

KALEIDA HEALTH,
ERIE COUNTY MEDICAL CENTER CORPORATION
AND
GENERAL PHYSICIAN P.C.

INVITATION FOR SUBMITTAL OF PROPOSALS
FOR
PROFESSIONAL FEE BILLING AND ACCOUNTS RECEIVABLE
MANAGEMENT

JANUARY 28, 2019

ISP # 21901

The deadline for submission of proposals is **Friday, February 15, 2019 at 11 a.m. EST**. Submit two (2) sealed paper copies and two (2) electronic copies (on flash drive or CD-ROM) of the proposal to each of the following:

**Erie County Medical
Center Corporation**

Attention: Sarina M. Rohloff
462 Grider Street - Room G-140
Buffalo, New York 14215

Kaleida Health

Attention: Katie O'Connell
Interim Vice President, Revenue Cycle
726 Exchange Street, Suite 300
Buffalo, New York 14210

General Physician, P.C.

Attention: Mary Beth Saba
Director of Revenue Cycle
726 Exchange Street, Suite 516
Buffalo, New York 14210

LATE, EMAILED OR INCOMPLETE PROPOSALS MAY BE REJECTED

Mark in left hand corner of envelope:

ISP # 21901

Due: February 15, 2019

Submitted by: _____

PRE-PROPOSAL CONFERENCE CALL TO BE HELD:

Thursday, February 7, 2019 at 10:00 AM EST

Via Toll Free Telephone Conference Bridge:

1-888-450-5996 (USA /Canada (toll free)

Guest: 4621926

In accordance with State Finance Law Sections 139-j and 139-k, the designated contact for this ISP is listed below. All questions regarding this ISP must be submitted in writing to the designated contact within the timeframes set forth in the ISP Schedule located at Section 3 of this ISP.

Designated contact: Sarina M. Rohloff, Buyer (Srohloff@ecmc.edu)

1. BACKGROUND

Great Lakes Health System

Great Lakes Health System is comprised of Kaleida Health, the University at Buffalo, ECMC and The Center for Hospice & Palliative Care. Great Lakes Health is the largest healthcare network in Western New York, and is committed to providing the area with highly skilled doctors and nurses, state-of-the-art equipment, cutting-edge research and superior facilities. To deliver the very best care for all our patients, we focus on a collaborative and efficient approach

Erie County Medical Center Corporation

Erie County Medical Center Corporation (“ECMCC”), located in Buffalo, New York, is a public benefit corporation created by state law on July 22, 2003, having previously operated as a department of the County of Erie, New York.

ECMCC has an advanced academic medical center consisting of 583 inpatient beds, as well as a Center for Oncology Care, a Center of Excellence for Transplantation and Kidney Care, a Behavioral Health Center of Excellence, numerous on- and off-campus primary care and family health centers, more than thirty outpatient specialty care services, and the Terrace View Long-Term Care Facility, consisting of 390 beds.

In addition, ECMCC is a verified Level 1 Adult Trauma Center by the American College of Surgeons, designated a Level 1 Adult Trauma Center by the NYS Department of Health, and is a regional center for burn care, behavioral health services, transplantation, medical oncology and head & neck cancer care, and rehabilitation. Finally, ECMCC is also affiliated with and a major teaching facility for the University of Buffalo.

ECMCC currently contracts for the provision of professional billing and accounts receivable management for employed and contracted physicians and allied health professionals as follows:

Specialty	Visits / Procedures	Number of Providers
Anesthesia <ul style="list-style-type: none">• MD’s and DO’s• CRNA’s	24,000	15 27
Dentistry-Oral Oncology	2,000	13
Psychiatry (includes Chemical Dependency)	52,000	43
Surgery <ul style="list-style-type: none">• General• Trauma• Orthopedics.	18,000	68
Ambulatory Clinics	102,000	161
Noninvasive Cardiology	39,000	4
Consultations/Inpatient	19,000	30

Kaleida Health

Kaleida Health (“Kaleida”) is the largest healthcare provider in Western New York, serving the area’s eight counties with state-of-the-art technology and comprehensive healthcare services. Its expert, compassionate healthcare professionals are committed to providing the best possible outcomes and experience for patients and visitors.

More than one million sick or injured patients choose a Kaleida Health facility annually, including Buffalo General Medical Center/Gates Vascular Institute, DeGraff Memorial Hospital, Millard Fillmore Suburban Hospital, and John R. Oishei Children's Hospital.

Accredited by Det Norske Veritas (DNV) Healthcare, Inc., Kaleida Health also provides important services through two long-term care facilities, over 80 outpatient clinics, including school-based health centers, and home health care through the Visiting Nursing Association of WNY, Inc. In addition, Kaleida Health's hospitals support residency training programs of the University at Buffalo School of Medicine and Biomedical Sciences, training more than 700 residents each year.

General Physician P.C.

General Physician, PC (“GPPC”) is one of the largest medical groups serving Western New York. The GPPC group is a collective of some of the regions most well-respected and accomplished healthcare providers from many different areas of medicine who are fully committed to the community in which we serve.

With a range of general practitioners to highly skilled specialists, GPPC has a broad integrated network of health care providers that make quality of care that their first priority,

GPPC currently performs professional billing and accounts receivable management for employed and contracted physicians and allied health professionals as follows:

<i>Acute Setting Professional Billing (IP and Observation Visits, Consults, Surgical Procedures and Hospital Based Diagnostics</i>	<i>Visits / Procedures</i>	<i>Number of Providers</i>
Cardiology	108,444	84
Gastroenterology	1,504	5
General Surgery	921	6
OBGYN	1,348	11
Oncology	2,703	9
Orthopedic	1,587	10
Primary Care	949	5
Breast Care	182	1
Neurosurgery	441	1
Pulmonology	1,621	4
Nephrology	49	1
Pain Management	48	1
<i>Office Billing (Professional Services and Global Diagnostic)</i>	<i>Visits / Procedures</i>	<i>Number of Providers</i>
All Specialties	312,898	224

Future Development

This contract could include any future locations that have a current or prospective affiliation with ECMCC or Kaleida.

Kaleida Health currently contracts for the provision of professional billing and accounts receivable management for employed and contracted physicians and allied health professionals as follows:

<i>Acute Setting Professional Billing (IP and Observation Visits, Consults, Surgical Procedures)</i>	<i>Visits / Procedures</i>	<i>Number of Providers</i>
ENT <ul style="list-style-type: none">• Adult & Peds	3,000	7
General Surgery <ul style="list-style-type: none">• Pediatric• Adult• Plastics Dentistry	10,500	30
Psychiatry	2,000	15
Labor & Delivery <ul style="list-style-type: none">• OB GYN Surgery• Triage• Womens Health	8,000	78
Neurology <ul style="list-style-type: none">• Critical Care• Adult & Peds	12,000	22
Rehab Services	31	1
Evaluation & Observation	10,500	33
Critical Care <ul style="list-style-type: none">• Adult, Peds & Neonates	20,000	76
Ortho <ul style="list-style-type: none">• Adult & Peds	2,500	10
Podiatry	28	1
Cardiology	6,000	30
Maternal Fetal Medicine	6,500	19
Dermatology	200	4
Rheumatology Peds	200	2
Ophthalmology	445	3
Physical Medicine	7,000	8
Behavioral Health	1,000	9
ILCU	5,000	6
Gastroenterology <ul style="list-style-type: none">• Bariatrics• Adults & Peds	5,000	10

<i>Clinic Billing (Professional Component Only)</i>	<i>Visits / Procedures</i>	<i>Number of Providers</i>
All Medicaid, Fidelis, UHC	14,500	N/A dependent on patient insurance in clinic

2. RESERVATION OF RIGHTS. ECMCC, Kaleida Health, GPPC reserve the rights to:

- 2.1 Reject any and all proposals submitted in response to this Invitation for Submittal of Proposals (“ISP”);
- 2.2 Disqualify any respondent whose conduct or proposal fails to conform to the requirements of this ISP;
- 2.3 Withdraw this ISP at any time at its sole discretion;
- 2.4 Prior to submission of proposals to amend the ISP specifications to correct errors or oversights, or to supply additional information as it becomes available;
- 2.5 Change any of the scheduled dates;
- 2.6 Waive any requirements that are not material;
- 2.7 Waive any non-conformity with the requirements of this ISP;
- 2.8 Terminate this ISP process at any time;
- 2.9 Seek clarification from a respondent at any time throughout the ISP process for the purpose of resolving ambiguities or questioning information presented in proposals;
- 2.10 Award the contract in whole or in part and/or apportion the award among one or more respondents;
- 2.11 Negotiate final terms with the successful respondent(s);
- 2.12 Conduct contract negotiations with the next responsible respondent, should ECMCC, Kaleida Health and GPPC be unsuccessful in negotiating with the initially selected respondent;
- 2.13 Prepare a list of finalists based on initial proposal evaluations and request that finalists present in-person or telecommunicated presentations to ECMCC, Kaleida Health and GPPC; and
- 2.14 Award the contract resulting from this opportunity to any vendor in their sole and absolute discretion, in accordance with New York Public Health Law 2803-a;
- 2.15 Variable implementation schedules.

3. ISP SCHEDULE:

ISP Issued:	Monday, January 28, 2019
Deadline for Questions:	Thursday, January 31, 2019
Pre-Proposal Conference Call:	Thursday, February 7, 2019
Proposals Due:	Friday, February 15, 2019
Anticipated Contract Award:	TBD

PRE-PROPOSAL CONFERENCE CALL:

A pre-proposal conference call is scheduled for **February 7, 2019 at 10 a.m. EST**. This conference call can be accessed by dialing 1-888-450-5996 (USA /Canada (toll free), Guest code: 4621926. The purpose of this call is to provide an overview of the ISP and to answer any questions that were submitted to srohloff@ecmc.edu by the **Thursday, January 31, 2019** deadline. A recording of the conference call will be accessible on the ECMCC website at <http://www.ecmc.edu/category/bidopportunities>.

4. SCOPE OF SERVICES/SPECIFICATIONS:

ECMCC, Kaleida Health and GPPC (the “Parties”) are seeking proposals from qualified vendors to perform the below services for billing and account receivable management associated professional fee billing. Although it is anticipated that all Parties will eventually utilize the services of the successful respondent, the needs and timing for each individual organization may vary. Accordingly, the successful respondent must recognize that the timing of commencement of services may be staggered among the Parties, and prepare for this in their responses.

- 4.1 Establish procedures for the collection of all professional billing charges including key reconciliations, internal controls and reporting of same.
- 4.2 Establish procedures for enrollment of providers in health insurance programs / plans, manage enrollment process and re enrollments as required. Procedures to include master provider database detailing credentialing status. Provide feedback to the Parties on outstanding payer enrollments. Maintain file of all third-party credentialing updates obtained and provided in a mutually agreed upon format.
- 4.3 Prepare all claims for processing by all third party payers including but not limited to; verification of accuracy and completeness of coding, validation of eligibility and authorization, addition of claim modifiers, claim editing and scrubbing for clean claim submission, application of co-insurance, deductibles and / or coordination of benefits between payers.
- 4.4 Prepare all claims for processing for self-pay patients.
- 4.5 Support the billing for both provider based / exempted HOPD professional billing as well as non-exempted professional billing.

- 4.6 Work and track third party payer denials and produce reports to management on said denials including recommended strategies for root cause performance improvement.
- 4.7 Transmit claims and perform follow up activity on claims for their party payers and self-pay patients to see that claims are paid.
- 4.8 Establish and maintain cash posting controls assuring that all cash is deposited in the bank and reconciled to the supporting detail and general ledger.
- 4.9 Post payments to accounts maintaining the system of internal control.
- 4.10 Produce monthly management reports on performance in collections and accounts receivable management.
- 4.11 Perform contractual allowance and bad debt reserve calculations for open accounts receivable as well as provide monthly reports in support of this.
- 4.12 Mail patient statement and notices. Provide reports detailing statement mailing activity.
- 4.13 Work with contracted collection firms to transmit and work delinquent accounts.
- 4.14 Comply with financial assistance and charity care programs and protocols.
- 4.14 Support creation and maintenance of ad hoc and production reports to be offered through native or third party dashboards/visualization tools.
- 4.15 Transaction data must be exportable to a third party data warehouse/dashboard solution. Please describe the mechanism and format(s) available.
- 4.16 For all records and service dates, the application must be able to store and pass back to the Parties within standard data extracts patient account number, patient medical record number, registered location, and provider ID(s).
- 4.17 Must integrate with the Parties' organizational data strategy. The awarded respondents will be required to complete access request forms for each individual who will need access to each Party's electronic medical record system. Shared accounts are not permitted. Should remote access be required, associated procedures will be provided at the time of completion and processing of the access request forms.

5. PLAN TO ACHIEVE DELIVERABLES

Respondents' proposals must include the following:

- 5.1 Specific staffing to be assigned to the Parties as well as depth of firm's staffing of subject matter experts in specific area of this request and turnover rate for this staff.
- 5.2 Continuity plan to assure continuous service.
- 5.3 SOC requests, business continuity and disaster recovery plans.

- 5.4 Ability to customize to the Parties' IT platform (Cerner) or if any restrictions exist to the use of proprietary software only.
- 5.5 Compliance plan providing safeguards that recommendations are compliant with regulations and do not create False Claims Act or other compliance risks.
- 5.6 Quality assurance plan for all work conducted on behalf of the Parties.
- 5.7 Proposed level of effort respondent requires to be provided in client assistance by the Parties' staff.
- 5.8 Proposed fee structures for each of the following:
 - 5.8.1 Contingency Fee
 - 5.8.2 Rate(s) per hour for various staff levels assigned
 - 5.8.3 Alternate Fee structure if applicable
- 5.9 Delineation of any out of scope services and proposed rate structure for those services.
- 5.10 Demonstrated New York State experience with respect to the specific subject matter of this request with major public and safety net facilities similar to ECMCC. Including trauma, transplant dialyses, dental, dental oral oncology, Head and Neck surgical, transgender and behavioral health services.
- 5.11 Example reports for similar clients.
- 5.12 Provide at least three (3) references similar to ECMCC and Kaleida Health.

6. **REQUIRED DOCUMENTS:**

The following forms must be submitted with each proposal:

- 6.1 Proposal Requirements Form (Exhibit A). In addition to filling out this form, all respondents should attach as part of this form a detailed proposal plan, a company profile with resumes, and a detailed fee schedule, as more particularly described within Exhibit A.
- 6.2 Equal Employment Opportunity Policy Statement (Exhibit B-1)
- 6.3 M/WBE Utilization Plan (Exhibit B-2) when applicable (see Section 7 below).
- 6.4 SDVOB Utilization Plan (Exhibit B-3) when applicable (see Section 7 below).
- 6.5 Respondent Data Form (Exhibit C).
- 6.6 Non-Collusive Bidding Certification (Exhibit D).
- 6.7 Disclosure, Affirmation and Certification in accordance with State Finance Law §§ 139-j and 139-k (Exhibit E).
- 6.8 Not-for-profit budget form (Exhibit F) (note this form is only required if the respondent is a not-for-profit corporation).

6.9 Diversity Practices Questionnaire (Exhibit G) when applicable (see Section 7 below)

7. EVALUATION CRITERIA:

• Quality and Completeness of Response to Proposal Including Demonstrated Understanding of Scope of Services	20 points
• Demonstrated Experience of Respondent, Including Collection Billed Ratio	20 points
• Ability to Work with the Parties' IT Platform and Multiple Payer Groups	15 points
• Quality of Compliance, Continuity, and Quality Assurance Plans	10 points
• Proposed Fees / Rates	30 points
• Quality of References	5 points
TOTAL	100 points

The Parties may prepare a list of finalists based on initial proposal evaluations and request onsite visits. If so, an additional 15 points will be allocated to the onsite visits, and final award will be based on the total combined score of the finalist's initial proposal evaluation and the onsite visit. The total maximum score would be 115 points.

8. GENERAL INSTRUCTIONS TO RESPONDENTS:

- 8.1 By submitting a response, respondents agree to both the terms of this ISP as well as the standard terms and conditions attached to this ISP as Appendix A.
- 8.2 Insurance in the amounts designated in the attached Appendix B shall be procured by the successful respondent before commencing work and no later than fourteen (14) days after notice of award, which insurance shall be maintained without interruption for the duration of the Contract in the kinds and amounts specified by the Parties. Certificates of insurance shall be furnished by the successful respondent.
- 8.3 Any change in wording or interlineations by a respondent of the ISP as published by the Parties shall be reason to reject the proposal of such respondent, or in the event that such change in the ISP is not discovered prior to entering into a contract, to void any contract entered into pursuant to such ISP.
- 8.4 This is not a formal bid opportunity. The Parties intend to jointly enter into a contract with the successful respondent for the services sought under the authority granted under New York Public Health Law 2803-a and General Municipal Law 103. Accordingly, the Parties are not obligated to award the contract in accordance with any competitive bidding or ISP requirements under New York or any other federal or local law, nor are the parties obligated to accept the lowest-price proposal submitted in response to this opportunity.

- 8.5 Failure to perform or meet delivery schedules as per the accepted proposal or resulting contract may result in legal action by the Parties to recover damages.
- 8.6 The successful respondent shall comply with all laws, rules, regulations and ordinances of the Federal Government, the State of New York and any other political subdivision or regulatory body which may apply to its performance under this contract.
- 8.7 Any cash discount which is part of a proposal will be considered as a reduction in price in determining the award of the proposal.
- 8.8 The Parties may, as the need arises, order changes in the work through additions, deletions or modifications without invalidating the contract. Compensation, as it may be affected by any change, shall be adjusted by agreement between the contractor and the Parties.
- 8.9 Any additional information which the respondent desires to add to the response shall be attached to and submitted with the formal response on a separate sheet of paper.
- 8.10 The proposal is firm and irrevocable for a period of 90 days from the date and time of the proposal opening. If a contract is not awarded within the 90 day period, a respondent to whom the contract has not been awarded may withdraw his proposal by serving written notice of his intention to do so upon the Parties' respective Purchasing Departments.
- 8.11 Prices charged to the Parties are to be no higher than those offered to any other governmental or commercial consumer. If respondent's organization has a New York State or a Federal GSA contract for any of the items covered in this ISP or any similar items, respondent shall so indicate in its proposal and supply a copy of such contract within five (5) days of a request by the Parties.
- 8.12 The unit prices shall remain firm, and any other pricing, quote or charges in the proposal shall also remain firm, for delivery of the equipment, material, work or services described in this ISP. No cost increase not covered in the proposal shall be charged for any reason whatsoever unless agreed upon by the Parties.
- 8.13 In executing their proposal, the respondent affirms that all of the requirements of the specifications are understood and accepted by the respondent, and that the prices quoted include all required materials and services. The respondent affirms they have checked all of the proposal figures and understands that the Parties will not be responsible for any errors or omissions on the part of the respondent in preparing the proposal. Mistakes or errors in the estimates, calculations or preparation of the proposal shall not be grounds for the withdrawal or correction of the proposal or any proposal security.
- 8.14 **Restrictions on contact during the ISP process.** Pursuant to State Finance Law Sections 139-j and 139-k, this ISP includes and imposes certain restrictions on communication between respondents and the Parties during the procurement process. A respondent is restricted from making contacts from the date the ISP is issued through the final contract award by the Parties (the "Restricted Period"). During the Restricted Period, respondents may only contact the designated contact regarding this ISP. The designated contact is identified on the cover page of this ISP. Respondents are responsible for complying with State Finance Law Sections 139-j and 139-k. Directors, officer and employees of ECMCC are required to record certain information when contacted during the Restricted Period. A review of whether such contacts were permissible contacts will be considered in connection with any determination of responsibility of the respondent. Failure of any respondent to

timely certify or to disclose accurate and complete information or the submission of any intentionally false or intentionally incomplete certification may result in the rejection of the contract award or if such contract has been executed, then the immediate termination of the contract. Violations may result in debarment of the respondent from proposing on or obtaining governmental procurement contracts in the State of New York.

- 8.15 **Freedom of Information Law.** During the evaluation process, the content of each ISP will be held in confidence and details of any ISP will not be revealed (except as may be required under the Freedom of Information Law or other State law, as applicable to ECMCC). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process. If the proposal contains any such trade secrets or other confidential or proprietary information, the respondent must submit a request to exempt such information from disclosure. Such request must be in writing, must state the reasons why the information should be exempt from disclosure and must be provided at the time of submission of the subject information. Requests for exemption of the entire contents of a proposal from disclosure have generally not been found to be meritorious and are discouraged. Respondents must limit any requests for exemption of information from disclosure to bona fide trade secrets or specific information, the disclosure of which would cause a substantial injury to the respondent's competitive position. ECMCC assumes no responsibility for disclosure of unmarked data for any purpose. ECMCC will review such designations in making its determination whether disclosure is required, which determination shall be binding on the respondent.

APPENDIX A

KALEIDA HEALTH AND ERIE COUNTY MEDICAL CENTER CORPORATION AND GENERAL PHYSICIAN, P.C. TERMS AND CONDITIONS OF PURCHASE

1. **ENTIRE AGREEMENT.** These terms and conditions ("Terms") and the applicable Purchase Order ("Order" and with these Terms, collectively this "Agreement") constitute the complete and exclusive statement of the agreement between Kaleida Health ("Kaleida"), Erie County Medical Center Corporation ("ECMCC") and General Physician, P.C. ("GPPC", Kaleida and ECMCC, collectively "Buyer") and Vendor with respect to the products (the "Products") and/or services (the "Services") purchased hereunder by Buyer from Vendor. Vendor's commencement of any Services or shipment of any Products constitutes Vendor's acceptance of this Agreement. Buyer is not bound by, and expressly objects to, any terms or conditions (including, but not limited to, any contained in Vendor's quote or sales order acknowledgement) that are in addition to or different from this Agreement unless Buyer expressly agrees to such terms or conditions in writing. Any notice by Vendor objecting to these Terms must be in a writing separate from any form, including, but not limited to, any invoice or acknowledgement form and must be communicated to Buyer prior to the commencement of any Services or shipment of any Products. In the event the parties have a valid, fully executed agreement governing purchases of the Products or Services, then these Terms shall not apply.
2. **DELIVERY.** Products purchased under this Agreement shall be shipped FOB Destination, delivered to the Buyer site specified on the Order. Title and risk of loss shall pass to Buyer upon completed delivery and acceptance at the specified Buyer site. No substitutions, changes in delivery dates or other modifications to the Order are allowed without Buyer's prior written consent. A packing slip or shipping document must be attached to the exterior of each shipping container to identify the Order number, contents and quantity, and to indicate partial shipments. Buyer may reject, and hold or return at Vendor's risk and expense, any Products that are defective or do not conform to the specifications on the Order (including, but not limited to, quantity). Risk of loss or damage to the Products shall be on Seller until the Products have been delivered to and accepted by Buyer. Products delivered (whether paid for or not) are subject to inspection, testing and approval by Buyer before being deemed accepted by Buyer.
3. **MOST FAVORED PRICING.** Vendor warrants that the price(s) for the Products and the Services are no less favorable than those extended to any other customer for the same or similar Products and Services in similar quantities. In the event Vendor reduces its price(s) for the Products or Services before Buyer fully performs under this Agreement, Vendor agrees to reduce the price(s) stated herein accordingly. Vendor further warrants that the price(s) stated herein are firm, and no additional charges of any type, including, but not limited to, shipping costs, shall be added without Buyer's express written consent. Pricing for any new technology introduced after the date of this Agreement must be agreed to by the parties in writing prior to being provided to Buyer. No such new technology may be supplied to Buyer without Buyer's prior written approval.
4. **PAYMENT.** Terms of payment are net 90 days from Buyer's receipt of the invoice. Buyer will not be liable for late payment charges.
5. **TIME OF ESSENCE.** Time is of the essence. The acceptance of late or defective deliveries shall not be deemed a waiver by Buyer of its right to cancel the Order or to refuse to accept further deliveries.
6. **DISPUTED INVOICES.** If Buyer disputes any portion of an invoice, the entire invoice will be in dispute, and Buyer will not be obligated to pay any portion of the invoice until the dispute has been resolved to the satisfaction of Buyer's Manager of Accounts Payable. In such event, Vendor agrees to not impose a credit hold or otherwise restrict Buyer from purchasing Vendor's products or services.
7. **EXPENSES.** Miscellaneous expenses for which Vendor seeks reimbursement by Buyer must be approved in advance by Buyer. Travel expenses must comply with Buyer's travel policies, which shall be available to Vendor upon request.
8. **WARRANTY.** Vendor warrants that all Products and Services shall: (a) conform to the applicable specifications; (b) be merchantable; (c) be suitable for their intended purpose; (d) be new and free from defects in material, design and workmanship; (e) be accurately labeled, contained, packaged and marked, and conform to any statement made on the labeling, containers and packaging; and (f) be free from any claim of any infringement by a third person and Vendor will convey clear title to Buyer. In the event any Products are accompanied by or embedded with software, Vendor warrants that the software does not contain any virus, worm, timer or other instruction of any kind designed to erase data or programming or otherwise cause the software to become inoperable. Vendor further warrants that it is duly authorized,

validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of New York, that it has all the necessary power and has received all necessary approvals to execute and deliver this Agreement, and the individual executing the Agreement on behalf of Vendor has been duly authorized to act for and bind Vendor. Vendor shall pass through to Buyer any manufacturer's warranties and indemnities for Products or materials provided under this Agreement. In the event of a breach of any of these warranties, Vendor agrees to repair or re-perform or, at Buyer's option, refund all payments received for non-conforming Products or Services. Inspection, acceptance or payment for Products or Services by Buyer shall not constitute a waiver of warranties.

9. COMPLIANCE WITH LAWS AND POLICIES. Vendor shall comply with applicable: (a) laws, rules and regulations; (b) accreditation standards such as those set forth by DNV or the Joint Commission; and (c) Buyer's policies and procedures. Vendor acknowledges that as a government contractor, Buyer is subject to various federal laws, executive orders, and regulations regarding equal opportunity and affirmative action, which may be applicable to Vendor. Accordingly, Vendor shall, to the extent they apply, abide by the requirements of 41 CFR Sections 60-1.4(a), 60-4.3, 60-300.5(a), and 741.5(a). Without limiting the generality of the foregoing, each party represents that the compensation provided under this Agreement represents the fair market value of the Products and the Services, has been negotiated in an arm's-length transaction, and has not been determined in any manner with regard to any implicit or explicit agreement to provide favorable procurement decisions with regard to the Vendor's products or services, or to the value or volume of any business or referrals generated between the parties. To the extent any Protected Health Information (as defined by the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d through d-8 ("HIPAA")) is exchanged between the parties, Vendor agrees to comply with all applicable HIPAA provisions and the requirements of any regulations promulgated there under, as well as to execute Buyer's Business Associate Agreement.

10. EQUAL OPPORTUNITY. ECMCC is an Equal Opportunity Employer maintaining an Affirmative Action Program. The parties agree that they will comply with the nondiscrimination and affirmative action clauses contained in: Executive Order 11246, as amended, relative to equal opportunity for all persons without regard to race, color, religion, sex or national origin; the Vietnam Era Veterans Readjustment Act of 1974, as amended, relative to the employment of disabled veterans and veterans of the Vietnam Era; the Vocational Rehabilitation Act of 1973, as amended, relative to the employment of qualified handicapped individuals without discrimination based upon their physical or mental handicaps; the 1964 Civil Rights Act, as amended; the Age Discrimination Act of 1975; the Omnibus Reconciliation Act of 1981; the Americans with Disabilities Act of 1990 and all other applicable Federal and State Laws which prohibit discrimination in the delivery of services on the basis of race, color, national origin, age, sex, handicap/disability or religious beliefs. Vendor shall not discriminate or otherwise violate any Federal, State, or local anti-discrimination law or regulation in the performance of the Services.

11. M/WBE AND WORKFORCE LAWS. Vendor must comply at all times with Buyers' Minority- and Women-Owned Business Enterprise ("M/WBE") policy. Vendor and any of its subcontractors shall submit to ECMCC a quarterly Workforce Employment Utilization Report, which will be provided by ECMCC upon execution of this Agreement. Such form must reflect the entirety of Vendor and any subcontractors' workforces.

12. INDEMNIFICATION. Each party shall defend, indemnify and hold harmless the other party and its affiliates and their officers, directors, employees and managers from and against all actions, suits, claims, losses, liabilities and damages, costs, expenses, including, but not limited to, reasonable attorneys' fees, arising from or relating to any act or omission of the indemnifying party, its employees, agents, or other independent contractors arising out of or relating to this Agreement, including, but not limited to, the infringement of a third party's proprietary rights. Each party will promptly notify the other of any claim asserted against it for which such indemnification is sought. In no event will the indemnifying party, without the reasonable consent of the indemnified party, enter into any settlement that reasonably can be expected to require a material affirmative obligation of, results in any ongoing material liability to, or materially prejudices the indemnified party. If Buyer's use of any Product or Service is or likely will be enjoined as an infringement of a third party's proprietary rights, Vendor must promptly, at its option and expense, either: (a) secure for Buyer the right to continue to use the Product or Service; (b) replace or modify the Product or Service so that it is no longer infringing; or (c) provide a non-infringing product that possesses the full functionality of the original Product supplied. If Buyer does not believe its interests are adequately protected

by Vendor based on Vendor's election, Buyer may terminate this Agreement and Vendor will return all amounts paid by Buyer for such Product or Service.

13. INSURANCE. Throughout the term of this Agreement, Vendor will satisfy the insurance requirements set forth in Schedule A.

14. NO TAXES. Buyer is exempt from the payment of state and local sales and use taxes, and Vendor shall honor such exemption as permitted by law. A copy of the applicable tax exemption certificate(s) or other documentation will be provided upon request. Further, Vendor shall not pass on to Buyer any excise or other tax imposed upon Vendor.

15. ASSIGNMENT. Vendor shall not delegate or assign any of its rights or obligations under this Agreement without Buyer's prior written consent. This Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the parties.

16. TERMINATION, CANCELLATION. Buyer may terminate this Agreement, in whole or in part, at any time upon written notice to Vendor. In addition to its other rights hereunder, Buyer may cancel all or any unshipped or unexecuted portion of the Order at any time upon written notice to Vendor.

17. USE OF NAMES. Neither party may use the other party's name, trademark(s) or employees in any advertising or other form of publicity without the written permission of an authorized representative of the party whose name is to be used.

18. GOVERNING LAW. This Agreement is governed by the laws of the State of New York, without reference to its conflicts of law principles. The parties agree to submit to the personal and exclusive jurisdiction of the courts located in Erie County, New York.

19. ACCESS TO BOOKS AND RECORDS. To the extent that Section 1861(v)(1)(I) of the Social Security Act is applicable to this Agreement, Vendor shall, upon written request and until four (4) years after the date of the services provided, make available to the Comptroller General of the United States, the Secretary of Health and Human Services or their duly appointed representatives such books, documents and records as may be necessary to verify the nature and extent of cost of the services provided by Vendor. Vendor agrees that if it carries out any of its duties under this Agreement through a subcontract having a value or cost of \$10,000.00 or more over a twelve (12) month period, such contract shall require the same access to the books, documents and records of the subcontractor.

20. EXCLUDED PROVIDER. Vendor represents and warrants it is not excluded, debarred, or otherwise determined to be ineligible to participate in any federal or state health care program (collectively "Debarred"), and agrees not to engage, assign, contract with or otherwise use any individual to perform the Services whom Vendor knows or should have known, after reasonable inquiry, has been convicted of a criminal offense related to health care or is currently listed by a federal or state agency as Debarred. Vendor shall notify Buyer immediately if Vendor or any such individual becomes Debarred. Upon Vendor or any such individual becoming Debarred, Buyer shall have the right to terminate this Agreement immediately without any further obligation to Vendor.

21. INDEPENDENT CONTRACTOR. This Agreement is not intended to create, and will not be construed to create, any relationship between the parties other than that of independent contractors. Neither the parties nor any of their respective representatives will be construed to be the agent, employee, or representative of the other.

22. PRODUCT SAFETY, WITHDRAWAL, AND RECALL INFORMATION. Vendor shall immediately notify Buyer of all applicable product safety, withdrawal, and recall information required or voluntarily recommended by the FDA or issued by Vendor. Vendor will notify Kaleida's Director of Purchasing at 726 Exchange Street, Suite 210, Buffalo NY 14210 with a simultaneous copy emailed to PurRecalls@KaleidaHealth.Org. Vendor will notify ECMCC's Director of Purchasing at 462 Grider Street, Buffalo, NY 14215.

23. ACCESS TO EQUIPMENT. If applicable, Vendor agrees to contact Buyer to arrange mutually acceptable prearranged times for Vendor to perform any Service or maintenance to be performed under this Agreement.

24. RESPONSIBILITY FOR CARE. To the extent required by Section 400.4(a) of Title 10 NYCRR, if Vendor is to provide any Services for a medical facility that has been issued an operating certificate or certificate of approval by the New York State Department of Health, the parties agree that notwithstanding any other provision in these Terms, Buyer remains responsible for ensuring that any Service provided pursuant to these Terms complies with all pertinent provisions of federal, state and local statutes, rules and regulations. This Section, however, shall in no way abrogate or diminish Vendor's duties and obligations under these Terms.

25. CREDENTIALING. Vendor must comply with Buyer's vendor credentialing requirements in order for its employees and subcontractors to be granted access to any of Buyer's facilities. All costs, if applicable, associated with Vendor's compliance with the vendor credentialing requirements will be borne solely by Vendor. For any employee and subcontractor of Vendor not normally conducting business at any of Buyer's facilities, Buyer may permit such employee or subcontractor not be credentialed so long as he or she is escorted by a Buyer employee in patient care areas at all times. Buyer reserves the right, in its sole discretion, to immediately remove from Buyer's premises any employees and subcontractors of Vendor who fail to comply with Buyer's policies.

26. FORCE MAJEURE. Neither party shall be liable for any failure to perform any of its obligations under this Agreement if such failure is due to circumstances beyond its reasonable control, including, but not limited to, fire, flood, earthquakes, Acts of God, civil or military authority, acts of public enemy, war, or terrorism ("Force Majeure"). The party affected by such circumstances must use all commercially reasonable efforts to avoid or remove such causes of non-performance. The foregoing shall be subject to the affected party giving notice of the Force Majeure event to the other party. If the Force Majeure event lasts for more than fifteen (15) consecutive days, the non-affected party shall have the right to terminate this Agreement upon written notice to the affected party.

27. NOTICES. Any notice required or permitted to be given under these Terms must be in writing and must be delivered by hand delivery, recognized overnight courier, or certified mail, return receipt requested, to Vendor at the address shown on the Order and to Buyer at the following addresses:

Kaleida: Director of Purchasing, Kaleida Health, Larkin Building, Suite 210, 726 Exchange Street, Buffalo, NY 14210

Office of General Counsel, Kaleida Health, Larkin Building, Suite 270, 726 Exchange Street, Buffalo, NY 14210

ECMCC: Office of General Counsel, Erie County Medical Center Corporation, 462 Grider Street, Buffalo, NY 14215

GPPC: Office of General Counsel, General Physicians, P.C. Larkin Building, Suite 516, 726 Exchange Street, Buffalo, NY 14210

or to such other address as may be specified from time to time by proper written notification to the other party. Notice shall be deemed to have been given when received.

28. CONFIDENTIALITY. "Confidential Information" means any and all non-public information disclosed, whether orally or in written form, in connection with this Agreement, including, but not limited to, technical, design, financial, procurement or customer information and any other information designated by a party as confidential or proprietary. This Agreement shall also be considered Confidential Information. Confidential Information does not include information: (a) otherwise available from a third party, without any limitations on its use, distribution or disclosure; (b) in the public domain; or (c) known to the receiving party prior to its disclosure, as evidenced by written records. The parties shall hold in confidence the other party's Confidential Information and will exercise the same degree of care to protect it from disclosure that it uses to protect its own Confidential Information of similar importance, but in no event less than a reasonable degree of care. Each party shall only use the other party's Confidential Information as necessary to perform its obligations hereunder and shall not disclose the other party's Confidential Information to any third party without prior written authorization of the disclosing party; provided, however, Buyer may disclose the pricing available under this Agreement to its third-party consultants and any group purchasing organization of which Buyer is a member. Each party must return or destroy to the other party all of the other party's Confidential Information, except for this Agreement or as required by law, at the request of the disclosing party.

29. CONFLICT OF INTEREST. Vendor represents, to the best of its knowledge, that none of Buyer's employees, officers or directors are employees, officers or directors of Vendor or serve on any boards or committees of or in any advisory capacity with Vendor except as disclosed herein.

30. COMPLIANCE RELATED CHANGES. The parties recognize that laws, rules and regulations may change or may be clarified and agree that they may need to negotiate, in good faith, revisions to these Terms, on the advice of counsel, in order to remain in compliance with laws, rules and regulations. In the event the parties are unable to agree on such revisions, either party may terminate this Agreement upon written notice to the other party.

31. SURVIVAL. Any provisions which by their nature are intended to survive the termination or expiration of this Agreement, will survive.

32. MISCELLANEOUS. If any section or portion of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The remedies contained herein are cumulative and in addition to any other remedies at law or in equity.

33. ANTITRUST IMMUNITY. The parties recognize that Section 3631 of the New York Public Authorities Law grants ECMCC, Kaleida, and the State University of New York at Buffalo state and federal antitrust immunity for certain enumerated joint activities, including the joint purchasing of services, supplies and equipment related to the provision of health care services. Accordingly, ECMCC and Kaleida are immune from antitrust prosecution for the joint collaboration and purchase of the Services under this Agreement.

APPENDIX B

INSURANCE REQUIREMENTS

1. INSURANCE TO BE MAINTAINED BY SERVICE OR PRODUCT PROVIDER

Prior to commencement of any service or the provision of any product to Kaleida Health/Erie County Medical Center Corporation/General Physicians, P.C. ("Buyer"), the Service or Product Provider ("Vendor"), 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 Vendor 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. Commercial General Liability (per ISO Form CG 00 01 or equivalent)

Bodily Injury and Property Damage Limit	\$1,000,000	each occurrence
Personal Injury & Advertising Injury Limit	\$1,000,000	each person
Products/Completed Operations Limit	\$2,000,000	aggregate
General 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, explosion, collapse and underground hazards, Pollution or Personal Injury shall be permitted. In addition, no designated Premises/Operations limitation shall be permitted. This coverage is to be maintained for a period of six years after final acceptance of the work if this box is checked

1.2. Automobile Liability (per ISO Form CA 00 01 or equivalent)

Owned, Hired and Non-Owned Autos

Combined Single Limit for Bodily Injury & Property Damage accident	\$1,000,000	each
---	-------------	------

1.3. Workers' Compensation & Employers' Liability and New York Disability Benefits

Statutory coverage complying with New York law with Employers' Liability limits of not less than \$500,000 Each Accident and \$500,000 Each Employee for Disease and \$500,000 Policy Limit for Disease, or the minimum level required by Vendor's Excess Umbrella Liability insurance company, whichever is greater and New York Disability Benefits Law.

Note: The NYDBL Requirement applies solely for the benefit of Erie County Medical Center Corporation

1.4. Excess Umbrella Liability Required Not Required

Combined Single Limit for Bodily Injury & Property Damage

\$ Limit to be determined	each occurrence
Limit to be determined	aggregate

Coverage is to apply on an occurrence basis only; in excess of the other Liability coverages required in 1.1, 1.2, and 1.3 above and shall be no more restrictive than such scheduled underlying insurance. This

coverage is to be maintained for a period of six years after final acceptance of the work if this box is checked .

Note: The imposition of this insurance requirement and the specific limits to require must be based on input from the Legal and Risk Management Departments.

1.5 Contractor's Pollution Required Not Required

Contractor's Pollution Liability (if Vendor is involved with services or activities involving potential Environmental Risks) or,

Asbestos/Lead Abatement Liability (if Vendor is engaged in asbestos/lead abatement activities)

Bodily Injury and Property Damage Limit	\$2,000,000 each occurrence
Products/Completed Operations Limit	\$2,000,000 aggregate
Personal Injury & Advertising Injury Limit	\$2,000,000 each person
General Aggregate	\$2,000,000 per project

If protection is not afforded under the Commercial General Liability Coverage, (and the work performed or services provided involve potential Environmental Risks) this insurance shall be maintained on an occurrence basis unless otherwise agreed by Buyer and shall be maintained for a period of six years after final acceptance of the work. No endorsement or modification of this policy limiting the scope of coverage for Contractual Liability, Products/Completed Operations, explosion, collapse and underground hazards, or Personal Injury shall be permitted. In addition, no pollution, asbestos, lead or similar exclusions or limitations that would, in any way, limit or restrict coverage for Vendor's abatement or other environmental services or activities shall be permitted. Also, no designated Premises/Operations limitation shall be permitted. Asbestos/Lead Abatement Liability policies shall provide bodily injury coverage for "exposure" to asbestos/lead and shall be modified so that the "impaired property" exclusion does not apply to property that has been "contaminated" by asbestos/lead.

Note: The imposition of this insurance requirement and the specific limits to require must be based on input from the Legal and Risk Management Departments. Generally speaking, the \$2,000,000 shall be considered the minimum.

1.6 Employee Dishonesty or Employee Theft Required Not Required \$500,000 each loss

Such insurance is to include coverage for dishonest acts of Vendor's employees that involve theft or embezzlement of funds or property belonging to Buyer (*i.e.*, Third Party Fidelity coverage).

Note: This coverage is to be required when Vendor has employees on Buyer's premises.

1.7 Professional Liability Required Not Required

Insurance against claims arising out of Vendor's rendering or failure to render professional services for or on behalf of Buyer.

\$2,000,000 each occurrence

\$2,000,000 aggregate

Note: The imposition of this insurance requirement and the specific limits to require must be based on input from the Legal and Risk Management Departments. Generally speaking, the \$2,000,000 shall be considered the minimum.

1.8 Technology and Information Errors and Omissions Coverage Required Not Required

Insurance against claims arising out of but not limited to (a) failure to properly protect Buyer's data from cyber attack or theft of data; (b) acts, errors or omissions, neglect, or breach of duty to protect the security and confidentiality of nonpublic proprietary corporate information, and personally identifiable nonpublic information; (c) failure to protect against the transmission of malicious code (including but not limited to corrupting or harmful computer code in the form of a logic bomb, Trojan horse, worm, or other virus) that compromises Buyer's information; (d) personal injury in the form of invasion of privacy, libel or slander, copyright or trademark infringement, and domain name infringement.

\$2,000,000 each occurrence

\$2,000,000 aggregate

Note: The imposition of this insurance requirement and the specific limits to require must be based on input from the Legal and Risk Management Departments. Generally speaking, the \$2,000,000 shall be considered the minimum.

1.9. Additional Insureds

Kaleida Health and Erie County Medical Center Corporation and their subsidiary and/or affiliated entities and their respective trustees, officers, employees and agents (as well as such other person(s) or organization(s) as designated by Kaleida Health and/or Erie County Medical Center Corporation in writing) shall be named as Additional Insureds under the policies required in 1.1 and 1.2. The insurance protection afforded to the Additional Insureds under such policies shall apply on a primary basis and any insurance (or self-insurance program) maintained by the Additional Insureds shall not contribute with the insurance afforded to them as Additional Insureds hereunder.

If Excess Umbrella Liability insurance is required under 1.4 above, this Additional Insured requirement also applies to 1.4, Excess Umbrella Liability and the insurance protection afforded to the Additional Insureds under such Excess Umbrella Liability shall apply on a primary basis and any insurance (or self-insurance program) maintained by the Additional Insureds shall not contribute with the insurance afforded to them as Additional Insureds under the Excess Umbrella Liability coverage. An amendment to the Excess Umbrella Liability policy's *Other Insurance* provision may be necessary to ensure all of Vendor's required Liability insurance (including the required Excess Umbrella Liability) is exhausted (*i.e.*, vertical exhaustion) prior to the insurance or self-insurance directly maintained by Buyer being called upon.

If Contractor's Pollution Liability is required under 1.5 above, this Additional Insured requirement also applies to 1.5, Contractor's Pollution Liability and the insurance protection afforded to the Additional Insureds under such Contractor's Pollution Liability shall apply on a primary basis and any insurance (or self-insurance program) maintained by the Additional Insureds shall not contribute with the insurance afforded to them as Additional Insureds under the Contractor's Pollution Liability coverage.

If work or services are being provided by Vendor, check this which will trigger the requirement to extend the above Additional Insured requirements to apply to both ongoing and completed operations.

1.10. 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, and shall have a Best's Financial Size Category of not less than VIII, unless otherwise agreed to by Buyer.

1.11. Notice of Cancellation, etc.

Vendor is hereby obligated to e-mail or fax to Buyer a copy of any cancellation or non-renewal notice received from the insurer for any policy affording the coverages required herein within five (5) days of Vendor's receipt of same. Vendor further agrees to provide Buyer with 30 days advance written notice of cancellation, non-renewal or material reduction in coverage initiated by Vendor with respect to any of the required insurance coverages.

Notices to Buyer hereunder must be e-mailed to: _____

1.12. Deductibles or Self-Insured Retentions

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

1.13. General Provisions

1.13.1 Cross-Liability. If Vendor'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.

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

1.13.2.1 If the claims-made coverage terms designate a specific retroactive date, Vendor 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 Vendor's first claims-made policy for each and every coverage provided on a claims-made basis (with the understanding that if coverage is switched from an occurrence basis to a claims-made basis during the period which such coverage is required to be maintained by the terms of this Agreement, the retroactive date must be the same as or earlier than the effective date of such new claims-made coverage);

1.13.2.2 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, Vendor 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 New York State Department of Financial Services, whichever is greater;

1.13.2.3 Upon termination of the services provided to Buyer by Vendor, Vendor 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, Vendor shall purchase, at its own expense, an extended reporting period endorsement covering a term of three years or the minimum as prescribed by the New York State Department of Financial Services, 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.

- 1.13.3 Waiver of Subrogation. Vendor waives rights of recovery against Buyer and Vendor's insurance companies (for the required Commercial General Liability, Automobile Liability, Excess Umbrella Liability and Contractor's Pollution Liability).

1.14. Evidence of Insurance Other than New York DBL

Vendor shall deliver to Buyer, prior to commencing work or providing product under this agreement, certificates of insurance on an AcorTM (or equivalent) Form acceptable to Buyer certifying that policies of insurance for the required coverages (other than New York DBL) 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, Vendor shall immediately deliver to Buyer a certificate of insurance evidencing proper renewal or replacement of the policy.

- 1.14.1 Certificates evidencing Liability coverage under which Buyer et al. is required to be named as an Additional Insured must state that "Kaleida Health and Erie County Medical Center Corporation and their subsidiary and/or affiliated entities and their respective trustees, officers, employees and agents are included as Additional Insureds under the General Liability and Automobile Liability policies, and, if required herein, under the Umbrella/Excess Liability and Contractor's Pollution Liability policies. Coverage is primary and non-contributory with respect to any other insurance or self-insurance programs afforded to, or maintained by such Additional Insureds."

The certificate(s) 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 primary and non-contributory Additional Insured status must be attached to the certificate. Certificates must also specify the applicable retroactive date of any claims-made coverage being evidenced.

- 1.14.2 The NAIC Identification Number must be shown on the certificate after the name of each insurance company to allow accurate identification of the insurer(s).
- 1.14.3 Certificates of insurance must confirm that subrogation rights have been waived per the requirements herein.
- 1.14.4 Failure of Buyer to demand such certificate of insurance or failure of Buyer to identify a deficiency in a certificate that is provided, shall not be construed as a waiver of Vendor's obligation to maintain such insurance.
- 1.14.5 Buyer shall have the right, but not the obligation, to prohibit Vendor from entering the premises/commencing work under this Agreement until such certificate indicating full compliance with the requirements herein has been received and approved by Buyer.
- 1.14.6 Certificates of Insurance shall be sent to: Kaleida Health, Attn: Corporate Risk Management, 726 Exchange Street, Suite 204, Buffalo, New York 14210.
- 1.14.7 Vendor shall provide copies of any insurance policies required herein within 10 days of Buyer's written request for same.

1.15 Evidence of New York Workers' Compensation and Disability Benefits Law Coverages to ECMCC Only

In accordance with §57 and §220 SUBD 8 of the Workers' Compensation Law, the following additional documentation is **required solely by Erie County Medical Center Corporation**:

- 1.151 Workers' Compensation coverage must be evidenced on one of the following New York State Workers' Compensation Board Forms: C-105.2 (Certificate of Workers'

Compensation); CE-200 (Certificate of Attestation of Exemption – No Employees); U-26.3 (State Insurance Fund Version of Form C-105.2); SI-12 (Certificate of Workers' Compensation Self-Insurance); or GSI-105.2 (Certificate of Participation in Workers' Compensation Group Self-Insurance).

1.15.2 New York DBL coverage must be evidenced on one of the following New York State Workers' Compensation Board Forms: DB-120.1 (Certificate of Disability Benefits Insurance); CE-200 (Certificate of Attestation of Exemption – No Employees); or DB-155 (Certificate of Disability Benefits Self-Insurance).

For questions, refer to: <http://www.wcb.ny.gov/content/main/Employers/ProvelToMovelt.pdf>

1.16. Failure to Secure and Maintain Insurance

Vendor acknowledges that failure to secure the above-specified insurance constitutes a material breach of this Agreement and subjects Vendor to liability for damages and all other legal remedies available to Buyer. Vendor further acknowledges that procurement of the insurance coverage and limits required herein shall not limit the extent of Vendor's other responsibilities and liabilities specified within the Agreement between Buyer and Vendor or by law.

1.17. Adequacy of Insurance

Buyer 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 Vendor.

2. SUB-CONTRACTORS OF ANY TIER

All sub-contractors shall maintain the insurance coverages outlined above and comply with all requirements set forth above, including the furnishing of separate insurance certificates and endorsements prior to said sub-contractors entering the premises or commencing work, unless otherwise agreed to by Buyer. Vendor's General Liability policy must not exclude damage to its work if the work was performed by a sub-contractor or if a sub-contractor's work causes damage to other elements of the work.

It is recognized that the nature of some work performed by sub-contractors may warrant a waiver of some of the insurance requirements outlined above or the imposition of additional requirements beyond those required above. Such changes in the requirements are subject to review and approval by Buyer's Legal and Risk Management Departments.

EXHIBIT A

PROPOSAL REQUIREMENTS

Vendor Name: _____

ISP #: _____

Form completed by: _____

This form is a required document that must be completed and included with the ISP proposal submission. Please attach any additional documents to this form if necessary.

1. Please attach a detailed plan outlining how your company will meet all of the deliverables described in the Section 4 (Scope of Services/Specifications).
2. Please attach a company profile indicating persons who will be assigned to work with ECMCC/Kaleida/GPPC and resumes. Contact information including contact name, physical address, email address and phone number of the designee that would be responsible for any additional or clarifying information ECMCC/Kaleida/GPPC may need.
3. Please attach a detailed fee schedule and all fees incurred for the deliverables included in this ISP.
4. Provide three (3) references of facilities similar in size to ECMCC/Kaleida/GPPC that may be contacted by ECMCC/Kaleida/GPPC to discuss respondent's services.
5. Please provide a list of facilities who use the respondent's services for contract management of wound centers including contact information.

Reference #1

Firm Name: _____

Contact Name: _____

Direct phone number: _____

Contact E-mail: _____

Reference #2

Firm Name: _____

Contact Name: _____

Direct phone number: _____

Contact E-mail: _____

Reference #3

Firm Name: _____

Contact Name: _____

Direct phone number: _____

Contact E-mail: _____

6. Disclose whether respondent has ever had a contract terminated and if so, provide a detailed explanation of the contract and circumstances surrounding termination.

7. Disclose whether any shareholder, director, officer or employee is currently employed by ECMCC/Kaleida/GPPC, or was an employee of ECMCC/Kaleida/GPPC during the two (2) year period preceding the date of the proposal, and if any shareholder, director, officer or employee is a member of any governing board of ECMCC/Kaleida/GPPC or their affiliates..

8. Disclose any other areas that may be a potential conflict of interest.

9. Describe all contracts, affiliations, referral arrangements or other business relationships the respondent has with any hospital, health care system or health care provider with offices or facilities in Western New York.

EXHIBIT B

ERIE COUNTY MEDICAL CENTER CORPORATION MWBE, SDVOB AND EEO PROGRAM REQUIREMENTS

I. General Provisions

- A. ECMCC is required to implement the provisions of New York State Executive Law Article 15-A and Article 17-B, as well as 5 NYCRR Parts 142-144 (“MWBE Regulations”) and 9 NYCRR Part 252 (“SDVOB Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. Upon responding to this RFP, the successful respondent (the “Respondent”) agrees, in addition to any other nondiscrimination provision within the resulting contract (the “Contract”) and at no additional cost to the ECMCC, to fully comply and cooperate with ECMCC in the implementation of New York State Executive Law Article 15-A and Article 17-B. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State certified minority and women-owned business enterprises (“MWBEs”) and service-disabled veteran-owned businesses (“SDVOBs”). Respondent’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 and 9 NYCRR §252.2 shall be a part of these requirements, though demonstration of good faith efforts is not a substitute for meeting the M/WBE and SDVOB participation requirements placed on the contract. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of Contract, leading to the disqualification of respondent, the withholding of funds, or such other actions, liquidated damages pursuant to Section VIII of this Exhibit or enforcement proceedings as allowed by the Contract.

II. MWBE Contract Requirements

- A. For purposes of this RFP and Contract, ECMCC is not establishing any specific goals for Minority and Women-Owned Business Enterprises (“MWBE”) participation.
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE requirements established herein, Respondents should reference the directory of New York State Certified MBWEs found at the following internet address:

<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

Additionally, Respondent is encouraged to contact ECMCC’s MWBE Coordinator at (716) 898-4947 and the Division of Minority and Woman Business Development at (518) 292-5250, (212) 803-2414, or (716) 846-8200 to discuss additional methods of maximizing participation by MWBEs on the Contract.

III. Equal Employment Opportunity (EEO)

- A. The Respondent agrees to be bound by the provisions of Article 15-A and the corresponding MWBE regulations. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

EXHIBIT B

- B. Respondent shall comply with the following provisions of Article 15-A:
1. Respondent and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 2. The Respondent shall submit an EEO policy statement, attached as Exhibit B-1, to ECMCC as an attachment with their proposal.
 3. If Respondent does not have an existing EEO policy statement, Respondent may adopt the attached model statement (Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
 4. The Respondent's EEO policy statement shall include the following language:
 - a. The Respondent will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Respondent shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Respondent shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Respondent's obligations herein.
 - d. The Respondent will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.
- C. Workforce Employment Utilization Report
1. Once a Contract has been awarded and during the term of Contract, Respondent is responsible for submitting a workforce employment utilization report (the "Workforce Report") to ECMCC, in a format to be provided by ECMCC, of the work force actually utilized on the Contract, broken down by specified ethnic background, gender, Federal occupational categories, and compensation paid

EXHIBIT B

to each relevant employee. The Workforce Report is to be submitted on a quarterly basis during the term of the Contract for contracts for services and commodities, and monthly for construction contracts, to report the actual workforce located in New York State and utilized in the performance of the Contract.

2. Any subcontractors of Contractor must also submit a Workforce Report described in the above Subsection 1 for the entirety of their workforce performing work on the Contract and located in New York State.
 3. In limited instances, Respondent may not be able to separate out the workforce utilized in the performance of the Contract from Respondent's and/or subcontractor's total workforce. When a separation can be made, Respondent shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Respondent's and/or subcontractor's total workforce, Respondent shall submit the Workforce Report and indicate that the information provided is Respondent's total workforce during the subject time frame, not limited to work specifically under the contract.
- D. Respondent shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Respondent and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

VI. SDVOB Contract Requirements

- A. Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. ECMCC recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of ECMCC contracts. In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, respondents are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.
- B. For purposes of this procurement, ECMCC conducted a comprehensive search and determined that the RFP does not offer sufficient opportunities to set specific requirements for participation by SDVOBs as subcontractors, service providers, and suppliers to respondents. Nevertheless, respondents are encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://online.ogs.ny.gov/SDVOB/search>.
- C. Respondents are encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

EXHIBIT B-1

EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT
AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this _____ day of _____, 20_____

By _____

Print: _____ Title: _____

**EXHIBIT C
RESPONDENT DATA**

To facilitate correct drawing and execution of a contract for services, respondents shall supply full information concerning legal status:

Firm Name: _____

Any trade name or assumed name ("d/b/a"): _____

Address of principal office:

Street: _____

City: _____ State: _____

Zip: _____ Phone: _____

Check one:

- CORPORATION
- LIMITED LIABILITY COMPANY
- PARTNERSHIP
- INDIVIDUAL

Formed under the laws of the state of: _____.

If a foreign entity, state whether authorized to do business in the State of New York:

- YES
- NO

Is respondent a New York State certified minority-owned or women-owned business enterprise listed in the online State Directory? (If so, please provide a copy of the NYS Certificate with proposal).

- YES
- NO

Address of Local Office:

Street: _____

City: _____ State: _____

Zip: _____ Phone: _____

Names and addresses of all directors and officers (or managers if an LLC):

Names and percentage ownership interest of all shareholders, partners, or members:

EXHIBIT D
NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this proposal, each respondent and each person signing on behalf of any respondent certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

- 1) The prices in this proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other respondent or with any competitor;
- 2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the respondent and will not knowingly be disclosed by the respondent prior to opening, directly or indirectly, to any other respondent or to any competitor; and
- 3) No attempt has been made or will be made by the respondent to induce any other person, partnership, limited liability company or corporation to submit or not to submit a proposal for the purpose of restricting competition.

NOTICE

(Penal Law, Section 210.45)

IT IS A CRIME, PUNISHABLE AS A CLASS A MISDEMEANOR UNDER THE LAWS OF THE STATE OF NEW YORK, FOR A PERSON, IN AND BY A WRITTEN INSTRUMENT, TO KNOWINGLY MAKE A FALSE STATEMENT, OR TO MAKE A FALSE STATEMENT, OR TO MAKE A STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE.

Affirmed under penalty of perjury this ____ day of _____, 20____.

Authorized Signature

Print Name and Title

EXHIBIT E
STATE FINANCE LAW §§ 139-J AND 139-K
DISCLOSURE, AFFIRMATION AND CERTIFICATION

I. Contractor Disclosure of Findings of Non-Responsibility and Prior Contract Terminations or Withholdings under State Finance Law §139-j:

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle):

No Yes

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j? (Please circle):

No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle):

No Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle):

No

Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Contractor certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Signature

Name: _____

Title: _____

II. Contractor Affirmation Relating to Procedures Governing Permissible Contacts:

Contractor affirms that it understands and agrees to comply with the procedures of Erie County Medical Center Corporation relative to permissible contacts as required by State Finance Law §139-j(3) and §139-j(6)(b).

Date: _____ By: _____

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____
