

KALEIDA HEALTH  
ERIE COUNTY MEDICAL CENTER CORPORATION  
AND  
BROOKS TLC HOSPITAL SYSTEM

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INVITATION FOR SUBMITTAL OF PROPOSALS  
FOR  
ENTERPRISE IMAGING

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FEBRUARY 27, 2019

**ISP # 21902**

The deadline for submission of proposals is **Thursday, March 21, 2019 at 11:00 am 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

**LATE, EMAILED OR INCOMPLETE PROPOSALS MAY BE REJECTED**

Mark in left hand corner of envelope:

ISP # 21902

Due: March 21, 2019

Submitted by: \_\_\_\_\_

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](mailto: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:

### ***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.

The creation of Upper Allegheny Health System in 2009 enhanced the ability of both Bradford Regional Medical Center and Olean General Hospital to respond to the challenges of today's healthcare environment through increased scale and support. UAHS ensures that both hospitals are positioned to honor their missions of care and service to the residents of northwestern Pennsylvania and southwestern New York. To further enhance its mission of service, in 2017, UAHS became a

member of Kaleida Health, Buffalo, NY, and western New York State's largest health provider.

***Brooks TLC Hospital System***

TLC Health Network is a health system serving the needs of Chautauqua, Cattaraugus, and southern Erie counties. Lake Shore Health Care Center in Irving, NY is our primary facility and includes a 24/7 hospital, long term care facility, and several outpatient medical offices. Our other facilities include Gowanda Urgent Care & Medical Center, Forestville Primary Care Center, and outpatient chemical dependency clinics in Cassadaga and Derby. We also manage and adult and child daycare center located on the Irving campus and operate our own home health agency.

Brooks Hospital emerged in 1898 through the generosity of the Brooks family based on values of compassion, service and commitment to the healthcare needs of this community. We continue that tradition to this day by embracing our I-CARE values of integrity, compassion, accountability, respect and excellence. These values also guide our interactions and decision-making process at all levels within the organization.

***Future Development***

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

**2. RESERVATION OF RIGHTS**

The Parties 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 the Parties 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 the Parties; 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.

### 3. ISP SCHEDULE

ISP Issued:	Wednesday, February 27, 2019
Deadline for Questions:	Thursday, March 7, 2019
Addendum Issued:	Thursday March, 14, 2019
Proposals Due:	Thursday, March 21, 2019
Anticipated Contract Award:	TBD

### 4. SCOPE OF SERVICES/SPECIFICATIONS

Kaleida Health, ECMCC, Brooks TLC Hospital System and Twin Tier (the “Parties”) are seeking a partner to help us realize our vision for enterprise imaging. 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.

Our strategy involves integrating our electronic medical record with:

1. Vendor Neutral Archive (VNA), to manage all system data objects/images
  - DICOM & Non-DICOM interface solutions
  - POC, multi-media capture tools, to store images/video/sound/notes with the patient record
  - Encounters-based Patient Worklist for POC devices
  - Interface solutions to capture DICOM and non-DICOM content
2. Diagnostic, Universal/Enterprise Viewer, to provide access to clinical images including pathology whole slide images.
3. Diagnostic departmental PACS
4. Bi-Directional Image Sharing Solutions, to exchange images with external partners

This ISP is focused on the first two solutions. The ideal partner will offer top-tier solutions in all four specialties with a track record of integrating with other, diverse systems.

#### 4.1 SITE INFORMATION

1. Overview of ECMC, Kaleida Health and Brooks TLC
  - 1.1. ECMC
    - 1.1.1. IBM Watson PACS 6.6.3
    - 1.1.2. Meditech C/S 6 5.6.7

- 1.1.3. Meditech RIS
- 1.1.4. IBM Watson VNA 8.3
- 1.2. Kaleida
  - 1.2.1. Fuji PACS 5.3
- 1.3. Brooks TLC
  - 1.3.1. Brooks Fuji PACs 4.4
  - 1.3.2. TLC Fuji PACs 5.3
- 2. Overview of imaging specific to this project

Site	Total Studies	TB	Yearly Volume	Current PACS
<b>ECMC</b>	1,800,000	90	180,000	IBM Watson 6.6.3
<b>Kaleida</b>	6,474,734	215	360,000	Fuji PACS 5.3
<b>Brooks</b>	494,456	20	60,000	Fuji PACS 4.4
<b>TLC</b>	345,363	8	38,000	Fuji PACS 5.3
<b>Kaleida/CV</b>	533,103	118	40,539	Fuji CV 6.0.3
<b>UAHS</b>	366,482	101	240,929	GE Centricity/Brooks 4.4 Fuji/TLC 5.3 Fuji

## 4.2 INFORMATION TECHNOLOGY SERVICES STRUCTURE

- 1. Data Center
  - 1.1. Great Lakes Health Data Center will consist of two datacenters running on NetApp HCI hardware with replication between the two locations. Detail how replication is handled within the proposed solution including network specifications for required connectivity between the locations (speed, latency, etc.).
- 2. Server/Network
  - 2.1. Current PACS and archive solutions across GLH are on multiple different vendor solutions. The proposed VNA will be implemented across NetApp HCI infrastructure and storage with existing information being migrated into this environment.
- 3. Interface Engine
  - 3.1. The proposed VNA will need to integrate into multiple different Interface Engines. Currently ECMC and Kaleida both utilize the Rhapsody Interface Engine, but on two separate instances.
- 4. EMPI
  - 4.1. The current EMPI solution in use at GLH is IBM Initiate.
- 5. Storage Environment
  - 5.1. NetApp is the preferred storage vendor of GLH

## 4.3 ENTERPRISE IMAGING SOLUTION OVERVIEW

- 1. Provide a high-level overview of your Enterprise Imaging solution and capabilities. Describe what components are core to your solution, and what options are available.
- 2. Provide a high-level summary of the key benefits of your solution, and how they align with Parties' enterprise imaging strategy.

## 4.4 VNA CAPABILITIES

1. Is the VNA able to store multiple local patient ID's for a single patient in its database? (Yes or No)
2. Does the VNA interface with an enterprise master patient index (eMPI) solution? If so, are all patient records returned when any of the patient identifiers are used in a search? (Yes or No)
3. Describe the database philosophy used by the VNA. Does patient data reside in a single table within the database or is managed across multiple tables?
  - 3.1. Can the system be reconfigured after initial installation without rebuilding or changing the existing patient data and table structure? For example, if after a year of usage, the Parties want to add or change the organizational structure, what is the impact to patient database tables?
  - 3.2. Can the Parties make changes, additions and/or deletions to the organizational structure without vendor involvement?
4. Does the VNA support a multi-tenancy environment? Describe how this is achieved and how data isolation is handled within the VNA. Additionally, describe how user access is managed to control what studies/patients' individuals or groups of users can access. One of the key requirements is the ability to segment data coming from multiple different imaging sources while providing a single common archive architecture.
5. Does the VNA support configurable business policies for storing content (e.g. images) that are not dependent on the storage layer?
6. Describe how the EHR can access both DICOM & Non-DICOM data from the VNA.
7. How is patient and study metadata obtained by the VNA solution for imported DICOM and non-DICOM objects?
8. Are the metadata amenable to tagging standards such as the Open Microscopy Environment standards (OME)?
9. Does the VNA solution provide a method to classify DICOM and non-DICOM objects upon import?
10. Does the VNA solution include software to allow users to view and/or access clinical content?
11. Describe your largest VNA deployment for both DICOM and Non-DICOM.
12. Describe how the VNA scales.
13. Does the VNA support a fully integrated digital pathology platform

#### 4.4.1 DICOM CONTENT

1. Does the VNA receive and store DICOM objects? (Yes or No) If yes, include a current DICOM Conformance Statement.
2. Does the solution have its own DICOM development toolkit, or does it rely on third-party development? If it relies on a third-party DICOM toolkit, what product is being used?
3. Does the VNA support the validation the of inbound DICOM objects to confirm conformance to the DICOM standard? (Yes or No) If so, describe how non-conforming objects are treated and how exceptions are logged.
4. Does the VNA support DICOM study close policies configurable at the device/connection level? (Yes or No) If yes, can the DICOM study close policies be based on:
  - 4.1. The closing of the DICOM association?
  - 4.2. A timer?
  - 4.3. The receipt of a subsequent DICOM Storage Commitment request?
5. Can we configure additional DICOM devices in the VNA as necessary? (Yes or No) If

- no, is there a separate charge for configuring additional DICOM devices?
6. Does the VNA provide configurable options for performing lossless and lossy image compression of DICOM objects based on the study type, organization node, etc.? (Yes or No) If yes, describe the lossless and lossy DICOM object compression options supported.
  7. Does the VNA validate DICOM object study metadata with a received HL7 order metadata? (Yes or No)
  8. Does the VNA provide the ability to coerce all changes to DICOM related fields maintained in the database into the DICOM header upon export?
  9. Does the VNA provide the ability to perform transformations on incoming DICOM header data prior to population of its database? (Yes or No)
  10. Does the VNA provide the functionality to span DICOM query SCP (C-FIND) requests to one or more other DICOM archives? Providing a combined unified response to the originally requesting DICOM device. (Yes or No)
  11. Does the VNA provide the functionality for forwarding DICOM retrieve (C-MOVE) requests to another DICOM archive? (Yes or No)
  12. Does the VNA provide the functionality of translating a DICOM object's originating facility patient ID into the requesting facility patient ID automatically upon DICOM query and retrieve? (Yes or No)
  13. Does the VNA provide for a mechanism for outbound auto-routing of received DICOM objects based on source organization, source device, or storage policy? (Yes or No)
  14. Does the VNA support configurable business policies for storing received DICOM objects? if yes, please describe and indicate if the following storage options are configurable:
    - 14.1. Number of copies of a DICOM object to store?
    - 14.2. Type and ratio of image compression to use?
    - 14.3. Object retention period?
  15. Does the VNA allow for granular control of data, security and its retention? (Yes or No)
  16. Does the VNA support DICOM QIDO-RS and WADO-RS?
  17. Does the VNA support all IHE profiles? (PIX/PDQ, XDS, IOCM, Jpeg200, KIN, and GSPS). If so, please include a copy of your IHE Integration Statement.
  18. Does the VNA support advanced DICOM capabilities: Query Spanning, validation, XDS and PIX/PDQ setup and communication? (Yes or No)
  19. Does the VNA support DICOM WG-26 Supplement 145 standard for WSI?
  20. Please describe your DICOM API tools
  21. Can the VNA support integration from multiple different EMR's?

#### 4.4.2 NON-DICOM CONTENT

1. Does the VNA import, store and manage non-DICOM clinical objects? (Yes or No)
2. Does the VNA import, store and manage non-DICOM objects in their native (as received) format? (Yes or No)
3. If yes, can the VNA import store and manage the following object types in their native format: (Yes or No)
  - 3.1. JPG
  - 3.2. PNG
  - 3.3. TIFF
  - 3.4. PDF
  - 3.5. MPEG
  - 3.6. AVI
  - 3.7. DOC
  - 3.8. WAV

- 3.9. M4A
- 3.10. MP3
- 3.11. MP4
- 3.12. TXT
- 3.13. SVS
- 3.14. SCN
- 3.15. ORF
- 3.16. ZVI
- 3.17. Other, please explain.
- 4. How many file formats does your VNA support?
- 5. Does the VNA convert non-DICOM objects to another format when storing? (Yes or No)
  - 5.1. If yes, please explain the conversion(s).
- 6. Are non-DICOM objects provided back to business unit applications in their native (as received) format with any loss of data?
- 7. Describe the methods the VNA supports for importing non-DICOM objects. Provide examples of different devices you've connected with.
- 8. Can the VNA import, store and manage non-DICOM objects that have a study context? (Yes or No)
  - 8.1. If yes, can the VNA associate those non-DICOM objects with a DICOM study?
- 9. Can the VNA import, store and manage non-DICOM objects that have no study context (i.e. patient level or specialty department context only)?
- 10. How is patient and study metadata obtained by the VNA for imported non-DICOM objects?
- 11. Does the VNA provide a method to classify non-DICOM objects upon import? (Yes or No)
  - 11.1. If yes, please explain the classification method.
  - 11.2. If yes, can users search for non-DICOM objects by classification criteria?
- 12. Describe the methods the VNA supports for exporting non-DICOM objects.
- 13. Is non-DICOM object storage and management part of your DICOM applications or provided by a third-party application?
- 14. Does the VNA support encounters-based workflows, i.e. order-less image capture/retrieval? (Yes or No)
  - 14.1. If so, how?
- 15. Can the VNA support lifecycle management of non-DICOM data object not associated with a DICOM object? (Yes or No)
- 16. Does the VNA support Web Service API's? (Yes or No)
  - 16.1. If yes, what Web Service messages are supported?

4.43 MOBILE POC MULTI-MEDIA CAPTURE APPS

- 1. Does the VNA offer a mobile app to capture photos/videos/sound/text notes about the patient at the point of care? (Yes or No)
  - 1.1. Is the app available on iOS and Android? (Yes or No)
- 2. Does the app record content at full resolution and store it at full resolution in the VNA? (Yes or No)
- 3. Does the app support an encounters-based workflow, displaying a department specific list of patients scheduled for the day without requiring a separate order to be entered into the system? (Yes or No)
- 4. Does that app support capture an unlimited amount of content per patient on the same encounter? (Yes or No)
- 5. Does the app allow clinicians to create and capture multiple groups of content during the



- same encounter? (Yes or No)
6. Does the app support entering department specific metadata? (Yes or No)
    - 6.1. Is there a graphical body part selector? (Yes or No)
    - 6.2. Is the body part selector configurable? (Yes or No)
    - 6.3. Does it support pre-defined value lists? (Yes or No)
    - 6.4. Can the value lists be shared across multiple departments? (Yes or No)
  7. Does the app allow clinicians to add descriptions to each image/video/sound file captured and search on those descriptions in the VNA? (Yes or No)
  8. Does the app support cropping and rotating images after capture (but prior to saving in the VNA)? (Yes or No)
  9. Does the app show thumbnails of all content captured for easy reference/review? (Yes or No)
  10. Can the app be integrated with EHR mobile apps by Cerner so it is launched with patient context? (Yes or No)
  11. Describe how the app protects confidential patient information captured.

#### 4.4.4 DESKTOP POC UPLOAD APP

1. Does the VNA offer a desktop HTML5 web app to upload patient content at the point of care? (Yes or No)
2. Does the web app support an encounters-based workflow, displaying a department specific list of patients scheduled for the day without requiring a separate order to be entered into the system? (Yes or No)
3. How many files can be uploaded per patient for the same encounter? (Yes or No)
4. Does the web app allow clinicians to group content in folders? (Yes or No)
5. Does the web app support multiple folders per encounter? (Yes or No)
6. What is the maximum number of files that can be uploaded per folder?
7. How is meta-data associated with the uploaded content? Can that be configured by department?
8. Can the system restrict file types users can upload by department? (Yes or No)
9. Can non-DICOM content be uploaded to DICOM studies? (Yes or No)
10. Can the app be integrated with an EHR so it can be launched with patient context? (Yes or No)

#### 4.4.5 IMAGE LIFECYCLE MANAGEMENT (ILM)

1. Confirm and describe that the VNA has native ILM rules and policies within the application. (Yes or No)  
 Confirm that the VNA application does not rely on storage vendor provided policy engines. (Yes or No)
2. Confirm that the VNA provides for separate ILM policies per organizational department. (Yes or No)
3. Confirm that the VNA provides for separate ILM policies per data object source. (Yes or No)
4. Confirm that the VNA uses stored object metadata in the ILM retention and purge policies. (Yes or No)
5. Describe the VNA's ability to treat pediatric and mammography data differently from other data.
6. Describe what tools the VNA offers to assist with determining the impact of changes to

- ILM policies prior to implementing those changes.
7. Describe how the VNA manages data when moving from one storage technology to another.
  8. Confirm that the VNA allows for different storage management and retention policies based on clinical metadata. (Yes or No)
  9. If you are proposing the use of any proprietary file formats or proprietary compression schemes, please explain the rationale for this use of proprietary file formats or proprietary compression schemes.
  10. Describe how the VNA manages data replication across data centers.
  11. Confirm that the VNA provides for the built-in organization of stored data objects that mirrors the enterprise imaging business units of the institution. (Yes or No)
  12. Confirm that the VNA provides a mechanism for organizing exceptions based on metadata validation of incoming data objects that will require manual reconciliation. (Yes or No)
  13. Describe the structure of organizational nodes to database structure?
  14. Does a single table instance exist for the entire organization? (Yes or No)
  15. Does an individual table instance exist for each organizational node?
    - 15.1. If yes, describe deletion and movement of metadata across nodes?
    - 15.2. If yes, how are reports aggregated or clinical outcomes searched across multiple tables?
  16. Does patient data reside within one or many tables? (Yes or No)

#### 4.4.6 ARCHITECTURE & OPERATING ENVIRONMENT

1. Do you support software only deployments? (Yes or No).  
If not, please provide detailed hardware specifications and pricing from your preferred reseller.
2. What operating systems are certified for use with the VNA?
3. What database systems are certified for use with the VNA?
4. Our preference is to deploy all business unit applications in an HCI and or virtualized environment. Describe your success with such deployments.
  - 4.1. Is your VNA certified with VMware? (Yes or No)
  - 4.2. Is your VNA certified with NetApp HCI? (Yes or No)
  - 4.3. Can you virtualize all components of the VNA? (Yes or No)
  - 4.4. Do you support VMWare Site Recovery Manager (SRM)? (Yes or No)
5. Can we add storage to the VNA without disrupting services? (Yes or No)
6. Does the VNA support changes in storage location at runtime? (Yes or No)
  - 6.1. Will the VNA move all the data itself?
  - 6.2. Can this be managed by **Error! Use the Home tab to apply Healthcare Network to the text that you want to appear here.** without the need for support or migration services from the VNA or PACS vendor?
7. Can the VNA be deployed using existing architecture already in place for PACS (HA + BC) or does it require dedicated infrastructure?

#### 4.4.7 CONFIGURATION AND MAINTENANCE TOOLS

1. Can the VNA be managed from any device, using zero-download, web-based administration tools? (Yes or No)
2. Can the VNA be configured without access to PHI (protected health information)? (Yes or No)

#### 4.4.8 DIGITAL DASHBOARDS

1. Does the VNA provide a clinical digital dashboard? (Yes or No)  
If yes, what parameters does it monitors?
2. Can the dashboard be customized by user, based on roles? (Yes or No)
3. Does the dashboard provide historical VNA storage use patterns with predictive usage analysis? (Yes or No)
4. Can the dashboard be run on any device with connectivity to the VNA (e.g., PC, Mac, iOS and Android devices)? (Yes or No)
5. Does the VNA provide the ability to view DICOM association metrics (DICOM commands, performance, object counts, etc.)? (Yes or No)

#### 4.5 ENTERPRISE VIEWER

1. Does the Enterprise Viewer support Zero Download access from multiple browsers, iOS and Android devices? (Yes or No)
2. Does the Enterprise Viewer include dedicated apps for iOS and Android? (Yes or No)
3. Does the viewer display Radiology, Cardiology and Non-DICOM content?
4. What basic 2D, advanced 2D and 3D tools are available to clinicians, specialists and remote diagnosticians using the viewer?
5. Has the viewer been integrated with Cerner or other EMRs (please specify)? (Yes or No)
  - 5.1. Can you provide some customer references that have deployed the viewer?
  - 5.2. Has the viewer been integrated and validated with Cerner?
6. Does the viewer stream all imaging and cache no patient health information on the devices?
7. Does the viewer support real time collaboration with the patient, patient family or other physicians? (Yes or No)
  - 7.1. Can remote participants take control of the screen? (Yes or No)
  - 7.2. Is all PHI removed from the images during collaboration to protect patient confidentiality? (Yes or No)
  - 7.3. Can you use the device's built in webcam for audio-visual conferencing during the collaboration session? (Yes or No)
8. Can the enterprise viewer query multiple archives simultaneously and federate results? (Yes or No)
9. Does the viewer support a tiered archive search to prevent the presentation of duplicate studies?
10. Can the viewer be integrated directly into multiple PACS environments? Currently GLH has the following PACS environments:
  - 10.1. Fuji Synapse PACS 5.x
  - 10.2. Fuji Synapse PACS 4.4
  - 10.3. IBM Merge 6.6.3
  - 10.4. GE Centricity PACS
11. Is the viewer cleared by the FDA for Diagnostic Radiology interpretation?
12. How do you license access for Referring physicians and general clinicians using zero footprint clients?

#### 4.6 PROFESSIONAL SERVICES, INSTALLATION AND SUPPORT

##### 4.6.1 IMPLEMENTATION AND SUPPORT PLAN

1. Provide an overview of your typical implementation plan
  - 1.1. Include timing, description of requirements gathering.
2. What resources are needed from The Parties to initiate the project?
3. What type of access do you require to install and support the VNA?
4. Are installation and support handled by the same department? (Yes or No)
 

If not, what processes are in place to ensure a seamless hand-off?
5. What are your support offerings? (Phone, Email, On-Site, etc...)
6. Describe your approach to training.

#### 4.6.2 LICENSING

1. How is the VNA licensed?
  - 1.1. Does the VNA software licensing scheme impose a physical or logical limitation on the number of users or devices which can be connected concurrently?
2. How is the Enterprise Viewer licensed?

#### 4.6.3 TEST ENVIRONMENT

1. Describe the test environment you provide and the software and hardware components included.
2. How many test environments can you support and what are the associated costs?

#### 4.6.4 DATA MIGRATION & PACS ENABLEMENT

1. Describe your approach to data migration.
  - 1.1. Will you provide tools for **Error! Use the Home tab to apply Healthcare Network to the text that you want to appear here.** to migrate data ourselves?
  - 1.2. Does the VNA require all data be migrated at once, or will the VNA manage data migration on demand as needed?
  - 1.3. How does the VNA handle non-DICOM migrations?
2. How does your VNA enable changes to future PACS solutions?
  - 2.1. Can you provide an example where the VNA enabled a PACS replacement without data migration?
3. Describe the abilities for studies and content to remain synchronized across VNA and PACS systems.
  - 3.1. Do you support IOCM?
4. Which PACS systems have you integrated with your VNA? Please provide 3 references.
5. Describe the migration process if Hospital decides to replace the VNA solution in the future.

#### 4.6.5 REMOTE MONITORING

1. Can the VNA automatically notify system administrators of hardware or software malfunction?
2. Describe how you will notify the parties of an impending failure, and who you will notify.

#### 4.6.6 PLANNED DOWNTIME

1. **Error! Use the Home tab to apply Healthcare Network to the text that you want to appear here.** expects advanced notice prior to all planned down-time for any reason during the length of the service agreement. Will you comply (Yes or No)?
2. To provide the best possible service to our patients, we expect the VNA to be operating 24/7. How much downtime is necessary for annual maintenance, routine upgrades, or any other repetitive tasks that require a disruption to service for any reason? Please state the reasons, frequency and duration of downtime.

#### 4.6.7 SOFTWARE OBSOLESCENCE PROTECTION

1. Do you have a software obsolescence protection program that spans a five (5) year contract period including software and upgrades?
2. Has your company ever sunset any software platform (VNA, PACS or RIS)? If so, were customers offered the new software at no charge (under software maintenance agreement), required to pay an upgrade fee, or purchase new software? Were there any fees for professional services?

#### 4.7 SECURITY

1. Is the VNA capable of restricting user access to patient data by group membership? (Yes or No)
2. Is the VNA capable of restricting user access to various features based on roles? (Yes or No)
3. Does the VNA audit all user access to patient data for HIPAA compliance? (Yes or No)
4. What security measures does the VNA use?
5. Does the VNA use LDAP or Active Directory Service for user authentication and authorization? Does the VNA support the use of multiple active directory environments for authentication? (Yes or No)
6. Does the web viewer use LDAP or Active Directory Service for user authentication and authorization? Does the VNA support the use of multiple active directory environments for authentication? (Yes or No)

#### 4.8 DISASTER RECOVERY (DR) AND HIGH AVAILABILITY (HA)

1. Describe the procedure to back up the VNA database.
2. What is the recommended procedure to restore the database and verify data integrity?
3. What is your recommended approach to providing a highly available solution? Can you provide a real-time mirrored replication of your database? Please describe.
4. Describe your recommended approach to Disaster Recovery (for the demographic database and image database).
5. Do you offer a cloud disaster recovery service? Respond (Yes or No).
  - 5.1. If yes, provide details. Does it require an agent to be coupled to the server or application?
6. What cloud DR services are you compatible with?
7. If a local (image) drive fails, can the Enterprise Imaging solution continue to operate using data stored in the DR cloud?
8. What's your process and expected time to recover a failed drive? Does all data need to be transferred back over the network? If so, are there any additional fees anticipated due to bandwidth or volume?

5. REQUIRED DOCUMENTS:

The following forms must be submitted with each proposal:

- 5.1 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.
- 5.2 Equal Employment Opportunity Policy Statement (Exhibit B-1)
- 5.3 M/WBE Utilization Plan (Exhibit B-2) when applicable (see Section 7 below).
- 5.4 SDVOB Utilization Plan (Exhibit B-3) when applicable (see Section 7 below).
- 5.5 Respondent Data Form (Exhibit C).
- 5.6 Non-Collusive Bidding Certification (Exhibit D).
- 5.7 Disclosure, Affirmation and Certification in accordance with State Finance Law §§ 139-j and 139-k (Exhibit E).
- 5.8 Not-for-profit budget form (Exhibit F) (note this form is only required if the respondent is a not-for-profit corporation).
- 5.9 Diversity Practices Questionnaire (Exhibit G) when applicable (see Section 7 below)

6. EVALUATION CRITERIA:

6.1	Cost	35 points
6.2	Integration Capabilities (e.g. Differing PACS, EMR's, Enterprise Viewer, etc.)	17 points
6.3	System Architecture (including DR/replication, data segmentation, etc.)	25 points
6.4	Non-DICOM capabilities	10 points
6.5	Migration strategy (including option for self-migration)	8 points
6.6	Timeline of implementation/ability to execute	5 points
	<b>TOTAL:</b>	<b>100 POINTS</b>

7. GENERAL INSTRUCTIONS TO RESPONDENTS:

- 7.1 By submitting a response, respondents agree to both the terms of this ISP as well as the Parties standard terms and conditions attached to this ISP as Appendix D.
- 7.2 Insurance in the amounts designated in the attached Appendix E 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.

- 7.3 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.
- 7.4 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.
- 7.5 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.
- 7.6 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.
- 7.7 Any cash discount which is part of a proposal will be considered as a reduction in price in determining the award of the proposal.
- 7.8 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
- 7.9 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.
- 7.10 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 Purchasing Departments.
- 7.11 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
- 7.12 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
- 7.13 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.

- 7.14 **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.
- 7.15 **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). 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. the Parties 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 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") and Erie County Medical Center Corporation ("ECMCC" and with Kaleida, 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 to 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

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 (“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
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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 box  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 Acord™ (or equivalent) Form acceptable to 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.

**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 (“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
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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 box  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.

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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 Acord™ (or equivalent) Form acceptable to 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 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 or Kaleida may need.
3. Please attach a detailed fee schedule and all fees incurred for the deliverables included in this ISP.
4. Disclose whether respondent has ever had a contract terminated and if so, provide a detailed explanation of the contract and circumstances surrounding termination.

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5. Disclose whether any shareholder, director, officer or employee is currently employed by ECMCC or Kaleida Health, or was an employee of ECMCC or Kaleida Health 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 or Kaleida Health or their affiliates..

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

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7. 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.

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## 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 ISP, 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 ISP 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 ISP 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 B-2  
M/WBE UTILIZATION PLAN**

**INSTRUCTIONS:** This form must be submitted with any proposal or proposed negotiated contract or within 48 hours of notice from ECMCC that the respondent is the apparent lowest responsible bidder to an IFB. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority or Women-Owned Business Enterprise (MWBE) under the contract. Attach additional sheets if necessary.

Offeror's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, Zip Code: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 Authorized Representative: \_\_\_\_\_  
 Authorized Signature: \_\_\_\_\_

Federal Identification No.: \_\_\_\_\_  
 Location of Work: \_\_\_\_\_  
 RFP or Bid No.: \_\_\_\_\_  
 M/WBE Goals in the Contract: 0%

Contract Value: \_\_\_\_\_

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value or percentage of Subcontracts/ Supplies/Services
1.	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
2.	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
3.	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
4.	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
5.	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			



6.	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
7.	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			
8.	<b>NYS ESD CERTIFIED</b> <input type="checkbox"/> MBE <input type="checkbox"/> WBE			

<b>PREPARED BY (Signature):</b> <b>DATE:</b> <b>NAME AND TITLE OF PREPARER (Print or Type):</b> SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR REJECTION OF YOUR BID/PROPOSAL AND/OR POSSIBLE TERMINATION OF YOUR CONTRACT. UTILIZATION OF CERTIFIED MWBES FOR NON-COMMERCIAL USE FUNCTIONS MAY NOT BE COUNTED TOWARD MWBE REQUIREMENTS.	<b>TELEPHONE NO.:</b>	<b>EMAIL ADDRESS:</b>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------	-----------------------

	<b>FOR ECMCC M/WBE USE ONLY</b>	
	<b>REVIEWED BY:</b>	<b>DATE:</b>
	<b>UTILIZATION PLAN APPROVED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____ <b>Contract No.:</b> _____ <b>Project No. (if applicable):</b> _____  <b>Contract Award Date:</b> _____  <b>Estimated Date of Completion:</b> _____  <b>Amount Obligated Under the Contract:</b> _____  <b>Description of Work:</b> _____  <b>NOTICE OF DEFICIENCY ISSUED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____  <b>NOTICE OF ACCEPTANCE ISSUED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____	

**EXHIBIT B-3  
SDVOB UTILIZATION PLAN**

**INSTRUCTIONS:** This form must be submitted with any proposal or proposed negotiated contract or within 48 hours of notice from ECMCC that the respondent is the apparent lowest responsible bidder to an IFB. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Service-Disabled Veteran-Owned Business (SDVOB) under the contract. Attach additional sheets if necessary.

Offeror's Name: \_\_\_\_\_

Federal Identification No.: \_\_\_\_\_

Address: \_\_\_\_\_

Location of Work: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

RFP or Bid No.: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

SDVOB Goals in the Contract: 0%

Authorized Representative: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Contract Value: \_\_\_\_\_

1. Certified SDVOB Subcontractors/Suppliers Name, Address, Email Address, Telephone No.		2. Federal ID No.	3. Detailed Description of Work (Attach additional sheets, if necessary)	4. Dollar Value or percentage of Subcontracts/ Supplies/Services
1.				
2.				
3.				
4.				
5.				

6.				
7.				
8.				

<b>PREPARED BY (Signature):</b> <b>DATE:</b> <b>NAME AND TITLE OF PREPARER (Print or Type):</b> SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE SDVOB REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 17-B, 9 NYCRR PART 252, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR REJECTION OF YOUR BID/PROPOSAL AND/OR POSSIBLE TERMINATION OF YOUR CONTRACT. UTILIZATION OF CERTIFIED SDVOB'S FOR NON-COMMERCIALY USEFUL FUNCTIONS MAY NOT BE COUNTED TOWARD SDVOB REQUIREMENTS.	<b>TELEPHONE NO.:</b>	<b>EMAIL ADDRESS:</b>
	<b>FOR ECMCC SDVOB USE ONLY</b>	
	<b>REVIEWED BY:</b>  <b>APPROVED BY:</b>	<b>DATE:</b>  <b>DATE:</b>
	<b>UTILIZATION PLAN APPROVED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____ <b>Contract No.:</b> _____ <b>Project No. (if applicable):</b> _____  <b>Contract Award Date:</b> _____  <b>Estimated Date of Completion:</b> _____  <b>Amount Obligated Under the Contract:</b> _____  <b>Description of Work:</b> _____  <b>NOTICE OF DEFICIENCY ISSUED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____  <b>NOTICE OF ACCEPTANCE ISSUED:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO Date: _____	

**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: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



## EXHIBIT F

### NOT-FOR-PROFIT M/WBE BUDGET FORM

Any services that are self-performed by a not-for-profit respondent (i.e., services not procured in the open market) in response to this RFP, RFQ, or IFB, as well as any personal services, rent, and utilities costs related to this procurement, are exempt from the M/WBE goals that have been assigned to this procurement. After exempting personal services, rent, utilities and self-performance, M/WBE goals will still attach to the entire remainder of the funds of the procurement.

*(For example, if the respondent's proposal for this procurement is \$100,000, and \$80,000 of this amount is comprised of personal services, rent, utilities and self-performance by the not-for-profit, then the remaining \$20,000 would still be subject to the M/WBE goals assigned to this procurement.)*

This exception applies solely to not-for-profit respondents. Respondents who are for-profit organizations are still required to apply the M/WBE goals to the full amount of this procurement in their proposals. All parties are still responsible for submitting utilization plans (as detailed in Exhibits B and B-1) with their proposals that cover all services that are not exempt as described in the above.

The following chart is required to be submitted by all not-for-profit respondents. Each respondent must provide a breakdown of their entire proposed budget for the procurement. If you are not a not-for-profit entity, you do not have to complete this form.

Respondent name: \_\_\_\_\_

<b>Proposed budget for work</b>	
1 Personal services	\$ _____
2 Rent	\$ _____
3 Utilities	\$ _____
4 Self-performance	\$ _____
5 Other expenses <i>(Please provide line item descriptions; add additional sheets as necessary)</i>	
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
6 Add the sum of Section 5. <i>(These funds <u>will</u> be subject to M/WBE requirements)</i>	\$ _____
7 Add the sum of Sections 1-4. <i>(These funds <u>will not</u> be subject to M/WBE requirements)</i>	\$ _____
Add the sum of sections 6 and 7. <i>(This number reflects the <u>total proposed budget</u> for the project.)</i>	\$ _____

**RESPONDENT SIGNATURE**

---

Signature of preparer

---

Date

---

Name of organization

---

Title of signatory