

Appendix B

INSURANCE REQUIREMENTS

1. **Insurance to be Maintained By Contractor.** Prior to providing services under this Agreement, Contractor, at its own cost and expense, shall procure and maintain insurance for the coverages listed below, written for not less than the limits specified for each coverage or required by law, whichever is greater (except that if Contractor procures any policy limits greater than the amounts required herein, then the higher limits shall apply as though stated and required herein) and including the provisions enumerated below:

1.1 Professional Liability

Occurrence coverage	\$1,300,000 per occurrence
General Aggregate	\$3,900,000

Professional liability insurance coverage shall provide "occurrence" coverage; provided however if such coverage is "claims made" coverage, it must include tail coverage for at least two and one-half (2 ½) years after this Agreement terminates or expires.

1.2. Commercial General Liability

Bodily Injury and Property Damage Limit	\$1,000,000 each occurrence
Personal Injury Limit	\$1,000,000 each person
General Aggregate	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000

Coverage is to apply on an occurrence basis only. No endorsement or modification of this policy limiting the scope of coverage for Contractual Liability, Products/Completed Operations, Pollution or Personal Injury shall be permitted. In addition, no designated Premises/Operations limitation shall be permitted.

1.3. Automobile Liability

Owned, Hired and Non-Owned Autos

Combined Single Limit for Bodily Injury and Property Damage	\$1,000,000 each accident
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1.4. Workers' Compensation & Employers' Liability and New York Disability Benefits

Statutory coverage complying with the law of each state in which Contractor's employees are headquartered, working, or domiciled with Employers' Liability limits of not less than \$1,000,000 Each Accident and \$1,000,000 Each Employee for Disease and \$1,000,000 Policy Limit for Disease, or the minimum level required by Contractor's Excess Umbrella Liability insurance company, whichever is greater and New York Disability Benefits Law.

1.5. Cyber Liability

Any contract awarded where electronic information/data, including Protected Health Information (as defined under HIPAA) is being exchanged between ECMCC and the Contractor or stored by Contractor on behalf of ECMCC will require cyber liability insurance as described below. In addition to the insurance below, the Contractor/Vendor must demonstrate use of a secure server and password-protected email. In some circumstances coverage to include Internet Media Liability and/or Cyber Extortion Coverage, including Regulatory Proceeding and Breach Costs

Cyber Liability Insurance Limits	\$5,000,000 per claim
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1.6 Umbrella or Excess Follow Form

Combined Single Limit for Bodily Injury and Property Damage	\$5,000,000 each occurrence \$5,000,000 aggregate
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Coverage is to apply on an occurrence basis only; in excess of the other Liability coverages required in 1.1, 1.2, 1.3, 1.4 and 1.5 above and shall be no more restrictive than such scheduled underlying insurance. **NOTE:** Any combination of primary and excess limits is acceptable as long as the total limits achieved are at least equal to the total limits achieved by the above described combination of primary and excess layers.

1.7. Pollution Legal Liability

Any contractor performing environmental work shall have in effect Pollution Legal Liability or Contractors Site Pollution Liability insurance coverage with an insuring limit of no less than \$5,000,000 per claim and a \$5,000,000 aggregate. Contractor shall name ECMCC and its respective officers, employees and agents as Additional Insured on this policy.

1.8. Additional Insureds

ECMCC and its respective officers, employees and agents shall be named as Additional Insureds, using ISO Form CG 20 10 11 85 or its equivalent, under the policies required in 1.2, 1.3 and 1.5 providing coverage for both ongoing and completed operations. The insurance protection afforded to ECMCC under such policies shall apply on a primary basis and any insurance (or self-insurance program) maintained by ECMCC shall not contribute with the insurance afforded to ECMCC as an Additional Insured.

1.9. Financial Rating of Insurers

The insurance companies providing the required coverages shall be licensed to do so in New York State, and shall be rated no lower than "A-" by the most recent Best's Key Rating Guide or Best's Agent's Guide, and shall have a Best's Financial Size Category of not less than VIII, unless otherwise agreed to by ECMCC.

1.10. Notice of Cancellation, etc.

Contractor is hereby obligated to e-mail or fax to ECMCC a copy of any cancellation or non-renewal notice received from the insurer for any policy affording the coverages required herein within five days of Contractor's receipt of same. Contractor further agrees to provide ECMCC with 30 days advance written notice of cancellation, non-renewal or material reduction in coverage initiated by Contractor with respect to any of the required insurance coverages. For the purpose of this provision, material reduction in coverage shall mean any change or reduction in the scope of insurance coverage that adversely affects the protection that would otherwise be available to ECMCC.

1.11. Deductibles or Self-Insured Retentions

Deductibles or self-insured retentions shall be permitted with the understanding that Contractor (and not ECMCC) shall be responsible for such deductible or self-insured retention.

1.12. General Provisions

Cross-Liability. If the Contractor's liability policies do not contain the standard ISO separation of insureds provision, or an equivalent clause, such policies shall be endorsed to provide cross-liability coverage.

Claims-Made Coverage. For any liability coverages maintained on a claims-made basis, the following provisions apply unless otherwise agreed to by ECMCC:

- i. If the claims-made coverage terms designate a specific retroactive date, Contractor shall maintain a retroactive date which is not later than the earlier of (a) the date of the commencement of the term of this Agreement, or (b) the original coverage retroactive date for Contractor's first claims-made policy for each and every coverage provided on a claims-made basis;
- ii. For the duration of this Agreement, or any subsequent renewals, if the retroactive date is advanced or if the policy is materially changed, cancelled or not renewed, Contractor shall purchase, at its own expense, an extended reporting period endorsement. This endorsement must provide an extended reporting period ("tail" coverage) of three years or the minimum as prescribed by the Insurance Department of the State of New York, whichever is greater;
- iii. Upon termination of the services provided to ECMCC by Contractor, Contractor shall maintain such claims-made coverage without interruption for three years or a period of time equal to the length of any extended reporting period requirement as specified above, whichever is greater (the extended term of protection). If the retroactive date is advanced or if the policy is materially changed, cancelled or not renewed during this period of time, Contractor shall purchase, at its own expense, an extended reporting period endorsement covering a term of three years or the minimum as prescribed by the Insurance Department of the State of New York, whichever is greater. It is understood that the length of this extended reporting period endorsement may be reduced to coincide with any time remaining in the extended term of protection.

1.13. Evidence of Insurance. Contractor shall deliver to ECMCC, prior to commencement of the work, Certificates of Insurance acceptable to ECMCC certifying that policies of insurance for the required coverages have been issued and are in effect and comply with the requirements herein. Upon expiration or cancellation of any policy during the period the coverages under such policy are required to be maintained, Contractor shall immediately deliver to ECMCC a Certificate of Insurance evidencing proper renewal or replacement of the policy.

1.13.1 Certificates evidencing Liability coverage under which ECMCC is required to be named as an Additional Insured must state that "Erie County Medical Center Corporation and its respective officers, employees and agents are included as Additional Insureds on a primary and non-contributory basis with respect to any other insurance or self-insurance programs afforded to, or maintained by, Erie County Medical Center Corporation." The certificate must specify the policies under which such Additional Insured status has been granted and a copy of the Additional Insured Endorsement(s) or Policy Provision(s) that grant(s) the required Additional Insured status must be attached to the certificate. A Waiver of Subrogation in favor of ECMCC shall also be included under the General Liability, Workers Compensation, Automobile and Umbrella Liability coverages and evidence on the certificate of insurance.

1.13.2 Certificates must specify the applicable retroactive date of any claims-made coverage being evidenced.

1.13.3 Failure of ECMCC to demand such Certificate of Insurance or failure of ECMCC to identify a deficiency in a certificate that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

1.13.4 ECMCC shall have the right, but not the obligation, to prohibit Contractor from providing services/products/equipment and/or entering the premises until such

certificate indicating full compliance with the requirements herein has been received and approved by ECMCC.

- 1.13.5 Certificates of Insurance shall be issued and sent to Erie County Medical Center Corporation, Office of General Counsel, 462 Grider Street, Buffalo, New York 14215.
- 1.14. Failure to Secure and Maintain Insurance. Contractor acknowledges that failure to secure the above-specified insurance constitutes a material breach of this Agreement and subjects Contractor to liability for damages and all other legal remedies available to ECMCC. Contractor further acknowledges that procurement of the insurance coverage and limits required herein shall not limit the extent of Contractor's other responsibilities and liabilities specified within the Agreement between ECMCC and Contractor or by law.
- 1.15. Adequacy of Insurance. ECMCC does not in any way represent that the insurance specified herein, whether in scope of coverage or limits of coverage, is adequate or sufficient to protect the business or interest of Contractor.