and expertise, industry reputation and profile, performance history, support services, location and accessibility, and any other information relevant to its evaluation. Qualifications and omissions will be considered when evaluating vendor solicitation responses. A Solicitation Response that does not meet the minimum requirements set forth in Section II below, *Business Requirements*, will be disqualified.

This Solicitation is not an order and does not commit the District to pay for any costs incurred by the prospective vendor in the preparation or submission of the Solicitation or in the procurement of the Product. Product quantity estimates used herein may or may not reflect actual quantities needed or used by the District in the future, and do not commit the District to order specific Product quantities. Any Solicitation Response accompanied by terms and conditions that conflict with this Solicitation may be rejected by the District.

The District reserves the right to reject any or all Solicitation Responses and to issue a Contract Award or not to issue a Contract Award based solely on the Solicitation Responses received by the District in response to this Solicitation. However, prior to making any award hereunder, the District also reserves the right to engage in additional discussions with one or more of the vendors responding to this Solicitation.

Any prospective Respondent may request an explanation or interpretation of any portion of this Solicitation by complying with the request procedure described in Section I.C.2 below. The responses, if any, of the District to such requests are subject to and will be in the form of amendment to the Solicitation and will comply with the provisions of Section I.C.2 below. The District may elect not to respond to any or all such requests received from prospective Respondents.

Prior to the District’s consideration of a Respondent’s Solicitation Response each Respondent is required to register as a vendor in the District’s online “JPS Procurement System” (located on the District’s Website at: <https://jpshealth.gob2g.com>).

**MINORITY, WOMAN, AND VETERAN OWNED BUSINESS ENTERPRISE PARTICIPATION**

The District maintains a policy of encouraging and engaging in business transactions with vendors who qualify and are certified under applicable law as Minority, Woman, and Veteran Owned Business Enterprises (“MWVBEs”). The District establishes a **25%** good faith target goal. The District also encourages its vendors to utilize subcontractors and vendors who qualify and are certified under applicable law as MWVBEs. MWVBE Respondents are also strongly encouraged to subcontract to other MWVBEs to expand MWVBE participation beyond Respondent’s own self-performance. MWVBE Respondents should identify and list MWVBE subcontractors and other relevant information under the appropriate Solicitation Response section(s) and on the Good Faith Form ([Exhibit G](#ExG)). Prior to the Contract Award, a Respondent’s good faith efforts to utilize MWVBE subcontractors and vendors in its business transactions shall be part of the criteria under which the vendor proposals will be considered. Each Respondent will be required to show in its Solicitation Response its efforts to utilize MWVBE subcontractors and vendors in its business transactions.

**COMPLIANCE WITH TEXAS GOVERNMENT CODE SECTION 2252.908**

Texas Government Code Section 2252.908 (“Section 2252.908”) states that a governmental entity or state agency ***may not*** enter into certain contracts with a business entity unless the business entity submits Form 1295, a disclosure of interested parties, to the governmental entity or state agency ***at the time the business entity submits the signed contract to the governmental entity or state agency***. Section 2252.908 applies to all contracts entered into from and after January 1, 2016 between business entities and Texas governmental entities and state agencies which meet either one of the following criteria:

1. the contract requires a vote of the governing body of the Texas governmental entity, or

2. the contract has a contractual value of at least $1 Million.

The Texas Ethics Commission has adopted a Certificate of Interested Parties form (“Form 1295”) and has made it available on the TEC website.

In 2017 Section 2252.908 was amended to provide that the requirements of Section 2252.908 do not apply to the following contracts entered into or amended after January 1, 2018:

1. a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;

2. a contract with an electric utility, as that term is defined by Section 31.002, Texas Utilities Code; or

3. a contract with a gas utility, as that term is defined by Section 121.001, Texas Utilities Code.

In the event a Contract Award is issued pursuant to this Solicitation, the Respondent receiving the Contract Award shall be required to comply with the provisions of Section 2252.908, Texas Government Code, and the Chapter 46 Rules of the TEC, prior to entry into a contract with the District. The TEC has posted a video tutorial to its website for business entity filings of Form 1295. The TEC video provides step-by-step tutorials for creating login accounts for the business entity for completing and filing Form 1295. The TEC video tutorials can be viewed on its website at:

<https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm>

The TEC’s FAQs are posted on its website at:

<https://www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php>

**COMPLIANCE WITH TEXAS GOVERNMENT CODE CH. 2271 (Boycott of Israel Prohibited)**

In 2017 Texas Government Code Section [2271.001](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm) et seq. was enacted to provide that a Texas governmental entity is prohibited from entering into a contract with a company unless the contract contains a written verification by the company that (i) the company does not boycott Israel, and (ii) the company will not boycott Israel during the term of the contract. The requirement was modified in 2019 to apply only to contracts with a value of $100,000 or more that are made with a company (not including sole proprietorships) with 10 or more full-time employees. The term “boycott Israel” is defined in Section [808.001(1)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.808.htm) of the Texas Government Code and means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict harm on, or limit commercial relationships specifically with Israel, or with a person or entity doing business in Israel or in an Israel-controlled territory, but does not include an action made for ordinary business purposes. Any awarded contract must comply with the verification requirements in Texas Government Code Section [2271.001](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm), and a Respondent’s failure or refusal to comply will result in the withdrawal of the Contract Award. **Respondents should ensure they and their affiliates do not appear on the Texas Comptroller’s** [**List of Companies that Boycott Israel**](https://comptroller.texas.gov/purchasing/docs/anti-bds.pdf)**.**

**COMPLIANCE WITH TEXAS GOVERNMENT CODE SECTIONS 2252.151 et seq. (Scrutinized Business Operations in Sudan, Iran, or with Designated Foreign Terrorist Organizations Prohibited)**

In 2017 Texas Government Code Chapter 2252 was amended by adding Sections [2252.151](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#2252.151) et seq. to provide that a Texas governmental entity is prohibited from entering into a contract with a company that engages in certain scrutinized business operations in Sudan, Iran, or with foreign terrorist organizations. “Scrutinized business operations in Sudan” is defined in Section [2270.0052](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0052) of the Texas Government Code. “Scrutinized business operations in Iran” is defined in Section [2270.0102](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0102) of the Texas Government Code. “Scrutinized business operations with designated foreign terrorist organizations” is defined in Section [2270.0152](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0152) of the Texas Government Code. **Respondents should ensure that they and their affiliates do not appear on the Texas Comptroller’s** [**Scrutinized Companies Lists**](https://comptroller.texas.gov/purchasing/publications/divestment.php)**. The District is** [**prohibited by law**](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#2252.152) **from entering into a contract with a company on such a list (including a company with any affiliate on the list).**

**COMPLIANCE WITH TEXAS GOVERNMENT CODE CH. 2274 (Boycott of Certain Energy Companies Prohibited)**

In 2021, Texas Government Code Chapter [2274](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v2.htm) (added by 87th Legislature, S.B. 13) was enacted to provide that a Texas governmental entity is prohibited from entering into a contract with a company unless the contract contains a written verification by the company that (i) the company does not boycott energy companies, and (ii) the company will not boycott energy companies during the term of the contract. The requirement applies only to contracts with a value of $100,000 or more that are made with a company (not including sole proprietorships) with 10 or more full-time employees. The term “boycott energy company” is defined in Section [809.001(1)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.809.htm#809.001) of the Texas Government Code and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A). Any awarded contract must comply with the verification requirements in Texas Government Code Section [2274.002](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v2.htm) (added by 87th Legislature, S.B. 13), and a Respondent’s failure or refusal to comply will result in the withdrawal of the Contract Award.

**COMPLIANCE WITH TEXAS GOVERNMENT CODE CH. 2274** (**Discrimination Against Firearm Entities or Firearm Trade Associations Prohibited)**

In 2021, Texas Government Code Chapter [2274](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm) (added by 87th Legislature, S.B. 19) was enacted to provide that a Texas governmental entity is prohibited from entering into a contract with a company unless the contract contains a written verification by the company that (i) the company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (ii) the company will not discriminate against a firearm entity or firearm trade association during the term of the contract. The requirement applies only to contracts with a value of $100,000 or more that are made with a company (not including sole proprietorships) with 10 or more full-time employees. The requirement does not apply to sole source contracts or competitive solicitations-related contracts where no respondent can provide the verification required. (See Sec. [2274.002(c)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm)). The term “discriminate against a firearm entity or firearm trade association” is defined in Texas Government Code Section [2274.001(3)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm) (added by 87th Legislature, S.B. 19) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term *does not include*: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association. Any awarded contract must comply with the verification requirements in Texas Government Code Section [2274.002](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm) (added by 87th Legislature, S.B. 19), and a Respondent’s failure or refusal to comply will result in the withdrawal of the Contract Award.

**TEXAS PUBLIC INFORMATION ACT**

Each Respondent acknowledges that the District is a governmental body operating under and subject to the provisions of the Texas Public Information Act (“TPIA”) (Chapter 552 of the Texas Government Code) and thereby acknowledges that information that is collected, assembled, or maintained in connection with the transaction of official business by a governmental body is considered public information potentially subject to disclosure pursuant to a valid TPIA request. Respondent retains full responsibility and all costs for challenging any requests for information it considers confidential under the TPIA. **Respondents should consult the Attorney General’s website (**[**www.texasattorneygeneral.gov**](https://www.texasattorneygeneral.gov/)**) for information concerning the application of the provisions of the TPIA to proposals and proprietary vendor information.**

* 1. **SOLICITATION RESPONSE REQUIREMENTS, CONDITIONS AND RELATED INFORMATION**
		1. **Preparation of Solicitation Response.**

#### Each Respondent should carefullyexamine and familiarize itself with this Solicitation and all exhibits, drawings, specifications, and instructions regarding the Products included in this Solicitation (collectively, the “Solicitation Documents”). Each Respondent, by submitting a Solicitation Proposal, represents that Respondent has read and understands this Solicitation and the drawings, exhibits attached to this Solicitation.

#### Each Solicitation Response shall be fully completed, shall contain all the information required from the Respondent by this Solicitation, including the Vendor Certification Form attached hereto as [**Exhibit D**](#ExC) (“Required Information”), and shall be signed and executed, on the Signature Form attached hereto as [**Exhibit B**](#ExB) by an officer or other authorized representative of the Respondent. Each page of a Solicitation Response shall contain the company name of the Respondent. A Respondent’s failure to provide any of the Required Information in its Solicitation Response, or the failure of the Solicitation Response to contain the signature of Respondent’s officer or other duly authorized representative, may result in the District’s disqualification of such Solicitation Response. The Required Information shall include detailed information regarding the Respondent’s historical efforts (for the last year) to utilize DBE subcontractors and vendors in its prior business transactions and shall include such detailed information in its Solicitation Response.

#### Each Respondent shall be responsible for and shall bear all costs for the preparation and presentation of its Solicitation Response. Unless otherwise designated by Respondent and agreed by the District, the Solicitation Response and all drawings, materials, supporting documentation, manuals, etc. submitted with any Solicitation Response (“Submitted Materials”) will, immediately upon submission, become the property of the District. After the date upon which the final vendor is selected (See Section I.C.1 below) Respondents may request the return of the Submitted Materials. However, all costs associated with returning the Submitted Materials to a Respondent shall be born and paid in advance by the Respondent.

#### The District does not guarantee the confidentiality of any Submitted Materials. Each Respondent, by submitting a Solicitation Response, acknowledges and agrees that any Submitted Materials will be distributed or made available to appropriate District personnel and consultants involved in this Solicitation process, and further understand that the Submitted Materials may be subject to disclosure pursuant to the TPIA. Information considered proprietary by a Respondent should be clearly marked “Proprietary” when submitted with a Solicitation Response.

#### The District reserves the right to modify and/or supplement this Solicitation by amendment issued by the District prior to the date and time of the Response Deadline (defined herein). Any such amendments will be posted on-line prior to the Response Deadline at the same District internet site where this Solicitation is kept available for solicitation of Solicitation Responses. It is the responsibility of each Respondent to check that internet site frequently to determine if any amendments have been issued.

#### The District reserves the right to withdraw this Solicitation, at its sole discretion, from any or all prospective vendors and Respondents at any time, before or after the Response Deadline. The withdrawal, if ever, of this Solicitation shall be effective upon the District’s issuance of written notice posted on-line at the same District internet site where this Solicitation is kept available for solicitation of Solicitation Responses, which notice may also be sent by the District to the prospective Respondents in any manner deemed reasonable by the District.

* + 1. **Form of Contract.**

### Any Respondent awarded a contract with the District for the purchase and sale of the products and/or services pursuant to this Solicitation shall be required to execute an agreement between the Respondent and the District which shall in all material respects contain the terms and conditions set forth in [**Exhibit C**](#ExC) (Contract Terms), which is attached hereto and incorporated herein for all purposes. The District will not agree to change the Contract Terms except under unusual circumstances approved in the sole discretion of the District and its legal counsel. The District will entertain changes to the Contract Terms to the limited extent required to conform the unique terms of the Solicitation Response to the Contract Terms (e.g., unique payment provisions, terms and conditions). The District reserves the right to approve or reject any proposed changes to the Contract Terms submitted by Respondents.

### **IF ANY RESPONDENT PROPOSES CHANGES TO THE CONTRACT TERMS THE RESPONDENT MUST DO SO BY PROVIDING A REDLINE IN RESPONSE TO** [**EXHIBIT F**](#ExF)**, THE *VENDOR’S PROPOSED REVISIONS* SHOWING ALL PROPOSED EXCEPTIONS, ADDITIONS, DELETIONS AND/OR REVISIONS TO THE REQUIRED CONTRACT TERMS. A RESPONDENT’S ATTEMPT TO PROVIDE ITS PROPOSED EXCEPTIONS, ADDITIONS, DELETIONS AND/OR REVISIONS IN ANY MANNER OTHER THAN AS INSTRUCTED MAY RESULT IN THE DISTRICT’S REJECTION OF THE RESPONSE WITHOUT FURTHER EXAMINATION.**

Respondents may not request additional changes to the Contract Terms after the Solicitation Response has been submitted to the District, nor will the District agree to negotiate any requested changes to the Contract Terms which are not included with the Solicitation Response in the manner and form set forth above in this section I.B.2 and in [Exhibit F](#ExF).

* + 1. **Submission of Solicitation Responses.**

#### All Solicitation Responses shall be submitted to the District as follows:

* + - * 1. **All Solicitation submissions must be sent electronically to** **Bid\_submissions@jpshealth.org**. The proposal (except for any redline of the Contract Terms) must be submitted in a format that preserves graphic appearance, such as portable document format (PDF) or other digital image format that is platform-independent and easily readable without purchased software. If you submit a redline in response to Exhibit F, you must provide an editable, unlocked/unsecured version of the redline with your Solicitation Response (preferably in track changes).
				2. An attempted award will be deemed invalid if the Respondent, upon award of a contract (if ever), is not registered with **JPS Vendor Portal** (<https://jpshealth.gob2g.com/>) or is not in compliance with the District’s requirements for vendor credentialing.
				3. Respondents must submit the Solicitation Response as follows: the body of the email containing the Solicitation Response must state the following: (i) the name and address of the Respondent, (ii) the Response Deadline, and (iii) the Solicitation number. **Please put the Solicitation number and description in your email subject line.**
				4. Unless otherwise expressly provided in this Solicitation or in any amendment to this Solicitation, no Respondent shall modify or cancel the Solicitation Response or any part thereof for thirty (30) days after the Response Deadline. Respondents may withdraw Solicitation Proposals at any time before the Solicitation Proposals are opened by the District, but may not resubmit them. No Solicitation Proposal may be withdrawn or modified after the Solicitation Proposal deadline
				5. Solicitation Proposals will not be considered if they show any omissions, alterations of required forms, additions or conditions not requested or irregularities of any kind. However, the District reserves the right to waive any irregularities and to make the award in the best interest of the District.
				6. The Respondent acknowledges the right of the District to reject any or all Solicitation Responses and to waive any informality or irregularity in any Solicitation Response received. In addition, the District reserves the right to reject any Solicitation Response if the Respondent failed to submit the data, information or documents required by this Solicitation, or if the Solicitation Proposal is any way incomplete or irregular.
				7. Failure to follow the instructions regarding the submission of Solicitation Responses may result in the District’s disqualification of such Solicitation Responses.

#### Solicitation Responses are due on or before **07-13-2022, 2:00 p.m. CST (“Response Deadline”).** The Response Deadline may be extended by the District upon amendment to this Solicitation issued prior to the then-existing Response Deadline. Solicitation Responses are not scheduled for public opening. No telephone, telephonic, or FAX Solicitation Responses will be accepted. The District will not be responsible for missing, lost, or late deliveries. **Solicitation** **Proposals delivered after the Response Deadline will not be accepted or considered under any circumstances**.

#### Each Solicitation Response shall contain the completed form entitled, “Vendor Certification Form” set forth on [**Exhibit D**](#ExD) which is attached hereto and incorporated herein for all purposes.

#### Each Solicitation Response shall contain the completed form entitled “Conflict of Interest Questionnaire” set forth on [**Exhibit E**](#ExE) which is attached hereto and incorporated herein for all purposes, and shall return the Conflict of Interest Questionnaire with its Solicitation Response.

* 1. **SOLICITATION SCHEDULE AND RELATED INFORMATION**
		1. **Estimated Schedule**

|  |  |
| --- | --- |
| Milestone | Date |
| Solicitation Issued | **06-15-2022** |
| Deadline for Questions Submitted by Respondents  | **06-27-2022 2:00 p.m. CST** |
| Pre-Proposal Conference | **No Pre-proposal Conference** |
| Response Deadline | **07-13-2022, 2:00 p.m. CST** |
| Solicitation Evaluation Period  | **TBD** |

#### **Pre-Proposal Conference**. No Pre-Proposal Conference will be conducted.

#### **Milestone Dates.** Milestone Dates are estimated for planning purposes only and are subject to change.

* + 1. **District Solicitation Contact**

Respondents may, in the manner prescribed herein, present requests (“Submission Questions”) for an explanation, clarification or interpretation of the Business Requirements in this Solicitation and/or other requirements for submission of Solicitation Responses to the Solicitation Contact identified below during the proposal submission period. All Submission Questions must be submitted in writing and emailed tothe Solicitation Contact, at the email address set forth below, and must reference the appropriate pages and sections number of this Solicitation that are the subject of such Submission Questions. The final date and time to submit Submission Questions **is 06-27-2022, 2:00 p.m. Central Time. NO PHONE CALLS PLEASE.** Confirmation of the delivery of Submission Questions to the District is the sole responsibility of the Respondent. The District may, in its sole discretion, elect not to answer or respond to any or all Submission Questions it receives, and the failure of refusal of the District to answer or respond to any Submission Question will not affect, in any way, this Solicitation. Submission Questions may be informally addressed during the Pre-Proposal Conference; provided, however, that no answer or response to any Submission Question by any representative of the District shall be effective unless and until it is issued by the District in writing in the form of one or more addenda to the Solicitation, and has been posted to the District’s Solicitation website link prior to the Response Deadline. It is the responsibility of each Respondent to check the website for all addenda to the Solicitation up to the Response Deadline. Prospective vendors are advised that no District employee other than the Solicitation Contact is empowered to make binding statements regarding this Solicitation, and no statements, clarifications, or corrections regarding this Solicitation are valid or binding on the District except those issued in writing by the Solicitation Contact as addenda to the Solicitation.

**Contact between Respondents and the District, other than in the manner described and set forth in this Section I.C.2, during the Solicitation Response submission period or evaluation period is prohibited. Any attempt by a Respondent to engage in prohibited contact with the District or the Solicitation Contact may result in disqualification of its Solicitation Response.**

The Solicitation Contact is:

Lizzie Harris Johnson, Contracts Administrator

Contract Management Department

JPS Health Network

JPS Professional Office Complex

1350 S. Main St., Ste. 1350 (1st floor)

Fort Worth, TX 76104

Email: Bid\_Submissions@jpshealth.org

District’s Solicitation website link: <https://www.jpshealthnet.org/vendors/open-rfpsrfbsrfqs>

1. **BUSINESS REQUIREMENTS**
	1. **INTRODUCTION**

The District is requesting proposals from qualified vendors to provide a system to monitor patient risk for pressure ulcers.

* 1. **BACKGROUND**

Tarrant County Hospital District d/b/a JPS Health Network, Tarrant County’s public healthcare provider, is a tax-supported entity and includes John Peter Smith Hospital, JPS Surgical Center, a network of community and school-based health centers, and psychiatric services. A Level I Trauma Center, the District is licensed for 578 beds with over 1 million patient encounters per year. The District has the only Psychiatric Emergency Center in Tarrant County and an inpatient psychiatric hospital for adolescents and adults. With more than 25 primary and specialty health centers, the District serves patients throughout the community. The District has a Level III NICU where more than 4,300 babies are born each year. As a Comprehensive Level I Stroke Center and an AMI Certified facility by The Joint Commission, the District provides the best possible care for heart attack and stroke patients. An academic medical center, the District has 17 residency and fellowship programs, including one of the nation’s largest Family Medicine residency programs. The District takes pride in teaching the best and brightest from around the world and offers programs in several different specialties.

* 1. **PROJECT SCOPE**

The District seeks a vendor to provide wireless disposable sensors along with the compatible patient monitoring system, that tracks in real-time the movement and activity of patients who are susceptible to pressure ulcers. The system should integrate discrete data elements in our current electronic medical record, Epic, as well as provide remote access availability for viewing.

* 1. **MINIMUM REQUIREMENTS**
		1. The system must include wireless sensors that attach to the patient and track movement in real-time.
		2. The system must integrate with Epic, the District’s current electronic medical record system, for charting purposes.
		3. The system must allow remote monitoring of patients from each nurses’ station.
		4. The District plans to utilize the system on five patient floors located in two buildings (floors 3, 4, and 5 of the JPS Patient Care Pavilion at 1575 S. Main St. and floors 3 and 8 of the main hospital at 1500 S. Main St.). These five floors include a total of 187 beds, all of which are in single-patient rooms.
	2. **REQUIRED INFORMATION**

Provide the following information. Please include any comments/explanations that would be helpful to the District in evaluating Respondent’s proposed solution.

* + 1. **Training**
			1. What training options are available before and after go-live?
			2. What options are available for super-user and administrative training?
			3. What tools are available for self-support?
			4. What tools are available for self-training?
		2. **Reporting**
			1. What is the level of analytics and reporting mechanisms that the solution will contain?
			2. Include a sample of standard reporting and/or dashboards.
			3. List third party business intelligence tools supported, if any.
		3. **Support**
			1. What is the percentage of incidents resolved on the first contact?
			2. What is the average hold time for client support calls?
			3. Are there user communities available for peer-level product support?
			4. What options are available for having dedicated support staff?
			5. What structure do you recommend clients create for internal support?
			6. Describe District resources and fees required for dedicated troubleshooting sessions.
			7. Provide warranty information.
			8. How are bug fix and security notifications made available?
			9. Does an upgrade or maintenance patch requires an outage?
			10. Is the District will be required to accept all changes delivered in new releases?
			11. How are planned (maintenance or upgrade) outage notifications sent to clients?
			12. How are unplanned outage notifications sent to clients?
			13. How many unplanned outages have occurred in the past 12 months?
		4. **Timeline**
			1. Include project management approach and timeline.
			2. What is the typical implementation to go-live period?
			3. Provide a sample implementation work plan for the proposed solution indicating the tasks required, the relative sequence of tasks, the party responsible for each task and the approximate time to complete each task.
			4. How will best practice installation, configuration and EMR integration (if applicable) be communicated during implementation?
			5. What are the quality control mechanisms used to ensure proper testing of the solution before go-live?
			6. Describe District resources (in terms of skill set and FTE count) required to implement the solution.
			7. Describe District resources (in terms of skill set and FTE count) required for ongoing maintenance and support.
			8. What connections or systems remain for testing after go-live (e.g., development and/or test environments)?
			9. What documentation will be provided at the conclusion of implementation?
			10. Does Respondent have a team ready for implementation or what is the lead time required for the team to be available?
		5. **Financial**
			1. How will the District be billed for costs?
			2. Are there any per incident support costs?
			3. For any needed hardware, is the District is required to purchase hardware from Respondent or may the District procure it directly from the hardware vendor?
			4. Is the District is required to purchase third-party software from Respondent or may the District procure it directly from those vendors.
			5. Does the pricing includes future enhancements or upgrades to the system / solution?
			6. Does the pricing include licenses for operating system and related environmental software?
			7. Is Respondent’s pricing model based on the number of members managed, the number of plans, or another metric? Describe.
			8. Detail why the value of Respondent’s goods and services is competitive in today’s market.
			9. Estimate actual travel and lodging costs, not to exceed the current District employee travel and lodging reimbursement maximum (see details in [Exhibit 1](#ExC1) of the Contract Terms).
			10. Does Respondent require a contractual liability cap on damages? If so, indicate the maximum cap Respondent will accept. Indicate indemnification obligations for third-party claims resulting from Respondent’s violation of law or breach of the agreement would be excluded from the cap. *NB: The District is* ***not*** *required to accept any liability cap proposed. This is requested for informational purposes to assist in evaluating the risks of the proposed solution.*
		6. **Security**
			1. Describe the user security capabilities of the system including security levels available. Who will be responsible for administrating the security levels?
			2. Advise how users are created within the solution.
			3. Advise the levels of security available.
			4. Advise how security is maintained.
			5. Advise the level of encryption in use.
			6. Advise of processes and reporting tools employed to ensure Respondent’s solution is secure.
			7. Advise of mechanisms in place to audit user activity and administrative activity.
			8. Advise which identity management systems the solution integrates.
			9. Advise how the solution supports single sign-on capabilities.
			10. Advise if Respondent’s staff requires remote access to the District’s production or test system to perform duties.
			11. Describe Respondent’s PHI data retention policies.
			12. Provide a current SOC 2 report.
			13. Provide Respondent’s current insurance certificate showing current policy limits for cyber insurance with coverage for HIPAA breaches including breach management and individual notification expenses.
			14. Does Respondent require a contractual liability cap on BAA or HIPAA-related damages? If so, indicate the maximum cap Respondent will accept. Indicate whether indemnification obligations for third-party claims resulting from Respondent’s violation of HIPAA or breach of the BAA would be excluded from the cap. *NB: The District is* ***not*** *required to accept any liability cap proposed. This is requested for informational purposes to assist in evaluating the security risks of the proposed solution.*
	1. **PRICE QUOTES**

Price quotes shall remain firm during Solicitation evaluation and for an additional 120 days after recommendation for award. Pricing must remain fixed for the initial term of the agreement. Respondents must include all costs associated with use of the items. Any costs not included in the Solicitation response cannot be charged to the District. Respondents may propose pricing increases for the optional renewal terms with set caps (e.g., no more than 1% to 3% annually). Use the spreadsheet attached as [Exhibit A](#ExA) to this Solicitation to provide line-item pricing in your Response.

There will be no guarantee of market share, however all potential offers will be considered. Respondents should consider existing GPO agreements (if any) as a minimum bid. Items will be benchmarked against the national benchmarks.

Respondents are also asked to bid on, or include a set price (e.g., percentage discount off list price) for, all products in the Respondent’s catalog for this product category. **We strongly encourage all Respondents to bid their entire catalog for this category of products so that items not specifically listed in the Solicitation can be added later if appropriate, without the need to issue another Solicitation.**

* 1. **EQUIVALENT OR APPROVED EQUAL**

Whenever a product is defined by describing a proprietary product, or by using the name/model of a manufacturer or vendor, the term “or other units considered to be equivalent”, if not inserted, shall be implied. The specific product described shall be understood as indicating the type, function, and minimum standard of design, efficiency, and quality desired and shall not be construed in such a manner as to exclude products of comparable quality, design, and efficiency.

The references to brand names and/or numbers are intended to be descriptive, and not restrictive, unless otherwise specified. If the specific product cannot be supplied, equivalent items meeting the standards of quality specified shall be considered. The determination of equivalent or approved equal is at the sole discretion of the District.

* 1. **CONTRACT TERM**

The proposed term of the contract is **three (3) years with two (2) additional one-year renewal options**. The District may exercise the renewal options by providing vendor with written notice (email notice will be acceptable) of renewal no less than thirty (30) days prior to the expiration of the then-current term. The contract will be subject to cancellation by the District for any reason, at any time, and without penalty of any kind upon furnishing thirty (30) days’ advance written notification to vendor. At the end of the term, the District reserves the right to extend the contract for up to 180 days to provide an opportunity to bring a new contract into place with another vendor.

* 1. **SELECTION AND EVALUATION PROCESS**

**Selection Process**The Solicitation Contact shall designate an evaluation committee (“Evaluation Committee”) which will be composed of employees from the District. The District reserves the right to add, delete or substitute members of the Evaluation Committee as it deems necessary. The Evaluation Committee will narrow the field of submitted Solicitation responses to those which best meet the requirements of this Solicitation and which best meet the complete needs of the District. Each such Solicitation Response will then be evaluated according to the criteria set forth herein.

**Evaluation Criteria Specific to This Solicitation**The Evaluation Committee will conduct a comprehensive, fair, and impartial evaluation of all proposals received in response to this Solicitation. The evaluation of Solicitation Responses will involve scoring each Solicitation Response in the areas listed and set forth below in Section I (Evaluation Factors). The District’s evaluation of the Solicitation Responses will be based upon each Respondent’s response to the evaluation factors stated in this Solicitation. Any Respondent’s failure to provide complete and full responses to the requested information may lead to disqualification of such Solicitation Response.

* 1. **EVALUATION FACTORS**

In determining how to award a contract or contracts in conjunction with the Solicitation, the District may consider the following:

1. Price
2. The reputation of the Respondent and of the Respondent’s goods and/or services.
3. The extent to which the goods and/or services meet the District’s needs.
4. Quality of Respondent’s goods and/or services.
5. Diversity Enterprise Participation – the utilization of minority, woman, and veteran-owned businesses.
	1. **SOLICITATION RESPONSE CONTENT**

The overall Solicitation Response should not exceed 25 pages total, excluding exhibits.

1. **Executive Summary**

Provide a synopsis of the highlights of the proposal and overall benefits of the proposal to the District. This synopsis should not exceed two pages in length and should be easily understood.

1. **Company Background**
2. **How the Proposed Solution Meets the District’s Needs**

Describe how the proposed solution meets the minimum requirements in [Section D](#SecD) above. Include the requested information from [Section E](#SecE) above. Provide specification sheets for each product bid. Include service and warranty information.

1. **Pricing**

Use the spreadsheet in [Exhibit A](#ExA) to list line item pricing for all products/services Respondent can provide. Add lines as needed for additional products/services not already included.

1. **References**

Provide a minimum of three references. Include name, telephone number, and email address. *The District will contact the references provided to determine Respondent’s performance record for products/services similar to that described in this request.*

1. **Diversity Enterprise Participation**

Provide a discussion on how the Respondent intends to meet the District’s goal of 25% MWVBE participation for the scope/specifications of this Solicitation. Discuss any MWVBE management partners the Respondent plans to team with to provide the scope/specifications. (Maximum 1 page)

The District strongly encourages the utilization of minority, woman, and veteran-owned businesses.

A. Submit certificate if Respondent is a certified MWVBE **(do not submit an expired certificate).**

*OR:*

B. Communication Outreach – Attach the written notification of the subcontracting opportunity and list of three agencies and /or organizations notified regarding the interest in MWVBE participation in this contract; *and*

C. Plan of Action – List the subcontractors selected for participation, their certification, and approximate dollar value of the work to be subcontracted and the expected percentage of the total contract amount.

1. **Required Forms**

a. [Exhibit B](#Check8): Signature Form

b. [Exhibit D](#ExD): Vendor Certification Form

c. [Exhibit E](#ExE): Conflict of Interest Questionnaire

d. [Exhibit F](#ExF): Vendor Proposed Revisions (include an **editable** **unlocked/unsecured redline** in track changes if proposing changes to [Exhibit C](#ExC), Contract Terms)

e. [Exhibit G](#ExG): JPS Supplier Diversity: Good Faith Form

* 1. **EVALUATION CRITERIA SCORE SHEET**

| **EVALUATION CRITERIA** | **Possible Points** | **Vendor****Score** |
| --- | --- | --- |
| * + 1. Price – Best Value

Pricing will be scored according to the pricing formula: (Lowest Responsive Price / Price of Respondent Being Evaluated) x Possible Points = Vendor Score | **25** |  |
| **THIS SECTION WILL BE SCORED BY THE EVALUATION COMMITTEE** |
| * + 1. The extent to which the goods and/or services meet the District’s needs.
 | **20** |  |
| * + 1. Quality of Respondent’s goods and/or services.
 | **25** |  |
| * + 1. The reputation of the Respondent and the Respondent’s goods and/or services.
 | **15** |  |
| **THIS SECTION WILL BE SCORED BY DIVERSITY & INCLUSION DEPARTMENT** |
| * + 1. Minority, Woman, and Veteran-Owned Business Enterprise Participation. This is worth **15 points**. **If the Respondent is a Certified MWVBE,** skip B and C; **if not,** complete B and C**.** The breakdown is as follows:
 |
| A. Respondent is a certified MWVBE. | **15** |  |
| **OR** |
| B. Communication Outreach – Attach the written notification of the subcontracting opportunity and list of three agencies and/or organizations notified regarding the interest in MWVBE participation in this contract; AND | **5** |  |
| C. Plan of Action – List the subcontractors selected for participation, their certification, and approximate dollar value of the work to be subcontracted and the expected percentage of the total contract amount. | **10** |  |
| **MAXIMUM TOTAL POSSIBLE POINTS** | **100** |  |
| **Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Evaluator ID: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **RFP #20221020158 Pressure Ulcers Patient Monitoring System** |

**Exhibit A**

**Price Sheet**

**RFP #20221020158 Pressure Ulcers Patient Monitoring System**

Respondents must include **all costs** associated with purchase and use of the equipment, including training, software, and maintenance. Please include pricing for **all supplies** associated with the quoted equipment. If software or maintenance is priced separately, include those costs on the lines designated below. Provide pricing for all applicable costs including any assumptions on which the pricing is based.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Description** | **Estimated Qty** | **UOM** | **Price** | **Total** |
| Pressure ulcers patient monitoring system (including sensors and monitors)\* | 187 | Ea | $ | $ |
| Disposables for 2200 patient uses per year | 2200/year | Ea | $ | $ |
| Installation (if applicable) |  |  | $ | $ |
| Training (if applicable) |  |  | $ | $ |
| Service Agreement Years 1-3 | 187 | Unit | $ | $ |
| Software License(s) Years 1-3 | 187 | Unit | $ | $ |
|  |  |  | $ | $ |
| [add additional lines as needed] |  |  | $ | $ |
|  |  |  | $ | $ |
| **3-Year Total Cost:**  |  |
| Disposables – Years 4-5 | 2200/year | Ea | $ | $ |
| Service Agreement Years 4-5 | 187 | Unit | $ | $ |
| Software Licenses Years 4-5 | 187 | Unit | $ | $ |
| [add additional lines as needed] |  |  | $ | $ |
| **5-year Total Cost:** | $ |

\*For monitoring systems, please indicate how long Respondent will guarantee pricing. The District requests pricing for 187 initial units, plus a pricing agreement for an additional 3-5 years to allow future purchases of additional units if needed.

**Exhibit B**

**Signature Form**

Respondent shall signify Respondent’s acceptance of and compliance with the requirements, terms, and conditions of this RFP #20221020158 Pressure Ulcers Patient Monitoring System by signing in the signature space set forth below.

Respondent warrants that Respondent has examined and is familiar with this Solicitation and its terms and conditions. Respondent warrants that Respondent does not engage in scrutinized business operations in Sudan, Iran or with foreign terrorist organizations, does not engage in any prohibited boycott, and that Respondent does not appear (nor does any affiliate appear) on any [Texas Comptroller Divestment Statute Lists](https://comptroller.texas.gov/purchasing/publications/divestment.php).

Respondent warrants that it has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily finance and complete the products and services in its Solicitation Response.

Respondent certifies that the individual signing this Solicitation Response is authorized to sign such documents on behalf of the Respondent entity and to bind Respondent and is authorized to bind the Respondent in this Solicitation Response.

RESPONDENT AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE DISTRICT AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, ARISING OUT OF CONNECTED WITH, OR RESULTING FROM ANY ACTS OF OMISSIONS OF RESPONDENT OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF RESPONDENT IN THE EXECUTION OR PERFORMANCE OF ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS WHICH MAY RESULT FROM THE SUBMISSION OF THE SOLICITATION RESPONSE AND/OR THE AWARD OF A CONTRACT THEREON BY THE DISTRICT.

|  |
| --- |
| **RFP #20221020158 Pressure Ulcers Patient Monitoring System** |
| Respondent (Company) Name:  |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date:  |
| Printed Name: Title:  |
| Telephone: Email:  |

**Exhibit C**

**Contract Terms**

**RFP #20221020158 Pressure Ulcers Patient Monitoring System**

**Respondent: You must provide any additional documents the District would be required to sign or accept in order to use the proposed solution (any EULA, software license, click-wrap, etc.). You must submit an editable** **unlocked/unsecured electronic copy (text file, e.g., doc, docx, rtf, odt, txt) of such documents. The District will not consider any contract or other document not provided in an editable unlocked/unsecured format.**

**Purchase Agreement**

This agreement (“Agreement”) is entered into \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”) by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Vendor”) and Tarrant County Hospital District d/b/a JPS Health Network (“Customer”) according to the following terms and conditions. Vendor agrees to sell and deliver to Customer and Customer agrees to purchase the Products (defined below) for the purchase price and according to the terms and conditions set forth in this Agreement. In this Agreement, each of Vendor and Customer are a “party” and both of them collectively are the “parties”.

RECITALS

A. Vendor has offered to provide Customer with the equipment and related products and services which are particularly described on **[Exhibit 1]** which is attached hereto and incorporated herein for all purposes.

B. Customer desires to purchase from Vendor and Vendor desires to sell Customer the Products according to the terms of this Agreement.

1. Product and Purchase Price.
	1. The word “Products” as used in this Agreement means and refers to all of the equipment (“Equipment”) and other goods and services (“Goods and Services”) that are described in the Quotation which is attached hereto as **[Exhibit 1]** and incorporated herein for all purposes (the “Quotation”).
	2. The purchase price (“Price”) for Products shall be as shown and set forth on the Quotation. Such Price assumes that Vendor delivers the Products to Customer timely and according to the provisions of the Quotation and this Agreement. Vendor shall deliver all the Products (including perform all services included in the Products and in this Agreement) free and clear of all liens, security interests, encumbrances and other claims and in good condition and working order as specified by the provisions of this Agreement and the Product specifications promulgated by the manufacturer or provider of the Products and in compliance with all laws and regulations applicable to such Products for the use intended by this Agreement. All Products shall be delivered to Customer with all licenses and other rights required to use and to operate the Products for their intended use. The Price includes the installation of the Equipment at the location specified on the face of Quotation. Unless otherwise indicated on the Quotation, the Price also includes transportation of the Equipment and other Goods and Services from Vendor to such location.
	3. The Software License Terms set forth on **[Exhibit 3]** which is attached hereto are incorporated herein for all purposes.
2. Term and Termination. The parties agree that this Agreement shall be for a period of **three (3) years**, commencing on the Effective Date (“Initial Term”). Thereafter, the Customer may renew the Agreement for up to two (2) additional one-year terms by providing Vendor with written notice (email notice will be acceptable) of renewal no less than thirty (30) days prior to the expiration of the then-current term (any such renewal, a “Renewal Term” and together with the Initial Term, the “Term”). At the end of the Term of the Agreement, Customer reserves the right to extend the Agreement for up to 180 days to provide an opportunity to bring a new contract into place with another vendor. Either party may terminate this Agreement for cause upon a material breach by the other party of its obligations hereunder, which breach is not cured within fifteen (15) days after the breaching party is given a Notice of Material Breach (defined below). A “Notice of Material Breach” means written notice that includes in all capital letters “NOTICE OF MATERIAL BREACH” and also includes: (i) specific details identifying the material breach; and, (ii) the notifying party’s specific recommendations of actions to be (or if appropriate, not to be) taken by the other party in order for it to cure the breach. Customer shall have the right to terminate this Agreement without cause at any time prior to such end of the Term of the Agreement by giving Vendor thirty (30) days prior written notice of such termination (hereinafter referred to as “Early Termination”). In the event of Early Termination, Customer agrees that it will pay all amounts due and owing Vendor for all Products provided by Vendor up to and including the date of termination. Customer also shall reimburse Vendor for all expenses incurred by Vendor in the performance of its obligations hereunder and which are or would be due to Vendor if Early Termination had not occurred. Customer acknowledges and agrees that in the event of such Early Termination, Vendor will not provide or otherwise perform any unnecessary part of the Products nor will it incur any unreasonable expenses, but it will perform only those obligations and incur only those expenses necessary to fulfill its obligations under this Agreement. Nothing set forth herein shall limit the Customer's rights or remedies.
3. Shipping and Delivery Terms. All Products are F.O.B. at the delivery destination, freight prepaid and allowed and all maintenance and service to be provided by Vendor under this Agreement shall be rendered on site at the location of the Equipment on Customer’s property, except as otherwise expressly provided in the Quotation. Title and risk of loss will pass to Customer upon delivery to the destination on Customer’s property. All Products will be shipped to the address indicated on the Quotation. Vendor will exercise best efforts to cause the Products to be delivered on the shipping dates indicated on the Quotation, but such shipping dates are subject to revision by Vendor to adjust for production and delivery requirements beyond the reasonable control of Vendor. Delivery of Products for the purposes of this Agreement is deemed to have occurred on the date received by Customer at the point of delivery.
4. Payment Terms. Invoices for Goods and Services are due and payable no later than thirty (30) days after the Goods and Services have been delivered and/or performed in accordance with the provisions of this Agreement. Invoices for Equipment reflecting amounts not subject to bona-fide dispute are payable after Customer’s receipt of the same no later than thirty (30) days after the first to occur of the following: (i) the first documented use by Customer of the Equipment after delivery and installation, (ii) the date that the Equipment has been delivered, installed and is fully ready for use by Customer for their intended purposes and after the date a written acceptance signed by either the Director of Design and Construction or the Executive Vice President-Chief Operating Officer of Customer, or (iii) the date (after delivery and installation) that Vendor demonstrates to the reasonable satisfaction of Customer that the Equipment is capable of performing at a satisfactory level and as intended.
5. Equipment Installation Matters.
	1. The Equipment will be installed during normal working hours. Installation services include (1) connecting the Equipment to safety switches and power outlets provided and installed by Customer prior to delivery of the Equipment and (2) testing the Equipment after installation to verify compliance with Vendor’s published performance specifications. Installation will be considered complete for the purposes hereof upon Customer’s first use of the Equipment or upon Vendor’s verification that the Equipment substantially complies with Vendor’s published performance specifications (Vendor’s final invoice constituting confirmation of the same), whichever occurs first. For the purpose of commencement of any applicable warranty period, Vendor will maintain records reflecting the actual date installation is completed, and upon request Vendor will furnish Customer with written confirmation of such date.
	2. The Price includes standard installation services only. Any additional time required or delay(s) experienced in installing the Equipment resulting from the condition or location of the premises, the condition or location of power supplies, outlets, switches, conduits, wiring, or circuits, delay(s) in completing site preparation, or any similar or dissimilar cause(s) will be at Customer’s own expense. Any labor in excess of standard installation services and any overtime incurred by Vendor employees in respect of such additional time required or delay(s) experienced (as well as any extra labor or overtime work performed at the request of Customer) will be invoiced to and paid by Customer at then-prevailing Vendor demand service rates.
	3. Customer is responsible for obtaining all Government approvals, if any, required for the purchase, installation, and use of the Equipment, including without limitation any certificate of need and zoning variances. Customer will complete all such activities diligently, will keep Vendor notified periodically of the results of its efforts, and upon request will provide Vendor with written confirmation of such approvals.
	4. Vendor has not authorized any employee or agent to offer any site preparation or installation terms other than those appearing above. The provisions of this Section 5 may be superseded only by supplemental terms and conditions (“Construction Terms”) under which Vendor agrees to design and construct facilities into which the Equipment is to be installed. In such event, the provisions of this section will be considered as supplemental to the Construction Terms, and to the extent of any conflict between the terms and conditions of this section and the Construction Terms, the Construction Terms will govern.
	5. If installation (or commencement of installation) of the Equipment is delayed for reasons beyond the control of Vendor (including without limitation Customer’s not having completed site preparation requirements stated in the previous section). Vendor may place the Equipment in storage (in Vendor’s facility or in a warehouse) at Customer’s expense. Storage charges will be billed to Customer monthly, and Customer will pay all such invoices upon receipt. Customer also will continue to make all progress payments which may become due under the terms and conditions of this Agreement during the period installation is deferred. If such delay lasts for a period of 60 days following delivery, Customer will pay Vendor one-half (1/2) of any balance due. If such delay continues beyond 180 days after delivery, Customer will pay Vendor the remaining balance due.
6. Patent Indemnity.
	1. VENDOR AGREES TO, AND SHALL, INDEMNIFY AND HOLD CUSTOMER HARMLESS AGAINST ANY CLAIMS, DAMAGES, AND EXPENSES TO THE EXTENT THE SAME ARISE OUT OF OR ARE ASSERTED AGAINST CUSTOMER ALLEGING THAT THE PRODUCT INFRINGES ANY UNITED STATES PATENT, TRADEMARK, COPYRIGHT OR OTHER INTELLECTUAL PROPERTY RIGHT OF A THIRD-PARTY, PROVIDED THAT (1) CUSTOMER GIVES VENDOR WRITTEN NOTICE WITHIN FIFTEEN (15) DAYS AFTER CUSTOMER’S ACTUAL KNOWLEDGE OF THE EXISTENCE THEREOF, OF ANY SUCH CLAIMS, DAMAGES, OR EXPENSES, (2) CUSTOMER AGREES TO COOPERATE REASONABLY WITH VENDOR AS REASONABLY NECESSARY TO DEFEND, SETTLE, REIMBURSE, OR AVOID ANY SUCH CLAIMS, DAMAGES AND EXPENSES, AND (3) THE EQUIPMENT AS OF THE ALLEGED DATE OF INFRINGEMENT WAS IN THE SAME FORM AND CONFIGURATION AS ORIGINALLY SUPPLIED BY VENDOR AND HAD NOT BEEN MODIFIED IN ANY WAY WITHOUT THE PRIOR WRITTEN CONSENT OF THE PRESIDENT OR ANY VICE PRESIDENT OF VENDOR.
	2. Upon timely receipt of Customer’s written notice, Vendor will assume the defense of any claims against Customer. Customer agrees to cooperate with Vendor in the defense or settlement of all such claims.
	3. Vendor shall not be bound by the terms of any compromise or settlement agreement negotiated or concluded by Customer without the prior written consent of Vendor.
	4. The terms of this Section 6 will not apply in the event of any sale or other transfer of the Equipment by Customer or to the extent of any use of the Equipment in combination with products or devices not furnished by Vendor.
	5. Vendor has not authorized any employee or agent to offer any patent indemnity terms other than those appearing above.
7. General Indemnity.
	1. EXCEPT TO THE EXTENT OF ANY OTHER INDEMNITIES EXPRESSLY PROVIDED ELSEWHERE IN THIS AGREEMENT WHICH SHALL TAKE PRECEDENCE AND CONTROL OVER THIS INDEMNITY TO THE EXTENT OF THE MATTERS COVERED BY SUCH OTHER EXPRESSLY PROVIDED INDEMNITY(IES), VENDOR SHALL INDEMNIFY AND HOLD HARMLESS THE CUSTOMER, CUSTOMER’S MANAGERS, OFFICERS, AGENTS, EMPLOYEES, STAFF, REPRESENTATIVES, AND DIRECTORS (COLLECTIVELY, THE “CUSTOMER INDEMNITEES”) FROM ALL LOSSES (DEFINED BELOW) AND SHALL DEFEND THE CUSTOMER AND CUSTOMER INDEMNITEES AGAINST ALL CLAIMS AND CAUSES OF ACTION OF THIRD PARTIES ARISING OUT OF OR RELATED TO ANY OF THE FOLLOWING, EXCEPT TO THE EXTENT CAUSED BY THE INTENTIONAL MISCONDUCT OF OR MISUSE OF THE EQUIPMENT BY CUSTOMER OR ANY OF CUSTOMER INDEMNITEES OR A BREACH OF THIS AGREEMENT BY THE CUSTOMER: (1) A VIOLATION OF ANY FEDERAL, STATE, LOCAL OR FOREIGN LAW, RULE, REGULATION OR ORDER APPLICABLE TO VENDOR AND/OR ITS EMPLOYEES OR REPRESENTATIVES; (2) ANY VIOLATION OR BREACH BY VENDOR OF ITS REPRESENTATIONS AND WARRANTIES TO THE CUSTOMER IN THE AGREEMENT; OR, THE FACT THAT ANY OF SUCH REPRESENTATIONS AND WARRANTIES CEASES TO BE TRUE DURING THE TERM; (3) THE FAILURE OF VENDOR TO OBTAIN, OR CAUSE TO BE OBTAINED, ANY REQUIRED LICENSES, PERMITS OR CONSENTS FOR THE CUSTOMER TO RECEIVE AND USE THE PRODUCTS, OR ANY COMPONENT THEREOF, TO THE FULL EXTENT PROVIDED IN THIS AGREEMENT, EXCLUDING ANY REQUIRED CONSENT THAT IS NOT OBTAINED DUE TO THE CUSTOMER’S FAILURE TO PAY FOR SAME; AND (4) PERSONAL INJURIES, DEATH OR DAMAGE TO TANGIBLE PERSONAL OR REAL PROPERTY TO THE EXTENT CAUSED BY NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF VENDOR OR ANY VENDOR EMPLOYEE OR VENDOR REPRESENTATIVE. FOR PURPOSES OF THIS SECTION 7, THE WORD “LOSSES” MEANS ALL ASSESSMENTS, LOSSES, DAMAGES, COSTS, EXPENSES, LIABILITIES, JUDGMENTS, AWARDS, FINES, SANCTIONS, PENALTIES, CHARGES, AND AMOUNTS RESULTING FROM, OR AGREED TO BE PAID IN SETTLEMENT OF, ANY THIRD-PARTY CLAIM OR ALLEGATION INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY AND OTHER LEGAL FEES AND COSTS AND EXPENSES OF INVESTIGATING OR DEFENDING AGAINST SUCH CLAIM OR ALLEGATION.
	2. Upon timely receipt of Customer’s written notice, Vendor will assume the defense of any claims against Customer. Customer agrees to cooperate with Vendor in the defense or settlement of all such claims.
	3. Vendor shall not be bound by the terms of any compromise or settlement agreement negotiated or concluded by Customer without the prior written consent of Vendor.
	4. The terms of this Section 7 will not apply in the event of any sale or other transfer of the Equipment by Customer or to the extent of any use of the Equipment in combination with products or devices not furnished by Vendor.
	5. Vendor has not authorized any employee or agent to offer any general indemnity terms other than those appearing in this Agreement.
8. Software and License. All software provided by the Vendor as a part of, with, or for use in connection with a Product (collectively, “Product Software”) is and shall remain the sole property of Vendor. No license or other right is granted to Customer or to any other party except as specifically set forth in this Agreement on **[Exhibit 3]**, and Vendor has not authorized any employee or agent to grant any licenses or other rights with respect to or under any patent application, patent, copyright, trademark, trade secret, or proprietary right of Vendor or any of Vendor’s suppliers.
9. Software Intellectual Property Rights. The Vendor grants Customer a perpetual, nontransferable and nonexclusive license to install and use the Product Software (if any), including firmware and Product Software documentation included in or with the Products, in machine readable executable object code on the equipment for which it was designated by the Vendor in accord with the Product Software's documentation. This grant includes a license to use such documentation. Customer shall not take any action in violation of the Vendor's or third-party author's copyright or other intellectual property rights in the Products; provided, however, that nothing in this sentence shall limit Customer’s right to use, or Vendor’s obligation to deliver, the Products for their intended purposes as contemplated by this Agreement.
10. Customer Reporting. Customer agrees to properly report and disclose any discounts or other price reductions (collectively referred to herein as “discounts”) granted by the Vendor to Customer on the purchase of Products, to the extent required by applicable state or federal law. When applicable, any discounts granted by Vendor to Customer are intended to reflect discounts or other reductions in price within the meaning set forth in the Social Security Act of 1935, as amended, (42 U.S.C. §1320a-7b(b)(3)(A)) and the regulations promulgated thereunder, and may reflect a bundled discount pricing arrangement. With regard to any bundled discount pricing arrangement, Vendor will, where appropriate, timely provide Customer (either herein or by separate statement) further detail pertaining to such discounts and the allocation of total net purchase dollars for equipment, service and products, as applicable. Customer may have an obligation to report such discounts to any state or federal program that provides reimbursement to the Customer for the items to which the discount applies, and, if so, Customer will fully and accurately report such discounts. Further, Customer will retain invoices and other price documentation and will make them available to federal or state officials when requested in accordance with applicable law.
11. Confidentiality. Subject to the requirements of the limitations stated in Section 20 below, each party agrees to keep the other party’s proprietary information, including all information relating to any Product Software, confidential and not to use such proprietary information except as necessary to perform under this Agreement. Upon cancellation of this Agreement or return of the Products, each party will return to the other party all such proprietary information. All information relating to patients and employees of Customer is confidential.
12. Liability. NEITHER PARTY, NOR ANY THIRD-PARTY AUTHOR OF PRODUCT SOFTWARE, SHALL BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT OR IN CONNECTION WITH THE USE OF THE PRODUCTS.
13. Warranties. Except as to extended warranties expressly reflected on the Quotation and purchased by Customer, Vendor provides no specific express warranties with respect to the Products. The only express warranties applicable to the Products are those expressly set forth in **[Exhibit 2]** attached hereto and incorporated herein and the extended warranties expressly reflected on the Quotation and purchased by Customer. No other express warranties are offered by Vendor with respect to the Equipment, and Vendor has not authorized any employee or agent to offer any warranties except those referenced above. SUCH WARRANTIES REFERENCED IN THIS SECTION ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, AND IN LIEU OF ANY OTHER OBLIGATIONS OR LIABILITY ON THE PART OF VENDOR. VENDOR NEITHER ASSUMES (NOR HAS AUTHORIZED ANY PERSON TO ASSUME FOR IT) ANY OTHER WARRANTY OR LIABILITY IN CONNECTION WITH THE EQUIPMENT.
14. Products Installation and Training. The Vendor shall provide installation and training services in accordance with and to the extent of the Vendor's then current installation and training policies applicable to the Products.
15. Return Goods and Restocking Charges. Except for return of defective or incorrectly shipped Products and other products purchased by Customer from Vendor, return of Products will be in accordance with the policies of Vendor applicable to similar Products sold to its other customers in general or otherwise must be approved in writing by the Vendor prior to return and must take place within twelve months of shipment. Return of defective or incorrectly shipped Products and other products purchased by Customer may be returned by Customer and replaced immediately by Vendor at no charge to Customer.
16. Recalls. Vendor shall reimburse Customer for any reasonable costs associated with any Product corrective action, withdrawal, or recall requested by Vendor or required by any governmental entity including all reasonable costs in excess of the prices listed in **[Exhibit 1]**. In the event a Product recall or a court action impacting supply occurs, Vendor shall notify Customer in writing within 24 hours of any such recall or action. Vendor shall be responsible for carrying out and complying with all requirements under any such corrective action, withdrawal, or recall with respect to any Products in Customer’s possession. Vendor shall coordinate with Customer the retrieval, destruction, and/or other required action with respect to such Products, and Customer will reasonably cooperate with Vendor to allow Vendor appropriate access to carry out such required actions. Vendor’s obligations under this paragraph shall survive the expiration or earlier termination of this Agreement.
17. Export Controls. Products and Product Software reflected in this Agreement are sold or licensed to Customer subject to the U.S. export control laws and regulations (the “Export Control Laws”). Customer shall not export Products or Product Software in contravention of such Export Control Laws.
18. Budgetary and Other Limitations.
	1. Vendor acknowledges and agrees that Customer is a governmental entity and, as such, is subject to an annual budgetary process and the limitation and restrictions of fiscal funding. Notwithstanding any other provision herein, if and to the extent the obligations of this Agreement, either in its initial Term or in any automatically or otherwise renewed Term, should continue over into the Customer's subsequent fiscal years following that fiscal year when this Agreement was executed and funds are not appropriated or budgeted for this Agreement and completion of the Term in question, the Customer may terminate this Agreement without penalty and shall have no further obligation or liabilities hereunder. However, if the Agreement is terminated pursuant to the terms above, Customer agrees to pay for fees and charges incurred as of the termination date.
	2. Vendor further acknowledges and agrees that there exist constitutional and statutory limitations (“Limitations”) on Customer as a governmental entity respecting certain terms and conditions that may be part of this Agreement, including, but not limited to, (i) terms and conditions relating to liens on Customer’s property, (ii) disclaimers and limitations of warranties, (iii) disclaimers and limitations of liability for damages, (iv) waivers, disclaimers and limitations of legal rights, remedies, requirements and processes, (v) limitations of periods to bring legal action, (vi) granting control of litigation or settlement to another party, (vii) liability for acts or omissions of third parties, (viii) payment of attorneys’ fees, (ix) dispute resolution, (x) indemnities, and (xi) confidentiality, and any such terms and conditions related to the Limitations shall not be binding on Customer except to the extent authorized by the laws and constitution of the state of Texas.
19. Tax Exemption. Vendor recognizes that Customer qualifies as a tax-exempt governmental agency pursuant to the provisions of Section 151.309 of the Texas Sales, Excise, and Use Tax Code, and is not responsible for payment of any amounts accountable or equal to any federal, state or local sales, use, excise, personal property, or other taxes levied on any transaction or article provided for by this Agreement.
20. Texas Public Information Act. Vendor acknowledges that Customer is a governmental body under Chapter 552 of the Texas Government Code and thereby acknowledges that certain information that is collected, assembled, or maintained in connection with the transaction of official business by a governmental body is considered public information potentially subject to disclosure pursuant to a valid Texas Public Information Act (“TPIA”) request and hereby assumes full responsibility for challenging any requests for information it considers confidential under Chapter 552. Vendor’s confidential information, which may include, but is not limited to, any trade secrets, financial information, and related proprietary information (“Confidential Information”) that is provided by Vendor to Customer under the terms of this Agreement may be subject to the exception to disclosure applicable to Customer under Chapter 552 of the Texas Government Code, Subchapter C. If a TPIA request for public information is made on Customer to disclose documents or information which contain what Vendor has identified to Customer to be, or is otherwise believed by Customer to be Confidential Information, Customer agrees to (i) promptly notify Vendor of such request for disclosure, and (ii) decline any such request for disclosure of such Confidential Information and file a written request with the Texas Attorney General’s office seeking a determination as to whether such disclosure may be withheld; provided, however, failure to notify by Customer shall not be deemed a material breach of the Agreement. Customer is not required to take any further action with respect to any request made for determination by the Attorney General, and after any such request is made, all responsibility for briefing, supplementing and challenging the results of any requests to the Attorney General shall be Vendor’s sole responsibility.
21. Chapters 2271, 2252, and 2274 Texas Government Code Verification.
	1. *Boycott of Israel Prohibited*. In compliance with Section [2271.001](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2271.htm) et seq. of the Texas Government Code, Vendor verifies that neither it nor any of its affiliates currently boycott Israel and neither it nor any of its affiliates will boycott Israel during the term of this Agreement. “Boycott Israel” is defined in Section [808.001(1)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.808.htm) of the Texas Government Code.
	2. *Scrutinized Business Operations Prohibited*. In compliance with Section [2252.151](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2252.htm#2252.151) et seq. of the Texas Government Code, Vendor warrants and represents that: (1) neither Vendor nor any of its affiliates engages in scrutinized business operations in Sudan; (2) neither Vendor nor any of its affiliates engages in scrutinized business operations in Iran; and (3) neither Vendor nor any of its affiliates engages in scrutinized business operations with designated foreign terrorist organizations. “Scrutinized business operations in Sudan” is defined in Section [2270.0052](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0052) of the Texas Government Code. “Scrutinized business operations in Iran” is defined in Section [2270.0102](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0102) of the Texas Government Code. “Scrutinized business operations with designated foreign terrorist organizations” is defined in Section [2270.0152](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2270.htm#2270.0152) of the Texas Government Code. Vendor further represents and warrants that neither Vendor nor any of its affiliates appears on any of the Texas Comptroller’s [Scrutinized Companies Lists](https://comptroller.texas.gov/purchasing/publications/divestment.php).
	3. *Boycott of Certain Energy Companies Prohibited*. In compliance with Section [2274.002](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v2.htm) of the Texas Government Code (added by 87th Legislature, S.B. 13), Vendor verifies that neither it nor any of its affiliates currently boycott energy companies and neither it nor any of its affiliates will boycott energy companies during the term of this Agreement. “Boycott energy company” is defined in Section [809.001(1)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.809.htm#809.001) (added by 87th Legislature, S.B. 13) and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A).
	4. *Discrimination against Firearm Entities or Firearm Trade Associations Prohibited*. In compliance with Section [2274.002](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm#2274.002) of the Texas Government Code (added by 87th Legislature, S.B. 19), Vendor verifies that neither it nor any of its affiliates have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and neither it nor any of its affiliates will discriminate during the term of the Agreement against a firearm entity or firearm trade association. “Discriminate against a firearm entity or firearm trade association” is defined in Section [2274.001(3)](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2274.v3.htm#2274.001) (added by 87th Legislature, S.B. 19) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term *does not include*: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.
22. General Product Requirements. In general, Vendor will provide Customer with all necessary network cabling and network components (hubs, wall plates, connecters) for the installation and operation of the Equipment Customer will be responsible for pulling cable, mounting wall mounts and providing adequate electrical power.
23. Exclusion and Ethics.
	1. Vendor agrees that it will immediately report in writing to the Customer in the event, if ever, Vendor, including any of its officers, directors, employees, contractors or agents, becomes a target of any criminal investigation or any investigation that could result in debarment or exclusion Vendor or such other person from federally or state funded healthcare programs.
	2. Vendor warrants and represents to Customer that Vendor has never been:
		1. convicted of a criminal offense;
		2. listed by a federal agency as debarred, excluded or otherwise ineligible for federal plan participation;
		3. sanctioned by any federal or state law enforcement, regulatory or licensing agency; or,
		4. excluded from any state or federal healthcare program.
	3. Vendor further warrants and represents to the Customer that neither Vendor, nor any of Vendor's officers, directors, members, partners, shareholders (excluding shareholders, members and limited partners that own less than 5% of the combined voting power of Vendor), employees, contractors or agents:
		1. is currently under criminal investigation or any investigation that could result in debarment or exclusion from federally or state funded healthcare programs; or
		2. has ever been:
			1. convicted of a criminal offense that is a felony or a misdemeanor of moral turpitude;
			2. listed by a federal agency as debarred, excluded or otherwise ineligible for Federal plan participation;
			3. sanctioned by any federal or state law enforcement, regulatory or licensing agency; or,
			4. excluded from any state or federal healthcare program.
	4. In the event that any of the foregoing representations in this Section 23(b) or (c) ceases to be true, Vendor will immediately report same in writing to the Customer.
	5. Upon receipt of any report required by Vendor hereunder or in the event of a failure to report by Vendor, the Customer may without penalty terminate this Agreement and other than the payment of any amounts due and owing through the date of termination, the Customer shall have no further obligations or liabilities hereunder.
24. HIPAA. The parties acknowledge the existence of applicable legal requirements pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”). Attached to and incorporated in this Agreement as **[Exhibit 4]** is Customer’s standard Business Associate Agreement (“BAA”). Vendor acknowledges that for all purposes under the BAA and this Agreement, the Customer is a “Covered Entity” and Vendor is a “Business Associate”. Furthermore, Vendor agrees to comply with and satisfy all of the terms and conditions of the BAA applicable to a Business Associate. Any violation of or failure to satisfy the terms and conditions of the BAA shall be a breach of this Agreement. Vendor agrees that it will negotiate in good faith an amendment to this Agreement if, and to the extent required by, the provisions of HIPAA and regulations promulgated thereunder, in order to assure that this Agreement is consistent therewith.
25. Prohibition on Use of Name and Logo*.* Vendor agrees that it will not, without the prior written consent of Customer, use the names, logos, symbols, trademarks or service marks of the Customer, including but not limited to those associated with JPS Health Network, for any purposes or uses (expressly including but not limited to for Vendor’s advertising, promotion or other marketing) other than those reasonably related to performing and completing the obligations under this Agreement. This section titled “Prohibition on Use of Name and Logo” shall survive the termination or expiration of this Agreement.
26. Insurance*.* During the term of this Agreement, Vendor will maintain commercial general liability, property, and/or directors and officers insurance for the Products provided and the obligations performed under the Agreement in the minimum amount of $1,000,000.00 per person/$3,000,000.00 per occurrence. Furthermore, upon the execution of this Agreement and upon request any time thereafter, Vendor will furnish a then current certified certificate(s) of insurance. [See also cyber insurance requirements in Exhibit 4, [Section G](#BAA_SecG).]
27. Termination Right*.* In the event of a change-in-control (defined below), Customer may without penalty terminate this Agreement and other than the payment of any amounts due and owing through the date of termination, the Customer shall have no further obligations or liabilities hereunder. A “change-in-control” means that (a) there occurs a reorganization, merger, consolidation or other corporate transaction involving Vendor (a “Transaction”), in each case with respect to which the owners of Vendor immediately prior to such Transaction do not, immediately after the Transaction, own more than 50% of the combined voting power of Vendor or any other entity resulting from such Transaction; or, (b) all or substantially all of the assets of Vendor are sold, liquidated or distributed.
28. Change in Product Identification/Catalog Numbers/Lawson Numbers. In the event of (i) a change in the ownership or identity of Vendor, whether by merger, consolidation, acquisition or otherwise (“Ownership Change”), or (ii) an internal Vendor reorganization of its product identification processes (“Internal Vendor Processes”), and such Ownership Change or Internal Vendor Processes result in Products catalog renumbering, changes in Products description or name, changes in Lawson numbers, or other Products identification changes (collectively, “Products ID Changes”), Vendor shall provide Customer with at least sixty (60) days prior written notice of any such Products ID Changes (“Products Notice”). The Products Notice shall, at a minimum, include itemized cross-referencing of Products ID Changes to the current Products ID in sufficient detail to allow Customer to make all appropriate system adjustments for inventory tracking and use of the Products.
29. Compliance with Laws*.* In providing the services required by this Agreement, Vendor must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. Vendor shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.
30. Conflicting Provisions. To the extent there is any conflict between the terms of the Agreement and the terms of the Quotation and any other documents either attached to this Agreement as exhibits or any other identified in writing by Vendor and Customer as a part of the Agreement documents, the terms of this Agreement are controlling.
31. Governing Law; Jurisdiction. THE AGREEMENT BETWEEN THE PARTIES REGARDING THE PRODUCTS SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, USA, WITHOUT REFERENCE TO ITS LAWS RELATING TO CONFLICTS OF LAW. Any legal action arising out of or relating to the sale of Products shall be brought only in the state or federal courts located in Tarrant County, Texas, and the parties irrevocably consent to the jurisdiction and venue of such courts.
32. Binding Agreement. The parties hereto warrant and represent that upon execution hereof, this Agreement shall be a legal, valid and binding obligation on them and shall be enforceable against them in accordance with its terms. The individuals signing this Agreement warrant and represent that they are duly authorized to sign this Agreement on behalf of the parties hereto.
33. Waiver. The failure to comply with or to enforce any term, provision, or condition of this Agreement, whether by conduct or otherwise, shall not constitute or be deemed a waiver of any other provision hereof; nor shall such failure to comply with or to enforce any term, provision, or condition hereof constitute or be deemed a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.
34. Parties Affected. Nothing in this Agreement, whether express or implied, is intended to confer upon any individual or entity, other than the parties hereto (and their respective heirs, representatives, successors, and permitted assigns), any rights or remedies hereunder or otherwise. Nothing in this Agreement is intended to relieve or discharge any liability of any party hereto or any third party. No provision in this Agreement shall give any individual or entity any right of subrogation against any party hereto.
35. Notices. All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given (a) when received by the party to whom directed; (b) when sent by fax transmission to the following fax numbers or by email to the following email addresses; or (c) when deposited in the United States mail when sent by certified or registered mail, return receipt requested, postage prepaid to the following addresses (or at such other addresses or fax numbers as shall be given in writing by either party to the other):

If to the District: Tarrant County Hospital District

Attn: President and CEO

1500 S Main St.

Fort Worth, TX 76104

Telephone: (817) 927-1234

Fax: (817) 924-1207

If to Vendor: [Vendor]

Attn:

[address]

[address]

Telephone:

Fax:

Email:

1. Severability. Should any part, term, or provision of this Agreement be declared to be invalid, void, or unenforceable, all remaining parts, terms, and provisions hereof shall remain in full force and effect, and shall in no way be invalidated, impaired, or affected thereby.
2. Assignment. No party to this Agreement may assign this Agreement without the prior written consent of the other party.
3. Subject Headings. The subject headings of the sections, paragraphs, and subparagraphs of this Agreement are included herein solely for the purposes of convenience and reference, and shall not be deemed to explain, modify, limit, amplify, or aid in the meaning, construction, or interpretation of any of the provisions of this Agreement.
4. Attorney's Fees and Court Costs. If either party brings an action against the other to enforce any condition or covenant of this Agreement, each party shall be individually responsible for its own court costs and attorney's fees.
5. Relationship of the Parties. None of the provisions of this Agreement are intended to create, and none shall be deemed or construed to create, any relationship between the parties, other than that of independent contractors. This Agreement shall not create the relationship of employer-employee, agency, partnership, or joint venture. Neither party shall have the right or power in any manner to unilaterally obligate the other to any third party, whether or not related to the purpose of this Agreement.
6. Entire Agreement; Amendment. This Agreement contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed, and supersedes all prior written or oral agreements or communications between the parties. No supplement, modification, purchase order or amendment of any term, provision, or condition of this Agreement shall be binding or enforceable on either party hereto unless in writing signed by both parties.
7. Force Majeure. Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting, directly or indirectly, from acts of God, civil or military authority, labor disputes, shortages of suitable parts, or any similar cause beyond the reasonable control of the parties.
8. Electronic Signatures; Facsimile and Scanned Copies; Duplicate Originals; Counterparts; Admissibility of Copies. Each party agrees that: (i) any electronic signature (if any), whether digital or encrypted, to this Agreement made by any party is intended to authenticate this Agreement and shall have the same force and effect as an original manual signature; and (ii) any signature to this Agreement by any party transmitted by facsimile or by electronic mail shall be valid and effective to bind that party so signing with the same force and effect as an original manual signature. Delivery of a copy of this Agreement or any other document contemplated hereby bearing an original or electronic signature by facsimile or electronic transmission, will have the same effect as physical delivery of the paper document bearing an original or electronic signature. This Agreement may be executed in multiple duplicate originals and all such duplicate originals shall be deemed to constitute one and the same instrument. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall be deemed to constitute a single instrument. The parties agree that a true and correct copy of the original of this Agreement shall be admissible in a court of law in lieu of the original Agreement for all purposes of enforcement hereof.

VENDOR: CUSTOMER:

 [full legal name] Tarrant County Hospital District

 d/b/a JPS Health Network

By: By:

Name: Name:

Title: Title:

Date: Date:

Purchase Agreement - Equipment and Service (w Installation) 120121.docx

**EXHIBIT 1**

**PRICING**

[Insert the Quotation or, if no Quotation, pages describing the Equipment and Goods and Services,

including installation and specific warranties, if any, included]

*NB: The District will only reimburse those reasonable and necessary out-of-pocket expenses for travel, hotel rooms, and meals, actually incurred by Vendor to perform and complete the required services. Without prior approval, expenses shall exceed neither (i) the anticipated totals agreed to by the parties (to be included in this Exhibit), nor (ii) the applicable per diem lodging rates and per diem meals and incidental expense rates established by the General Services Administration (“GSA”) for Tarrant County, Texas. Current GSA per diem lodging rates and per diem meals and incidental expense rates can be found at https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup.*

**EXHIBIT 2**

**WARRANTY**

***[Or insert manufacturer’s warranty, if applicable]***

Vendor warrants to its Customer that Equipment will be free from defects in material and workmanship and will meet the technical and performance specifications contained in applicable product data sheets and operation manuals published by Vendor specifically related to the Equipment as of the date of shipment.

**Equipment Warranty Terms:** Except as otherwise provided below, the warranty for the Equipment will be for a period of twelve (12) months. All warranty terms described in this warranty will commence either (a) on the earlier of (1) the date installation of the Equipment is completed or (2) the date Customer first uses the Equipment (when the Equipment is installed by Vendor) or (b) on the date of delivery of the Equipment (when the Equipment is not installed by Vendor), but in no event later than fifteen (15) months from the date of shipment from Vendor. Single patient use, disposable or consumable Products and Product supplies or accessories will be free from defects in material and workmanship at the time of delivery.

**Battery Warranty Terms:** Batteries, if any, supplied by Vendor are warranted for a period of Twelve (12) months from the earlier of completion of installation or date of Customer’s first use. If a battery supplied by Vendor does not meet warranty during the warranty period, it will be replaced at no cost to Customer.

**Warranty Terms for Systems Hardware Upgrades.** Any supplemental, additional, exchange or replacement hardware purchased from Vendor for the Equipment will be warranted for a period of 90 days from the date such hardware upgrade is installed by Vendor (or from the date of delivery if such upgrade is not installed by Vendor).

**CONDITIONS**

This warranty is subject to the following conditions: the Equipment (a) is to be installed by authorized Vendor representatives (or is to be installed in accordance with all Vendor installation instructions by personnel trained by Vendor). (b) Is to be operated only by personnel duly trained in the proper operation of the Equipment. (c) is to be operated according to all instructions provided with the Equipment. (d) is to be maintained in strict compliance with all recommended and scheduled maintenance instructions provided with the Equipment, (e) the Customer is to notify Vendor immediately in the event the Equipment at any time fails to meet performance specifications.

**WARRANTY SERVICE**

Warranty service includes all requested service calls to repair or replace the Equipment as provided by this warranty. Warranty service will be performed during the normal working hours of Vendor, Monday through Friday, except for recognized national legal holidays. In the event it is not possible to accomplish warranty service within normal working hours, or in the event Customer specifically requests that warranty service be performed outside of the normal working hours of Vendor, Customer agrees to pay for such services at the standard Vendor demand service rates in effect.

When warranty service is scheduled or requested, Customer will give to Vendor service personnel full, free, and immediate access to the Equipment and to Customer’s operation, performance, and maintenance records for the Equipment. Customer waives warranty service if it does not provide such access to the Equipment and Customer records. Customer agrees to compensate Vendor at prevailing demand service rates in effect as of the date any such warranty service is to be performed for all time spent by Vendor service personnel waiting for access to the Equipment and records prior to beginning work on the warranty service call.

**EXCLUSIONS**

Except as expressly provided otherwise in the Quotation ([Exhibit 1] to this Agreement), this Agreement, Warranty coverage does not include any defect or performance deficiency which is the direct or indirect result, in whole or in part, of (1) accident, (2) abuse, (3) misuse, (4) operation of the Equipment outside of its environmental, electrical, or performance specifications, conditions, capabilities, or standards, (5) power fluctuation or failure, (6) vandalism or any other damage or alteration of the Equipment by persons other than Vendor employees, (7) combining incompatible products, (8) fires, floods, and other similar or dissimilar natural causes, (9) failure or lack of humidity or temperature control, or (10) damage, neglect, alteration, or any impairment of the Equipment resulting from (a) causes or conditions not associated with ordinary storage, handling, installation, maintenance, service, or use, or (b) maintenance or service by any party other than Vendor or a designated representative of Vendor, or (c) any acts, omissions, causes, or events beyond the control of Vendor.

This warranty does not include items which are consumed through normal daily use, including without limitation, any cushions, knee supports, pads, magnetic tape, flexible magnetic diskettes, or any accessory or supply items, and does not include any liability or responsibility for such losses or expenses as removal or reconstruction of walls, partitions, ceilings, floors, or other parts of any facility occasioned by any warranty services performed hereunder or any other losses or expenses incurred in providing any other building alterations, scaffolding, platforms, lifting equipment, rigging, climate controls, power supplies, electrical circuits, safety switches, power outlets, conduits, wiring, structural support, utilities, plumbing, carpentry, or other work required in connection with providing warranty services.

**REMEDIES**

If Vendor determines that the Equipment does not meet any warranty, Vendor will replace the Equipment or repair any defects in material or workmanship reported during the warranty period, all without charge for labor or materials (unless otherwise provided), Vendor retains the option of furnishing either new or exchange replacement parts or assemblies when providing warranty services.

**TRANSFER OF THE EQUIPMENT**

In the event the Customer transfers or relocates the Equipment, all obligations under this warranty will terminate unless Customer receives the prior written consent of Vendor for the transfer or relocation. Upon any transfer or relocation, the Equipment must be inspected and certified by Vendor as being free from all defects in material, software and workmanship, and as being in compliance with all technical and performance specifications. Customer will compensate Vendor for these services at the prevailing demand service rates in effect as of the date the inspection is performed.

**FORCE MAJEURE**

Notwithstanding any other provision, and in addition to all conditions and exclusions set forth, Vendor will not be liable for any delay or default in performing any warranty obligations caused by events beyond its control, including (by way of example and not by way of limitation) any acts of God, acts of third parties, acts of Customer (or any of Customer’s employees, agents, or representatives), acts of civil or military authorities, fires, floods, and other similar or dissimilar natural causes, riots, wars, sabotage, vandalism, embargoes, labor disputes, strikes, lockouts, lack or shortage of transportation, labor, materials, supplies, fuel, power, or water, delays in receiving any permits or licenses, delays caused by any laws, regulations, proclamations, ordinances, or any government action or inaction, delays caused by contractors and subcontractors, and any other cause or condition beyond Vendor’s control. In the event of any such delay or default, the time for performance of the warranty obligations of Vendor will be extended for a commercially reasonable period of time.

**DISCLAIMERS AND LIMITATIONS ON LIABILITY**

**THE WARRANTIES SET FORTH ABOVE ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, AND IN LIEU OF ANY OTHER OBLIGATIONS OR LIABILITY ON THE PART OF VENDOR. VENDOR NEITHER ASSUMES (NOR HAS AUTHORIZED ANY PERSON TO ASSUME FOR IT) ANY OTHER WARRANTY OR LIABILITY IN CONNECTION WITH THE EQUIPMENT.**

**CUSTOMER’S SOLE REMEDIES FOR BREACH OF SUCH WARRANTIES ARE SET FORTH IN THIS WARRANTY, VENDOR WILL HAVE NO LIABILITY FOR ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES BY REASON OF ANY ACT OR OMISSION OR ARISING OUT OF OR IN CONNECTION WITH THE EQUIPMENT, OR WITH THE SALE, DELIVERY, INSTALLATION, MAINTENANCE, OPERATION, PERFORMANCE, OR USE OF THE EQUIPMENT, INCLUDING (BY WAY OF EXAMPLE AND NOT BY WAY OF LIMITATION) DAMAGES, EXPENSES, OR LOSSES INCURRED BY REASON OF LOSS OF USE, LOST REVENUES, LOST PROFITS, DAMAGE TO ASSOCIATED EQUIPMENT OR TO FACILITIES, COSTS OF CAPITAL, COSTS OF SUBSTITUTE PRODUCTS, FACILITIES, OR SERVICES, COSTS OF REPLACEMENT POWER, COSTS ASSOCIATED WITH DOWN TIME, AND ANY SIMILAR OR DISSIMILAR DAMAGES, EXPENSES, OR LOSSES.**

**APPLICABLE LAW**

The terms of this warranty will be interpreted under the law of the State of Texas, without regard to principles of choice of law.

**EXHIBIT 3**

### **LICENSE AGREEMENT FOR OPERATING SOFTWARE**

***[Or replace with software EULA, if applicable]***

**SOFTWARE LICENSE TERMS**

Upon execution of this Agreement by Customer, the following Software License Terms shall govern the use of the Software, as defined below, by the Customer identified in this Agreement.

1. DEFINITIONS:

 1 .1 “Customer’s Facility” means Customer’s facility at which the Software licensed hereunder is initially installed by Vendor.

 1 .2 “Documentation” means the operations manual and system administration manual provided by Vendor for each Software product.

 1 .3 “Operating Equipment” means the computer of Customer on which the Software is operated.

 1 .4 “Software” means the Product Software as defined in Section 8 of this Agreement, including without limitation all computer programs (including any replacement or additional programs or code provided by Vendor from time to time to supplement or amend previously provided software), media, documentation and other tangible or intangible information relating to a Product which is delivered or disclosed by Vendor to Customer or its employees or agents.

 1 .5 “Software Installation Date” means the date that Software is installed on Operating Equipment at Customer’s facility and is ready for Customer to commence initial use.

2. SOFTWARE LICENSE: Vendor hereby grants to Customer a non-exclusive and non-transferable license to use the Software subject to the scope limitations set forth in this Agreement. Customer agrees that, without the prior written consent of Vendor, which shall not be unreasonably conditioned, delayed or withheld, it will not use the Software for any purpose other than its intended use with the Operating Equipment. In the event such written consent is given by Vendor, it shall be the sole responsibility of the Customer to acquire any necessary additional equipment. THIS LICENSE DOES NOT EXTEND TO ANY MAINTENANCE OR SERVICE SOFTWARE SHIPPED TO OR LOCATED AT CUSTOMER’S FACILITY WHICH IS INTENDED TO ASSIST VENDOR EMPLOYEES IN THE INSTALLATION, TESTING, SERVICE, AND MAINTENANCE OF THE OPERATING EQUIPMENT.

3. PAYMENTS: Customer agrees to pay to Vendor a one-time Software license fee, if any, which is specifically stated in the Quotation (**[Exhibit 1]** attached to the Agreement) pursuant to the provisions thereof, and if no Software license fee is specifically stated as such in the Quotation (**[Exhibit 1]** attached to the Agreement), all Software license fees shall be deemed to be included in the Price of the other Products. No other fees or charges shall be due or payable by Customer in connection with the use and operation of the Software in accordance with this Agreement.

4. CONFIDENTIALITY *I* INTELLECTUAL PROPERTY RIGHTS: Customer acknowledges that the Software contains the proprietary property of Vendor and, if applicable, third parties, and Customer will take no action detrimental to such property rights. No ownership in, or title to, Software or any intellectual property rights relating thereto is transferred to Customer and Customer has no interest in or right to use the Software except in accordance with the terms of the Software Licenses granted herein. Customer agrees that, during the Term of each Software License granted herein and thereafter, it will take reasonable steps to hold the Software and Documentation in confidence not to disclose or otherwise make the Software or any part thereof available to any third party except as necessary to use or implement the Software as contemplated herein, and except as required by applicable Texas law. Customer further agrees as follows:

4.1 It will not remove or permit to be removed from any item included in the Software any proprietary, confidential or copyright notices, markings or legends placed thereon by Vendor.

4.2 Customer shall not copy, translate, modify, reverse compile, reverse assemble or otherwise reverse engineer, or create derivative works based on any of the Software, or permit another to do so, except as occurs in the course of using the Software in accordance with its documentation. However, Customer may make and maintain one copy of the Software for back up and recovery purposes.

4.3 Upon the termination of the Software License, Customer will return to Vendor all tangible portions of the Software delivered or disclosed to Customer by Vendor, together with all copies thereof and shall delete or destroy all portions of the Software that have been installed on the Operating Equipment or elsewhere.

4.4 All changes, modifications or improvements made or developed with regard to the Software by Vendor, whether or not made or developed at Customer’s request, shall remain the property of Vendor and Customer hereby assigns all its rights in such changes, modifications and improvements to Vendor. Customer shall have the right to use any such changes, modification and improvements that are delivered to Customer by Vendor pursuant to these Software License terms.

5. EXPRESS WARRANTIES AND EXCLUSION OF IMPLIED WARRANTIES:

 5.1 Vendor warrants that it either owns or has the right to license the Software. Vendor further warrants that through the earlier of fourteen months from the date of delivery or twelve months from the Software Installation Date applicable to any Software product, the Software, when used on the Operating Equipment in combination with such additional equipment as may be recommended by Vendor from time to time as necessary in order to operate any changes, modifications or improvements provided by Vendor as part of Software maintenance, will perform in accordance with its Documentation. Acquisition of additional equipment required as a result of Software changes, modifications or improvements is the sole responsibility of Customer. TO THE EXTENT THAT WARRANTIES AS TO THIRD-PARTY SOFTWARE DIFFER FROM THE WARRANTIES SET FORTH IN THIS PARAGRAPH, SUCH THIRD PARTY WARRANTIES SHALL APPLY TO SUCH THIRD PARTY SOFTWARE.

5.2 THE FOREGOING WARRANTIES DO NOT APPLY TO THE SOFTWARE IF LOCATED OR USED IN WHOLE OR IN PART AT ANY PLACE OTHER THAN CUSTOMER’S FACILITY OR IF THE OPERATING EQUIPMENT IS USED IN VIOLATION OF THE PROVISIONS OF PARAGRAPH 2 OF THESE SOFTWARE LICENSE TERMS OR IF THE CUSTOMER HAS FAILED TO INSTALL ALL APPLICABLE SOFTWARE UPDATES MADE AVAILABLE TO CUSTOMER BY VENDOR DURING THE WARRANTY PERIOD. WARRANTIES ARE MADE TO AND FOR THE BENEFIT OF CUSTOMER ONLY. THE FOREGOING ARE VENDOR’ SOLE WARRANTIES. VENDOR MAKES NO OTHER WARRANTY OF ANY KIND WHATEVER, EXPRESS OR IMPLIED, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY VENDOR AND EXCLUDED FROM THESE SOFTWARE LICENSE TERMS.

6. INDEMNIFICATION: VENDOR AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS CUSTOMER FROM AND AGAINST ANY CLAIM MADE AGAINST CUSTOMER ALLEGING THAT ANY SOFTWARE PRODUCT INFRINGES A UNITED STATES PATENT, TRADEMARK OR COPYRIGHT OF A THIRD-PARTY, PROVIDED VENDOR IS GIVEN PROMPT WRITTEN NOTICE OF, AND FULL AND COMPLETE CONTROL OF THE DEFENSE AND ANY SETTLEMENT, AND FULL COOPERATION IN THE DEFENSE OF, SUCH CLAIM. AT ANY TIME AFTER ANY SUCH CLAIM HAS BEEN ASSERTED, VENDOR MAY, AT ITS OPTION AND EXPENSE, AND SHALL, IN THE EVENT ANY SOFTWARE PRODUCT IS HELD TO CONSTITUTE AN INFRINGEMENT, EITHER PROCURE FOR CUSTOMER THE RIGHT TO CONTINUE USING THAT PRODUCT, OR REPLACE OR MODIFY THAT PRODUCT SO THAT IT BECOMES NON-INFRINGING, OR REFUND TO CUSTOMER THE SOFTWARE LICENSE FEE PAID BY CUSTOMER TO VENDOR FOR THAT SOFTWARE PRODUCT. VENDOR SHALL NOT BE LIABLE TO CUSTOMER IF ANY INFRINGEMENT OR CLAIM IS BASED UPON: (I) THE USE OF ANY SOFTWARE PRODUCT IN VIOLATION OF THE SOFTWARE LICENSE; (II) THE USE OF THE SOFTWARE PRODUCT IN COMBINATION WITH ANY SOFTWARE OTHER THAN PROGRAMS LICENSED BY VENDOR TO CUSTOMER FOR SUCH USE; OR (III) THE MODIFICATION OF ANY SOFTWARE PRODUCT BY OTHER THAN VENDOR.

7. THE LICENSE HEREBY GRANTED TO THE CUSTOMER DOES NOT INCLUDE ANY RIGHT TO USE THE SOFTWARE (FOR PURPOSES OTHER THAN OPERATION OF THE OPERATING EQUIPMENT) OR TO COPY, REPRODUCE, SELL, ASSIGN, TRANSFER, OR SUBLICENSE THE SOFTWARE FOR ANY PURPOSE, IN WHOLE OR IN PART, WITHOUT THE PRIOR WRITTEN PERMISSION OF THE VENDOR. If such permission is obtained, Customer agrees to apply Vendor’s copyright notice or other identifying legends to such copies or reproductions.

8. The rights herein granted to Customer shall not affect the exclusive ownership by Vendor of the Software or of any trademarks, copyrights, patents, trade secrets, proprietary rights, or other property rights of Vendor (or any of Vendor’s suppliers) pertaining to the software.

9. THIRD-PARTY SOFTWARE: The Product description in this Agreement identifies any Software which is licensed from third parties and included in “Software”, as well as the number of licenses provided for such third-party software. If no third-party owners of the Software are specifically identified in the Product description in this Agreement, Customer will be entitled to deal with the Software and act with respect to the Software as if Vendor is the owner and licensor of all thereof. Transfer of such Software to Customer from Vendor is made subject to the terms of the license granted by the original licensor. Customer hereby acknowledges and agrees to be bound by the terms of the license granted by the original licensor. If Customer intends use beyond that licensed herein, Customer must obtain additional licenses from Vendor or the third-party software vendor. Vendor reserves the right to replace or substitute any third-party software with reasonably comparable Software on substantially similar terms and conditions.

10. TERMINATION: Either party may terminate the licenses granted hereunder in the event of a material breach of the Agreement by the other party, including without limitation failure to pay any amounts owed hereunder when due and the breach of any express warranty in Section 5 above, if such material breach is not cured within forty-five (45) days of receipt of written notice of such breach. The failure to exercise any right granted to either party under these Software License Terms shall not operate as a waiver of any right or remedy.

11. ASSIGNMENT: Neither party may assign any rights or duties under this Agreement without the consent of the other party, except to an affiliated entity, in which case that party shall remain obligated as a guarantor of the assignee’s performance, and in no event shall such assignment expand the license granted hereunder.

12. If the Customer modifies the Software in any manner, all warranties associated with the Software and the Operating Equipment shall become null and void. If the Customer or any of its officers, employees, or agents should devise any revisions, enhancements, or improvements in the Software, Customer shall disclose such improvements to Vendor and Vendor shall have a nonexclusive royalty-free license to use such revisions, enhancements and improvements and the right to grant sub-licenses thereof.

13. Customer shall exercise reasonable efforts to cause each authorized user of the Software to abide by the terms and conditions of this License Agreement as if each were a party hereof.

14. This License shall continue for as long as the Customer continues to use the Operating Equipment, except that Vendor may terminate this license in the event of any default by the Customer. The Customer agrees to return the Software and any authorized copies thereof to Vendor immediately upon expiration or termination of this license.

**EXHIBIT 4**

**BUSINESS ASSOCIATE AGREEMENT**

1. Acknowledgment of HIPAA Obligations and Other Regulations Implementing HIPAA. The parties acknowledge that federal regulations set forth in the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“**HITECH**”) relating to the confidentiality, integrity, and accessibility of protected health information (whether created, maintained, accessed, stored or transmitted electronically or otherwise) require covered entities to comply with the privacy and security standards adopted by the U.S. Department of Health and Human Services as they may be amended from time-to-time, 45 C.F.R. part 160 and part 164, subparts A and E (“**Privacy Rule**”) and 45 C.F.R. part 160, part 162, and part 164, subparts A and C (“**Security Rule**”). The Privacy Rule and Security Rule are sometimes collectively referred to herein as the“**Privacy and Security Standards**”. The Privacy and Security Standards require Covered Entity to ensure that Business Associates who create, receive, maintain, access, store, or transmit Protected Health Information in the course of providing services on behalf of Covered Entity comply with certain obligations regarding the confidentiality, integrity, and availability of Protected Health Information.
2. Definitions.
	1. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. § 160.103, and in reference to the party to this Agreement, shall mean Vendor.
	2. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 C.F.R. § 160.103, and in reference to the party to this Agreement, shall mean Tarrant County Hospital District d/b/a JPS Health Network.
	3. “HIPAA Rules” shall mean the rules at 45 C.F.R. Part 160, Part 162, and Part 164.
	4. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
	5. The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Electronic Protected Health Information, Individual, Health Care Operations, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
3. Purposes for which Protected Health Information, including Electronic Protected Health Information, May be Used or Disclosed. Business Associate may use, access, and disclose Protected Health Information (“PHI”) for the purposes of providing services to Covered Entity (“Services”) as set forth in the underlying agreement to which this BAA is attached (“Agreement”).
4. Business Associate Obligations. Business Associate agrees to comply with applicable federal and state confidentiality and security laws, including, but not limited to the Privacy and Security Standards, and including without limitation:
	1. *Knowledge of HIPAA and Texas Patient Privacy Laws*. Business Associate agrees to review and understand Texas Health and Safety Code Ch. 181 and HIPAA as it applies to Business Associate, and to comply with the applicable requirements of Texas Health and Safety Code Ch. 181, HIPAA, and HITECH (including without limitation 45 C.F.R. §§ 164.308, 164.310, 164.312, and 164.316), as well as any applicable amendments. Business Associate agrees to not use or disclose PHI other than as permitted or required by the BAA or as Required by Law.
	2. *Training*. Business Associate agrees to provide training to its employees regarding the state and federal law concerning protected health information as necessary and appropriate for the employees to carry out the employees' duties for Business Associate as required by Texas Health and Safety Code Ch. 181.
	3. *Use and Disclosure of PHI*.
		1. Business Associate may only use or disclose PHI as necessary to perform the Services on behalf of Covered Entity, and shall not use or disclose PHI in a manner that would violate Texas Health and Safety Code Ch. 181 or HIPAA if so used or disclosed by Covered Entity.
		2. Business Associate may use and disclose PHI as Required by Law.
		3. Business Associate agrees to make uses and disclosure and requests for PHI consistent with Covered Entity’s Minimum Necessary policies and procedures, i.e., only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.
		4. Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except that Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out its legal responsibilities and its responsibilities under this BAA. However, the Business Associate shall in such case:
			1. provide training to members of its workforce regarding the confidentiality requirements in the Privacy and Security Standards and this BAA;
			2. obtain reasonable assurances from the person or entity to whom the PHI is disclosed that: (a) the PHI will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity and (b) the person or entity will notify Business Associate of any instances of which it is aware in which confidentiality of the PHI has been breached; and
			3. agree to notify the designated Privacy Officer of Covered Entity of any instances of which it is aware in which the PHI is used or disclosed for a purpose that is not otherwise provided for in this BAA or for a purpose not expressly permitted by the Privacy and Security Standards.
	4. *Disclosure to Third Parties*. If Business Associate discloses PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, to agents, including a subcontractor, Business Associate shall require the agent or subcontractor to agree to the same restrictions and conditions that apply to the Business Associate under this BAA. Business Associate shall ensure that any agent, including a subcontractor, to which the Business Associate provides PHI, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity. The Business Associate shall be fully liable to Covered Entity for any acts, failures or omissions of the agent or subcontractor in providing the services as if they were the Business Associate’s own acts, failures or omissions, to the extent permitted by law. The Business Associate further expressly warrants that its agents will be specifically advised of, and will comply in all respects with, the terms of this BAA. Furthermore, in accordance with Section 13404 of HITECH, Business Associate shall comply with 45 C.F.R. § 164.504(e)(1)(ii).
	5. *No* *Offshore PHI*. Without the prior written approval of Covered Entity, Business Associate shall neither (i) create, receive, maintain, or transmit Covered Entity’s PHI outside the geographic boundaries of the United States, nor (ii) provide, transmit, or allow access to Covered Entity’s PHI to any person or entity located outside the geographic boundaries of the United States, including employees, agents or other representatives of that person or entity.
	6. *Data Aggregation*. In the event that the Business Associate works for more than one Covered Entity, Business Associate is permitted to use and disclose PHI, but only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the Privacy and Security Standards.
	7. *De-Identified Information*. Use and disclosure of de-identified health information is permitted, but only if (i) the precise use is disclosed to Covered Entity and permitted by Covered Entity in its sole discretion and (ii) the de-identification complies with 45 C.F.R. § 164.502(d), and any such de-identified health information meets the standard and implementation specifications for de-identification under 45 C.F.R. § 164.514(a) and (b), or such regulations as they may be amended from time to time.
	8. *Notice of Privacy Practices*. Business Associate agrees that it will abide by the limitations of any Notice of Privacy Practices (“**HIPAA Notice**”) published by Covered Entity of which it has knowledge. Covered Entity shall provide to Business Associate such HIPAA Notice when it is adopted. Any use or disclosure permitted by this BAA may be amended by such HIPAA Notice. The amended HIPAA Notice shall not affect permitted uses and disclosures on which Business Associate relied prior to such notice.
	9. *Withdrawal of Consent or Authorization*. If the use or disclosure of PHI in this BAA is based upon an Individual’s specific consent or authorization for the use of his or her PHI, and the Individual revokes such consent or authorization in writing, or the effective date of such authorization has expired, or the consent or authorization is found to be defective in any manner that renders it invalid, the Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such Individual’s PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy and Security Standards expressly applies.
	10. *Use or Disclosure that Would Violate HIPAA*. Business Associate is prohibited from further use or disclosure of PHI in a manner that would violate the requirements of the Privacy and Security Standards if the PHI were used or disclosed by Covered Entity, except to the extent permitted in Section D.3(d) above.
	11. *Safeguards*. Business Associate is required to implement and maintain administrative, physical, and technical safeguards with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by this BAA, in accordance with Subpart C of 45 C.F.R. Part 164, that reasonably and appropriately protects the confidentiality, integrity, and availability of PHI and ensure that such PHI is not received, used, accessed, stored, transmitted, or disclosed other than as provided by this BAA or as Required by Law.
	12. *Securing PHI*. Business Associate shall secure any and all Electronic Protected Health Information (“EPHI”) covered by this BAA in accordance with the guidance issued by the Secretary entitled “Guidance Specifying the Technologies and Methodologies that Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals,” as amended and updated from time to time. In addition, with respect to PHI covered by this BAA, Business Associate shall comply with any guidance issued by the Secretary under the authority of HITECH Section 13401(c). Business Associate shall use best efforts to avoid the creation or storage of paper PHI.
	13. *Records Management*. Upon termination of this BAA or the Agreement for any reason, Business Associate agrees to return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate maintains in any form and shall comply with federal and state laws as they may be amended from time-to-time governing the maintenance or retention of PHI. If the return or destruction of PHI is not feasible, Business Associate shall inform Covered Entity of the reason thereof, and Business Associate agrees to extend the protections of this BAA to such PHI and limit further uses and disclosures of the PHI to those purposes that make the return or destruction of the information infeasible for so long as Business Associate retains the PHI.
	14. *Individual Rights Regarding Designated Record Sets*. If Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate agrees as follows:
		1. Correction of PHI. Business Associate agrees that it will amend PHI maintained by Business Associate as requested by Covered Entity pursuant to 45 C.F.R. § 164.526.
		2. Individual Right to Copy or Inspection. Business Associate agrees that if it maintains a Designated Record Set for Covered Entity that is not maintained by Covered Entity, it will permit an Individual to inspect or copy PHI about the Individual in that set as directed by Covered Entity under conditions and limitations required under 45 C.F.R. § 164.524 as it may be amended from time-to-time. Covered Entity is required to act on such requests as soon as possible but not later than 30 days following receipt of the request. Under Texas law, Business Associate must act within 15 days of receiving applicable fees for copies or, if no fees are charged or there is a medical emergency, within 15 days of receipt of the request. Business Associate agrees to make reasonable efforts to assist Covered Entity in meeting this deadline, to the extent the requested information is maintained by Business Associate and not Covered Entity.

The information shall be provided in the form or format requested, if it is readily producible in such form or format; or in summary, if the Individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying health information may be charged.

* + 1. Individual Right to Amendment. Business Associate agrees that it will accommodate an Individual’s right to have access to and amend PHI about the Individual in a Designated Record Set in accordance with the Privacy and Security Standards set forth at 45 C.F.R. § 164.526 as it may be amended from time-to-time.
	1. *Accounting of Disclosures*. Business Associate agrees to maintain documentation of and make available to the Individual and/or Covered Entity from whom the PHI originated, as Covered Entity requests, information required for an accounting of disclosures of PHI with respect to the Individual, in accordance with 45 C.F.R. § 164.528 as it may be amended from time-to-time. Such accounting is limited to disclosures that were made in the six (6) years prior to the request (not including any disclosures prior to the compliance date of the Privacy and Security Standards).
		1. Covered Entity is required to act on such requests as soon as possible but not later than 60 days following receipt of the request. Business Associate agrees to use its best efforts to assist Covered Entity in meeting this deadline.
		2. Such accounting must be provided without cost to the Individual or Covered Entity if it is the first accounting requested by an Individual within any 12-month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if the Individual is informed in advance of the fee and is afforded an opportunity to withdraw or modify the request.
		3. Business Associate’s obligations under this Section shall continue for as long as Business Associate maintains PHI.
	2. *Policies and Procedures*. Business Associate shall implement and maintain reasonable and appropriate policies and procedures to comply with the standards, implementation specifications, or other requirements of Part 164 of Title 45, Code of Federal Regulations, including, but not limited to, the provision of a process for complaints regarding Business Associate’s obligations under this BAA, HITECH, and HIPAA and imposition of sanctions against workforce members who fail to comply with the requirements of this BAA, HITECH, and HIPAA.
	3. *Security Incident*. Business Associate agrees to immediately report to Covered Entity any use or disclosure of PHI not provided for by this BAA of which it becomes aware, including Breaches of Unsecured Protected Health Information (“Unsecured PHI”) as required at 45 C.F.R. § 164.410, and any Security Incident of which the Business Associate becomes aware.
	4. *Notification in Case of Breach*.
		1. The parties acknowledge and agree that the express statutory language of HITECH including, but not limited to, the breach notification requirements under Section 13402 of HITECH (the “Breach Notification Rule”) is directly applicable to Business Associate and is hereby incorporated into this BAA.
		2. Business Associate shall, following the discovery of any Breach of Unsecured PHI:
			1. initially notify Covered Entity without unreasonable delay and in no case later than three (3) calendar days after discovery of a Breach;
			2. subject to Section 18(f) below, notify each Individual whose Unsecured PHI has been, or is reasonably believed to have been accessed, acquired, or disclosed as a result of such Breach; and
			3. notify Covered Entity of such Breach in accordance with 45 C.F.R. § 164.410. Such notice shall include:
				1. the identification of each Individual whose Unsecured PHI has been, or is reasonably believed to have been accessed, acquired, or disclosed as a result of such Breach;
				2. a brief description of what happened, including the date of Breach and date of discovery;
				3. a description of the types of Unsecured PHI involved in the Breach (i.e., whether the full name, social security number, etc. was disclosed);
				4. the steps the Individual should take to protect themselves from potential harm resulting from the Breach;
				5. a brief description of what the Business Associate involved is doing to investigate the Breach, to mitigate losses, and to protect against further Breaches; and
				6. contact procedures for Covered Entity or Individuals to ask questions or learn additional information, which shall include a toll free number, an email address, Web site, or postal address.
		3. All notifications under this Section 18 shall be made without unreasonable delay and:
			1. if to an Individual pursuant to Section 18(b)(ii), no later than sixty (60) calendar days following the discovery of such Breach by the Business Associate, as defined by 45 C.F.R. § 164.410;
			2. if to Covered Entity pursuant to Section 18(b)(iii), no later than forty-five (45) calendar days following the discovery of such Breach by the Business Associate, as defined by 45 C.F.R. § 164.410.
		4. All notifications under subsection (b)(ii) of this Section 18 shall comply with all applicable provisions under 45 C.F.R. § 164.404.
		5. Business Associate shall implement a reasonable system for discovery of Breaches of Unsecured PHI. Business Associate shall notify Covered Entity of any and all Breaches of Unsecured PHI. A Breach shall be treated as discovered by Business Associate on the first day on which such Breach is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate is deemed to have knowledge of a Breach if the Breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the Breach), who is an employee, officer or other agent of the Business Associate.
		6. In the event Business Associate discovers a Breach of Unsecured PHI, Covered Entity shall decide how and when the notification to Individuals and media shall be provided and shall approve the content of such notifications. At the request of Covered Entity and in Covered Entity’s sole discretion, Business Associate shall provide the notification to Individuals and/or the media as directed by Covered Entity, and/or reimburse Covered Entity for the cost of notifying Individuals and/or the media.
	5. *Subcontractors*. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and § 164.308(b)(2), if applicable, Business Associate agrees to ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions and conditions that apply to the Business Associate with respect to such information.
	6. To the extent the Business Associate is to carry out one or more of Covered Entity’s obligations under 45 C.F.R. Part 162 or Subpart E of 45 C.F.R. Part 164, Business Associate agrees to comply with the requirements therein that apply to the Covered Entity in the performance of such obligations.
1. Internal Practices, Books, and Records. The Business Associate shall make available its internal practices, policies, procedures, books, and records relating to the use and disclosure of PHI received from Covered Entity, created or received by the Business Associate on behalf of Covered Entity, to the Secretary for the purpose of determining Covered Entity’s compliance with HIPAA, or any other health oversight agency, or to Covered Entity. Records requested that are not protected by an applicable legal privilege will be made available in the time and manner specified by Covered Entity or the Secretary.
2. Indemnification. To the extent permitted by law, Business Associate agrees to indemnify and hold harmless Covered Entity from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney’s fees, defense costs, and equitable relief ), for any damage or loss incurred by Covered Entity arising out of, resulting from, or attributable to any acts or omissions or other conduct of Business Associate in connection with the performance of Business Associate’s duties under this BAA. This indemnity shall apply even if Covered Entity is alleged to be solely or jointly negligent or otherwise solely or jointly at fault; provided, however, that a trier of fact finds Covered Entity not to be solely or jointly negligent or otherwise solely or jointly at fault. This indemnity shall not be construed to limit Covered Entity’s rights, if any, to common law indemnity.

Covered Entity shall have the option, at its sole discretion, to employ attorneys selected by it to defend any such action, the costs and expenses of which shall be the responsibility of the Business Associate. Covered Entity shall provide the Business Associate with timely notice of the existence of such proceedings and such information, documents and other cooperation as reasonably necessary to assist the Business Associate in establishing a defense to such action.

These indemnities shall survive termination of this BAA and the Agreement, and Covered Entity reserves the right, at its option and expense, to participate in the defense of any suit or proceeding through counsel of its own choosing.

1. Insurance. As long as Business Associate receives, transmits, creates, or maintains PHI, Business Associate will maintain cyber insurance with coverage for HIPAA breaches including breach management and Individual notification expenses in the minimum amount of fifteen million dollars ($15,0000,00) per occurrence and thirty million dollars ($30,0000,00) in the annual aggregate. Upon the execution of the Agreement and upon Covered Entity’s request any time thereafter (no more than annually), Business Associate will furnish a then-current certified certificate(s) of insurance. Such policy (or policies) shall (i) be endorsed to include Covered Entity as an additional insured to the extent indemnified pursuant to this BAA, (ii) provide for severability of interests, and (iii) provide Business Associate with at least thirty (30) days’ notice of cancellation. Business Associate shall provide thirty (30) days’ prior written notice to Covered Entity of any nonrenewal or cancellation of any insurance coverage.
2. Mitigation. If Business Associate violates this BAA or the HIPAA Rules, Business Associate agrees to mitigate any damage caused by such violation. Additionally, Business Associate agrees to mitigate, to the extent practicable, any other damages of which it is aware resulting from a violation of this BAA or the HIPAA Rules.
3. Rights of Proprietary Information. Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.
4. Termination for Breach. Without limiting the termination provisions herein, if Business Associate breaches any provision of this BAA, Covered Entity may, at its option, access and audit the records of Business Associate related to its use and disclosure of PHI, require Business Associate to submit to monitoring and reporting, and such other conditions as Covered Entity may determine is necessary to ensure compliance with this BAA; or Covered Entity may terminate this BAA and the Agreement on a date specified by Covered Entity.
5. Survival of Key Provisions. The provisions of this BAA and the respective rights and obligations of the Business Associate under Section D.13. of this BAA shall survive the termination of this BAA and the Agreement.
6. Amendments. Covered Entity and Business Associate agree to enter into good faith negotiations to amend this BAA to come into compliance with changes in state and federal laws and regulations relating to the privacy, security and confidentiality of PHI. Covered Entity may terminate this BAA upon thirty (30) days written notice in the event that Business Associate does not promptly enter into an amendment that Covered Entity, in its sole discretion, deems necessary to ensure that Covered Entity will be able to comply with such laws and regulations.
7. Regulatory References. A citation in this BAA to the Code of Federal Regulations (C.F.R.) shall mean the cited section as that section may be amended from time to time.
8. Obligations of Covered Entity. To the extent applicable, Covered Entity shall:
	1. provide Business Associate a copy of its HIPAA Notice produced by Covered Entity in accordance with 45 C.F.R. § 164.520 as well as any changes to such HIPAA Notice;
	2. provide Business Associate with any changes in, or revocation of, authorizations by Individuals relating to the use and/or disclosure of PHI, if such changes affect Business Associate’s permitted or required uses and/or disclosures;
	3. notify Business Associate of any restriction to the use and/or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522;
	4. notify Business Associate of any amendment to PHI to which Covered Entity has agreed that affects a Designated Record Set maintained by Business Associate; and
	5. if Business Associate maintains a Designated Record Set, provide Business Associate with a copy of its policies and procedures related to an Individual’s right to: access PHI; request an amendment to PHI; request confidential communications of PHI; or request an accounting of disclosures of PHI.

*Revised July 7, 2021*

**Exhibit D**

**Vendor Certification Form**

**RFP #20221020158 Pressure Ulcers Patient Monitoring System**

|  |
| --- |
| **Instructions:**Vendors doing business with the District are requested to complete this form in its entirety. If you are a Disadvantaged Business Enterprise, the requested information pertains to the owner(s) of the company. This form must be signed and dated by an authorized representative of your company. |
| Respondent’s Name: Years in business under same name: Previous Name: General E-mail Address: Current Address: Sales Rep/Customer Service Name: E-mail Address: Sales Rep/Customer Service Phone#: Fax#: Accounts Receivable Contact Name: Phone # TCHD Account #  |
| **List your major commodities:**  |
| **Check all that apply with respect to major commodity:**[ ] Supply  [ ] Equipment  [ ] Service  (List type of service, i.e., temp. agency, surveyor, etc.: \_\_\_\_\_\_\_[ ] Consultant [ ] Distributor  [ ] Manufacturer [ ] Contractor [ ] SubcontractorApproximate dollar volume of business with the District in past twelve (12) months: **$\_\_\_\_\_\_\_\_\_\_\_\_** |
| **ETHNICITY OF company’S American OWNERSHIP** (Please place an X in the appropriate box**:**  |
| [ ]  Asian Pacific [ ]  African American [ ]  Caucasian [ ]  Hispanic [ ]  Native American  | [ ]  Other  \_\_\_\_\_\_\_\_\_\_\_\_ (SPECIFY) | Public OWN STOCK:[ ]  yES  [ ]  nO  |
|  |  | MAJORITY OWNER: [ ]  mALE  [ ]  fEMALE   |

**INCLUDE THE FOLLOWING:**

Copy of certificate(s) (State of Texas, North Central Texas Regional Certification Agency (NCTRCA), Historically Underutilized Businesses (HUB), or any agency confirming your business as being a women/minority-owned or small business enterprise.

***signature*:** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* ***Title:*** \_\_\_\_\_\_\_\_\_\_\_\_\_\_

***Print Name:*** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* ***Date:*** *\_\_\_\_\_\_\_\_\_\_\_\_*

**Exhibit E**

**Conflict of Interest Questionnaire**

Chapter 176 to the Texas Local Government Code (“Chapter 176”) contains provisions mandating the public disclosure of certain information concerning persons doing business or seeking to do business with the District (“Disclosure Information”). The Disclosure Information relates to affiliations, and business and financial relationships such persons may have with members of the District’s governing body, its officers and certain other high-level District employees. Each Respondent is charged with the responsibility of becoming familiar with the requirements of Chapter 176 and for complying with the applicable provisions thereof.

Each Respondent shall complete the Conflict of Interest Questionnaire set forth below and shall return the completed Conflict of Interest Questionnaire with its Response. A complete copy of Chapter 176 of the Local Government Code may be found at: <https://statutes.capitol.texas.gov/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on: (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity; (B) a transaction conducted at a price and subject to terms available to the public; or (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):** (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if: . . . . . (2) the vendor: (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that (i) a contract between the local governmental entity and vendor has been executed; or (ii) the local governmental entity is considering entering into a contract with the vendor; or (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that: (i) a contract between the local governmental entity and vendor has been executed; or (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and: (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A); (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of: (1) the date that the vendor: (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or (2) the date the vendor becomes aware: (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a); (B) that the vendor has given one or more gifts described by Subsection (a); or (C) of a family relationship with a local government officer.

**RFP #20221020158 Pressure Ulcers Patient Monitoring System**

|  |
| --- |
| **CONFLICT OF INTEREST QUESTIONNAIRE FORM CIQ****For vendor doing business with local governmental entity** |
| **This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor. | **OFFICE USE ONLY** |
| Date Received |
| **1** | Name of vendor who has a business relationship with local governmental entity.  |
|  |
| **2** | [ ]  | Check this box if you are filing an update to a previously filed questionnaire**.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.) |
|  |
| **3** | Name of local government officer about whom the information is being disclosed.  Name of Officer |
|  |
| **4** | Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.1. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

 [ ]  Yes [ ]  No1. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

 [ ]  Yes [ ]  No |
|  |
| **5** | Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.  |
|  |
| **6** | [ ]  | Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1). |
|  |
| **7** |   Signature of vendor doing business with the governmental entity Date |
|  |

**Exhibit F**

**Vendor’s Proposed Revisions**

**RFP #20221020158 Pressure Ulcers Patient Monitoring System**

In submitting a response to this Solicitation, the Respondent agrees to accept the terms and conditions set forth in this Solicitation or incorporated herein by reference. **The successful Respondent will be expected to enter into a contract which contains substantially the same terms and conditions as are included in** [**Exhibit C**](#ExC) **to this Solicitation.**

If you are proposing any revisions to Exhibit C, the Contract Terms, you MUST indicate this below and **provide a redline of your proposed revisions**. The District will only consider those exceptions, additions, deletions or revisions as are set forth by Respondent specifically in response to this Exhibit F. The District may accept or reject your proposed revisions at its sole discretion. No proposed revisions will become effective unless accepted by the District and agreed to in writing and signed by both parties.

The District considers the Respondent to agree to all terms and conditions of the Contract Terms (including Exhibits), unless otherwise indicated herein. Absence of a redline will constitute agreement, and there will be no further negotiations regarding the same. **Respondents submitting redlines must provide an editable unlocked/unsecured version of the redline with their Solicitation Response (preferably in track changes).**

***Please note***: The District will not agree to indemnify the vendor, limit the vendor’s liability, shorten the statute of limitations for any claim, submit to binding arbitration, waive its right to a jury trial, or waive its existing governmental immunity. DO NOT include any such provisions in your response, as they will not be accepted.

**Respondent *MUST* check the appropriate response below:**

[ ]  Respondent accepts Contract Terms without exception.

OR

[ ]  Respondent proposes exceptions/modifications to the Contract Terms.

****

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Signature

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Printed Name

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**EXHIBIT G**

**JPS Supplier Diversity: Good Faith Form**

|  |  |
| --- | --- |
| Solicitation # and Name: | **RFP #2022102158 Pressure Ulcers Patient Monitoring System** |
| Prime Vendor Name: |   |
| Prime Vendor address: |   |
| Prime Vendor UCM ID: |   |
| Prime Vendor MWVBE Contact Name, Phone and Email: |  |

1. Is the prime vendor a certified Minority, Woman, or Veteran-owned business enterprise (MWVBE)?

[ ]  If yes, please attach your current certification or letter.

[ ]  No.

1. **List all participating MWVBE-certified subcontractors and vendors that you commit to use for this contract.** All Respondents, including MWVBE-certified Respondents, are strongly encouraged to subcontract portions of the project to MWVBE-certified subcontractors. Please attach a current certificate or letter for each certified MWVBE subcontractor or vendor. If you are awarded this contract, you **must** use the subcontractors/vendors listed below unless the Supplier Diversity Office approves a change. *(Insert additional rows as needed.)*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| MWVBE Subcontractor Company Name | Email / Phone | Work Scope Description | Total Contract Value | MWVBE Subcontract Value | MWVBE% of Total Contract |
|   |   |   |   |   |   |
|   |   |   |   |   |   |

1. If no MWVBE participation is listed above, have you contacted MWVBEs regarding participation in this opportunity? Certified MWVBE lists are available on the JPS Vendor portal at <https://jpshealth.gob2g.com/> as well as from other sources. (*You must register on the JPS vendor portal to obtain a user name and password that will allow you to search for certified MWVBE businesses. The JPS vendor portal is a directory of businesses interested in doing business with JPS.*)
*Ex: Support services to participate under the contract*

[ ]  If you contacted MWVBEs regarding subcontracting for this opportunity, list MWVBE company name(s) and contact information below and attach copies of your correspondence:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| MWVBE Subcontractor Company Name | Email / Phone | Work Scope Description | Total Contract Value | MWVBE Subcontract Value | MWVBE% of Total Contract |
|   |   |   |   |   |   |
|   |   |   |   |   |   |

1. If you are not a MWVBE and do not have a MWVBE subcontractor, please provide a statement regarding steps that your company has taken to demonstrate your commitment to Supplier Diversity: (*Insert additional rows as needed)*
2. Please explain how you plan to identify MWVBE participation on this contract: *(Insert additional rows as needed)*

|  |  |  |
| --- | --- | --- |
|   |  |  |
| **Name of Vendor (Print)** |  | **Vendor Signature** |
|   |  |   |
| **Date** |  | **Vendor Phone** |
|  |  |  |
| **JPS Diversity Administration Reviewer (Print)** |