

## **Buyer, Bexar County Hospital District dba University Health's State/County Law Amendment**

The provisions set forth in this Amendment are being added to the Agreement to comply with legislative and regulatory requirements of the State of Texas and requirements set forth by the legal department for Bexar County Hospital District d/b/a University Health ("Buyer") in its status as the County Hospital. This Amendment shall apply and shall supersede any provisions in the Agreement (which includes any document referenced therein or subsequent agreements or subsequent amendments) to the contrary. For purposes of this Amendment, "Seller" shall mean any bidder, offeror, vendor, service provider or other person or entity responding to this procurement opportunity or has entered into an agreement with Buyer.

1. **Governmental Immunity.** The Parties acknowledge that Buyer is a political subdivision of the State of Texas and under the Constitution and laws of the State of Texas possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has such authority as is granted to it under the Constitution and the laws of the State of Texas. Nothing in the Agreement is intended to be, nor will it be construed to be, a waiver of sovereign or governmental immunity or a prospective waiver of restriction of any of the rights, remedies, claims and privilege of the State of Texas or its political subdivisions. Notwithstanding the generality or specificity of any provision of this Agreement (including, without limitation, any provision pertaining to indemnification, a cap on liability, a limitation of damages, or a waiver or limitation of rights, remedies, representation or warranties), the provisions of this Agreement, as those provisions pertain to Buyer, are enforceable only to the extent authorized and required by the Constitution and laws of the State of Texas..

2. **Program of Self-insurance.** The parties acknowledge that Buyer is a political subdivision of the State of Texas and is subject to and shall comply with the applicable provisions of the Texas Tort Claims Act, as set for the in the Civil Practice and Remedies Code, Section 101.001, et seq. and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death. In lieu of insurance requirements, Buyer shall at all times during the term of this Agreement maintain a self-insurance fund sufficient to meet its possible exposure under the Texas Tort Claims Act as follows: A maximum amount of \$100,000.00 for each person and \$300,000.00 for each single occurrence for bodily injury or death and \$100,000.00 for each single occurrence for injury or destruction of property, or such higher amounts as may be required by law.

3. **Disputes, Governing Law & Venue.** This Agreement shall be governed by the laws of the State of Texas. Any dispute or action arising out of or relating to this Agreement shall be brought and maintained only in a state court located in Bexar County, Texas. Seller waives any right to bring action in Federal Court based on diversity of citizenship. The prevailing party in any such action shall be entitled to recover from the non-prevailing party the prevailing party's reasonable attorney's fees, unless prohibited by law.

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4. **Disputes, Mediation.** The Parties will use their best efforts to settle any dispute, claim, question or disagreement between them, negotiating with each other in good faith and, recognizing their mutual interest, attempting to reach an equitable solution satisfactory to both Parties. Before instituting any lawsuit or arbitration the parties must first participate in a mediation as described in the Alternative Dispute Resolution Procedures of the Texas Civil Practice and Remedies Code before a mutually agreeable mediator. If the Parties cannot agree on a mediator, either Party may apply to any court of competent jurisdiction for appointment of a mediator and an Order to Mediate. The Party seeking mediation (the “Plaintiff”) shall notify, in writing, the Party against who such mediation is sought (the “Defendant”), describe the nature of such claims and provide detailed information supporting the claims and specify the provision of this Agreement which has been violated by the Defendant (this written notice is notice of an “intent to mediate”). The costs and expenses associated with mediation shall be borne equally by the Parties. The mediation must take place within 30 days of agreement to or appointment of a mediator. The mediation shall be held in San Antonio, Texas, unless another location is mutually agreed upon. If resolution is not reached within 90 days after beginning mediation, then the mediation shall terminate and the Parties may initiate adversarial proceedings. The applicable statutes of limitations will be tolled from the earliest date of Facility submitting claims for internal administrative review or appeal or either Party giving the other notice of an intent to mediate. There is no requirement of exhaustion of administrative remedies. There is no mandatory arbitration, but the parties may decide to arbitrate their dispute only upon mutual written consent. There are no limitations or waivers of the legal rights or remedies of Buyer as the County Hospital.

5. **Adherence to Policies & Procedures.** Seller shall ensure that all of their actions, services and items provided in connection with the Agreement at all times comply with Buyer's policies and procedures.

6. **Seller Liability.** No liability limitation, waiver, release or other provision in the Agreement or any subsequent Amendment will limit, reduce, or eliminate (i) Seller's liability for direct damages to any person or property resulting from any conduct, act, or omission of Seller or Seller's employees, officers, directors, agents, or affiliates; (ii) Seller's liability pursuant to any indemnification obligation under this Agreement or any subsequent Amendment; or (iii) Seller's liability for any breach or violation of a business associate agreement or any security or privacy requirements relating to individually identifiable health information.

7. **Privileged Information.** Buyer shall not be required to disclose or to allow access to any information or documents if such disclosure or access would violate any law or may operate to waive any applicable privilege, including peer review privilege and work product privilege.

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