

CITY OF VIRGINIA BEACH
AGREEMENT BETWEEN
THE CITY OF VIRGINIA BEACH, VIRGINIA
AND
MEDIKO, INC.

This Agreement (the "Agreement") made and entered into as of this 6th day of July 2020, by and between the Sheriff of the City of Virginia Beach, Virginia, a constitutional officer of the Commonwealth of Virginia, hereinafter referred to as "Sheriff" or "City," and MEDIKO, INC., having a principal place of business at 3900 Westerre Parkway, Suite 302, Richmond, VA 23233, hereinafter referred to as "Contractor." (Collectively, the City and the Contractor may be referred to as the "Parties").

The parties to this Agreement, in consideration of the mutual covenants and stipulations set forth below, agree as follows:

- I. **Scope of Work** The Contractor shall perform all services as specified in a certain proposal of Contractor dated January 28, 2020 ("Proposal"), RFP #VBCC-20-0038 dated January 10, 2020 ("RFP"), and a Best and Final Offer ("BAFO") dated May 21, 2020, which are attached hereto and made a part of this Agreement by reference as if repeated verbatim herein. In the event that a conflict exists between the referenced proposal of Contractor and the terms of this Agreement, or any of the other documents described above, the proposal order of precedence set forth in Section XIX shall control.
- II. **Consideration/Payment Schedule** In consideration of the work to be performed by Contractor, as set forth in the section entitled, "Scope of Work," the City agrees to pay Contractor the total sum of \$6,424,177.00 ("Base Compensation") for the initial term described in Section III below, payable in equal monthly installments as stated in Article IX, Section 9.1 of the RFP.
- III. **Term of Agreement** This Agreement shall commence on August 1, 2020; and continue thereafter until July 31, 2021. Extensions shall not be automatic and any and all extensions shall be by written agreement and signed by both parties in the same manner as the Agreement was executed.
- IV. **Agreement Extension:** Upon mutual written agreement of all parties and based on the original Agreement terms and conditions, this Agreement may be extended four (4) additional one (1) year periods.
- V. **Escalation/De-Escalation** Compensation to Contractor for succeeding years (after the first year of this Agreement) shall be determined as set forth in Article IX, Section 9.3 of

the RFP.

- VI. **Termination with Cause/Default/Cancellation** In the event that Contractor shall for any reason or through any cause be in default of the terms of this Agreement, the City may give Contractor written notice of such default by certified mail/return receipt requested at the address of MEDIKO, INC., Attn: Kaveh Ofogh, MD, CEO, 3900 Westerre Parkway, Suite 302, Richmond, VA 23233.

Unless otherwise provided, Contractor shall have thirty (30) days from the date such notice is mailed in which to cure the default. Upon failure of Contractor to cure the default, the City may immediately cancel and terminate this Agreement as of the mailing date of the default notice.

Upon termination, Contractor shall withdraw its personnel and equipment, cease performance of any further work under the Agreement, and turn over to the City any work in process for which payment has been made.

In the event of violations of law, safety or health standards and regulations, this Agreement may be immediately cancelled and terminated by the City and provisions herein with respect to opportunity to cure default shall not be applicable.

- VII. **Nondiscrimination** Employment discrimination by Contractor shall be prohibited. During the performance of this Agreement, Contractor agrees as follows:

1. Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification/consideration reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, will state that Contractor is an equal opportunity employer.
3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulations shall be deemed sufficient for the purpose of meeting the requirements of this section.
4. Contractor will include the provisions of the foregoing Sections 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

- VIII. **Drug Free Workplace** During the performance of this Agreement, Contractor agrees as follows:

1. Contractor will provide a drug-free workplace for Contractor's employees.

2. Contractor will post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
3. Contractor will state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor maintains a drug-free workplace.
4. Contractor will include the provisions of the foregoing Sections 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

IX. **Faith Based Organizations** The City of Virginia Beach does not discriminate against Faith-Based Organization.

X. **Compliance with Immigration Laws** Contractor does not currently, and shall not during the performance of this Agreement, knowingly employ an unauthorized alien, as defined in the federal Immigration Reform and Control Act of 1986.

XI. **Business Entity Registration** Foreign and domestic businesses authorized to transact business in the Commonwealth. The Contractor shall be registered and authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. The Contractor shall submit proof of such registration to the City. Additionally, the Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or canceled at any time during the term of the Agreement.

XII. **Exclusivity** The City reserves the right to procure goods or services covered under this Agreement from a third party when, in the City's sole discretion, it is deemed to be in the City's best interest.

XIII. **Compliance with All Laws** Contractor shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of scope of work set forth herein. Contractor represents that it possesses all necessary licenses and permits required to conduct its business and will acquire any additional licenses and permits necessary for performance of this Agreement prior to the initiation of work.

XIV. **Agreement Interpreted Under Laws of Virginia** This Agreement shall be deemed to be a Virginia Agreement and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Agreement shall be deemed to have been delivered and accepted by the

parties in the Commonwealth of Virginia.

XV. **Venue** Any and all suits for any claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in the City of Virginia Beach, or the U.S. District Court for the Eastern District of Virginia, Norfolk District.

XVI. **Business License Requirement** If the Contractor is a business, located in the City of Virginia Beach or at any time during the performance of this Agreement obtains situs for purposes of business license taxes, it shall be unlawful for such business to conduct or engage in such business, trade or occupation without having first obtained the proper license from the Commissioner of the Revenue of the City, and the Contractor covenants that it has a business license where one is required to perform this Agreement.

XVII. **Independent Contractor** The Contractor shall agree and covenant that it is and shall be at all times, an independent contractor, and as such, shall have and maintain complete control over all of its employees and operations. Neither the Contractor nor anyone employed by it shall be, represent, act, purport to act, or be deemed to be an agent, representative, employee or servant of the City. Nothing in this section shall be deemed to absolve or otherwise limit the Contractor's liability and responsibility to safely and correctly perform its duties under this Agreement.

XVIII. **Representation Regarding City Employment; Conflict of Interest** Contractor represents at the time of contracting and through the pendency of this Agreement that no one with an ownership interest in the Contractor or the Contractor's corporate entity, if applicable, or other employee of the Contractor is also an employee of the City of Virginia Beach, specifically in the City Department initiating or overseeing this Agreement. Contractor further represents that no individual with an ownership interest in the Contractor or the Contractor's corporate entity, if applicable, or other employee has a spouse, other relative or person who resides with the individual that is currently an employee of the City of Virginia Beach, specifically in the City Department initiating or overseeing this Agreement. Should the Contractor have reasonable belief of a possible conflict of interest, that issue should immediately be brought to the attention of the City's Purchasing Division for review.

XIX. **Integration/Merger** This Agreement, the BAFO, the Proposal, the RFP and any appendices attached hereto constitute the entire agreement of the parties and supersedes all prior agreements, understandings and negotiations, whether written or oral, between the parties. In the event of a conflict between any of such documents, the order of precedence shall be as follows (in order from first to last): (1) this Agreement, (2) the BAFO, (3) the Proposal, and (4) the RFP. This Agreement may not be modified, except in a writing signed by both parties that is expressly stated to be an amendment hereto.

XX. **Severability** The provisions of this Agreement shall be deemed to be severable, and

should any one or more of such provisions be declared or adjudged to be invalid or unenforceable, the remaining provisions shall be unaffected thereby and shall remain in full force and effect.

XXI. **Environmental Liability** Any costs or expenses associated with environmentally related violations of the law, the creation or maintenance of a nuisance, or releases of hazardous substances, including, but not limited to, the costs of any cleanup activities, removals, remediations, responses, damages, fines, administrative or civil penalties or charges imposed on the City, whether because of actions or suits by any governmental or regulatory agency or by any private party, as a result of the storage, accumulation, or release of any hazardous substances, or any noncompliance with or failure to meet any federal, state or local standards, requirements, laws, statutes, regulations or the law of nuisance by Contractor (or by its agents, officers, employees, subcontractors, consultants, subconsultants, or any other persons, corporations or legal entities employed, utilized, or retained by Contractor) in the performance of this Agreement or related activities, shall be paid by Contractor. This paragraph shall survive the termination, cancellation or expiration of this Agreement.

XXII. **Waiver** No failure of the City to exercise any right or power given to it by law or by this Agreement, or to insist upon strict compliance by Contractor with any of the provisions of this contract, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of the City's right to demand strict compliance with the terms of this Agreement.

XXIII. **Interpretation** Whenever the context hereof shall require, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

XXIV. **Descriptive Headings** The descriptive headings appearing in this Agreement are for convenience only and shall not be construed as a part of the terms, covenants, and conditions hereof; or as an interpretation of such terms, covenants, and conditions.

XXV. **Non-appropriation** It is understood and agreed between the Parties hereto that the City shall be bound and obligated hereunder only to the extent that the funds shall have been appropriated and budgeted for the purpose of this Agreement. In the event funds are not appropriated and budgeted in any fiscal year for payments due under this Agreement, the City shall immediately notify Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal year for which appropriations were received without penalty or expense to the City of any kind whatsoever.

XXVI. **Assignment of Agreement** The Contractor shall not, without the prior written consent of the City, assign, delegate, or otherwise transfer, in whole or in part, the Agreement or any of the Contractor's rights or obligations arising hereunder. The City may, in its sole discretion, consent or decline to consent to any such assignment, delegation, or transfer, or may give its conditional consent thereto. In the event the City conditionally

consents to such an assignment, delegation, or transfer, such consent may, without limitation, be conditional upon Contractor's remaining fully and unconditionally liable to the City for any breach of the terms of this Agreement by Contractor's transferee and for any damage or injury sustained by a third party or parties as a result of the intentional act or omission, negligence, or breach of warranty by Contractor's transferee.

XXVII. Termination without Cause The City may at any time, and for any reason, terminate this Agreement by written notice to Contractor specifying the termination date, which shall be not less than thirty (30) days from the date such notice is mailed.

Notice shall be given to Contractor by certified mail/return receipt requested at this address: MEDIKO, INC., Attn: Kaveh Ofogh, MD, CEO, 3900 Westerre Parkway, Suite 302, Richmond, VA 23233.

Contractor may at any time, and for any reason, terminate this Agreement by written notice to City specifying the termination date, which shall be not less than ninety (90) days from the date such notice is mailed.

In the event of such termination, Contractor shall be paid such amount as shall compensate Contractor for the work satisfactorily completed, and accepted by the City, at the time of termination.

If either party terminates this Agreement without cause, Contractor shall withdraw its personnel and equipment, cease performance of any further work under this Agreement, and turn over to the City any work completed or in process for which payment has been made.

XXVIII. Hold Harmless/Indemnification It is understood and agreed that Contractor hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Contractor, its subcontractors, agents or employees under or in connection with this Agreement or the performance or failure to perform any work required by this Agreement. Contractor agrees to indemnify and hold harmless the City and its agents, volunteers, servants, employees and officials from and against any and all claims, losses, or expenses, including reasonable attorney's fees and litigation expenses suffered by any indemnified party or entity as the result of claims or suits (collectively, "Losses") due to, arising out of or in connection with (a) any and all such damages, real or alleged, (b) Contractor's violation of any law applicable to this Agreement, and (c) the performance of the work by Contractor or those for whom Contractor is legally liable. Upon written demand by the City, Contractor shall assume and defend at Contractor's sole expense any and all such suits or defense of claims made against the City, its agents, volunteers, servants, employees or officials.

XXIX. Insurance Contractor agrees to secure and maintain in full force and effect at all times

during the term of this Agreement, the following policies of insurance:

1. Workers' Compensation Insurance of not less than \$500,000.
2. Comprehensive General Liability Insurance, including contractual liability and products and completed operations liability coverages, in an amount not less than one million dollars (\$1,000,000) combined single limits (CSL). Such insurance shall name the City of Virginia Beach as an additional insured.
3. Automobile Liability Insurance including coverage for non-owned and hired vehicles in an amount not less than one million dollars (\$1,000,000) combined single limits (CSL).
4. Errors and Omissions (Professional Liability) Insurance at limits not less than one million dollars (\$1,000,000).

All policies of insurance required herein shall be written by insurance companies licensed to conduct the business of insurance in Virginia, and acceptable to the City, and shall carry the provision, that the insurance will not be cancelled or materially modified without thirty days (30) prior written notice to the City. In certain cases, where coverage is unavailable through licensed carriers, certificates of insurance written by a Surplus Lines Carrier authorized by the Virginia State Corporation Commission to transact the business of insurance in Virginia and acceptable to the City of Virginia Beach may be approved. Certificates of insurance shall list the City of Virginia Beach as an additional insured, and the City of Virginia Beach Risk Management Division, Municipal Center, Virginia Beach, Virginia, 23456, as the Certificate Holder.

XXX. **Performance Bonds** Contractor shall furnish to the City a performance bond in conformity with Va. Code § 2.2-4337 and/or 2.2-4339 payable to the City in the amount of twenty-five percent (25%) of the base annual compensation. The performance bond shall be conditioned upon the faithful performance of the Agreement in strict conformity with the terms and conditions of the Agreement. The performance bond shall be executed by one or more surety companies selected by Contractor which are licensed and legally authorized to conduct the business of insurance, including surety, within the Commonwealth of Virginia.

XXXI. **Notice** All notices and requests required or permitted hereunder shall be sent by United States certified mail, return receipt requested and to be effective, shall be postmarked no later than the final date for giving of such notice; or such notices may be sent by commercial messenger service, in which event, to be effective, such notices shall be delivered to a commercial messenger service not later than the final date for giving such notice.

Notices for the City of Virginia Beach shall be addressed as follows:

Russell M. Pankey, CPPO, CPPB
Procurement Specialist III

Finance/Purchasing
2388 Liberty Way
Virginia Beach, VA 23456
Email: rpankey@vbgov.com

Notices for Contractor shall be addressed as follows:

MEDIKO, INC.
Attn: Kaveh Ofogh, MD, CEO
3900 Westerre Parkway, Suite 302
Richmond, VA 23233
Email: kofogh@medikopc.com

Such addresses may be changed at any time and from time to time by like written notice given by either party to the other.

XXXII. **Claims for Extra Compensation** If Contractor encounters work and services not included in this Agreement or any supplement thereto but which in the opinion of Contractor is necessary for the successful completion of the Agreement and requires extra compensation, Contractor shall, before it begins the work on which it bases its claim, promptly notify the City in writing of its intention to perform the work and to make claim for extra compensation. Notification by Contractor under the terms of this paragraph shall not be construed as proving the validity of the claim. No claim for extra compensation will be filed or considered unless notification is given as herein set forth.

Upon notification, the City shall promptly review any claim for extra compensation. If a claim is accepted by the City, it shall be paid as extra work in accordance with the terms of a supplemental agreement executed by the parties before such work is begun.

The amounts claimed as extra compensation by Contractor shall be separately itemized, become a part of the claim, and serve as documentation thereto. The amounts itemized shall be in sufficient detail to enable the City to analyze the need for the extra work and the costs claimed for the work.

XXXIII. **Offset/Setoff** The City may withhold the payment of any claim or demand by any person, firm or corporation against the City until any delinquent indebtedness or other liability, including taxes, due to the City from such person, firm or corporation shall first have been settled and adjusted.

XXXIV. **Audits** The City shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this Agreement (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the

control of Contractor, including, but not limited to those kept by Contractor, its employees, agents, assigns, successors and subcontractors. Contractor shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this Agreement and for at least three years following the completion of this Agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to the City, through its employees, agents, representatives, contractors or other designees, during normal business hours at Contractor's office or place of business in Virginia Beach, Virginia. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location in Virginia Beach, Virginia, which is convenient for the City.

This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the City may have by state, city, or federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

XXXV. **Small Business Enhancement Program Compliance** The Contractor shall provide the required information, including reporting, to comply with the City's Small Business Enhancement Program. If there is a subcontracting plan, this plan shall be open to public inspection pursuant to the Virginia Freedom of Information Act. Prior to final payment, the Contractor shall submit the information, including reporting, required by the City Code.

XXXVI. **Cooperative Procurement** This Agreement was awarded in accordance with Section 2.2-4304 of the Virginia Public Procurement Act (VPPA), and in accordance with the City of Virginia Beach's Procurement Code. The procurement was conducted on behalf of the City and other public bodies. Therefore, pursuant to Code Section 2.2-4304, other public bodies and agencies shall have the right to utilize the provisions of the Agreement. However, when other public bodies and agencies utilize the contract, Contractor must establish a separate contractual relationship between it and the other party. Under no circumstances shall the City of Virginia Beach be a party to or incur any obligations or responsibilities, contractual or otherwise, in association with these contractual agreements between the Contractor and another public body or agency.

XXXVII. **Submission and Disposition of Contractual Claims** Prompt knowledge by the City of an existing or impending claim for damages or other relief may alter the plans, scheduling, or other action of the City and/or result in mitigation or elimination of the effects of the claim. Therefore, a written statement providing the City with notice of the Contractor's intention to file a claim which (i) describes the act or omission by the City or its agents that the Contractor contends caused it damages or entitles it to other relief; and (ii) provides a description of the nature and amount of the claim. Such written statement shall be submitted to the City within 20 days of the time of the occurrence or beginning of the work upon which the claim is based; provided, however, if such damage is deemed

certain in the opinion of the Contractor to result from its acting on an order from the City, it shall immediately take written exception to the order. For purposes of this provision, "claim" shall include, without limitation, any request for an increase in the Agreement price or time and any request for equitable adjustment. Submission of a notice of claim as specified shall be mandatory, and failure to submit such notice shall be a conclusive waiver to such claim for damages or other relief by the Contractor. Neither an oral notice or statement, nor an untimely notice or statement will be sufficient to satisfy the requirements herein.

The City will review the claim and render a final decision in writing within thirty (30) days of receipt of Contractor's written request for a final decision. Such decision shall be final and binding to the fullest extent allowed by law.

XXXVIII. **Payments to Subcontractors** In accordance with Title 2.2, Chapter 43, Article 4 of the Code of Virginia (Virginia Public Procurement Act), the Contractor shall make payment to all subcontractors, as defined in the Code, within seven (7) days after receipt of payment from the City; or, shall notify the City and the subcontractor in writing of the intention to withhold all or part of the amount due with the reason for nonpayment. In the event payment is not made as noted, the Contractor shall pay interest at the rate of one percent (1%) per month, unless otherwise provided in the contract, to the subcontractor on all amounts that remain unpaid after seven (7) days except for the amounts withheld as provided herein.

These same requirements shall be included in each subcontract and shall be applicable to each lower-tier subcontractor. The Contractor shall provide the City with its social security number or federal taxpayer identification number prior to any payment being made under this Agreement.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section may not be construed to be an obligation of the City. A contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

XXXIX. **Ownership** Contractor acknowledges that all services it provides under this Agreement are provided as an independent contractor on a work-for-hire basis. All intellectual property rights and other proprietary rights in any work resulting from the performance of services under this Agreement shall vest and be held in the name of the City. Notwithstanding the foregoing, the City, the Sheriff and VBCC acknowledge and agree that Contractor has previously developed certain proprietary guidelines, policies, procedures, protocols, manuals and forms for the provision of healthcare services to correctional institutions (collectively, "Contractor Materials"), that such Contractor Materials are valuable to Contractor in that they enable Contractor to provide the healthcare services more efficiently and with greater quality, and that Contractor owns all rights, title and interest in and to such Contractor Materials (including, but not limited

to, the right to seek copyright, patent or other registration for such Contractor Materials). During the term of this Agreement, Contractor will utilize the Contractor Materials in the performance of its duties hereunder. If the VBCC adopts an electronic medical records system, Contractor acknowledges that such Contractor Materials may be utilized and stored within such electronic medical records system, on the computer hardware owned by the VBCC and in any cloud-based system used by the VBCC. During the term of this Agreement, and following expiration or termination of this Agreement, the VBCC agrees to use the Contractor Materials for the VBCC's internal use only; shall not disclose, transfer or license any Contractor Materials to any third party; and shall ensure that its agreements with electronic medical records system providers, data storage companies or other third party vendors ("EMR Vendors") who have access to the Contractor Materials prohibit all such EMR Vendors from using, licensing, disclosing or otherwise transferring the Contractor Materials.

As the owner of the Contractor Materials, Contractor shall be entitled, during the term of this Agreement and following termination of this Agreement, to use the Contractor Materials for any purpose including, without limitation, providing healthcare services to other correctional facilities; provided that in all cases Contractor shall not use specific inmate or patient data. Upon the termination of this Agreement, Contractor agrees that the VBCC shall have the right to continue using, for the VBCC's internal use only, any Contractor Materials previously provided by Contractor; provided that the VBCC shall not be entitled to disclose, transfer or license any Contractor Materials to any third party (including any subsequent provider or contractor). In addition, any modifications or improvements to the Contractor Materials developed during the term of this Agreement shall not be considered a work for hire and shall be owned exclusively by Contractor, subject to the VBCC's limited right to use such materials as described above.

XL. Cost Pool Contractor's financial responsibility for all costs and expenses associated with any services, products, equipment or other matters defined as "Shared Cost Services" below shall be limited by an annual cost pool as described in this Section XL.

- a. Shared Cost Services account for \$1,000,000 of the annual Base Compensation and shall only be used to pay costs and expenses resulting from Shared Cost Services. Contractor shall pay for Shared Cost Services for inmates up to \$1,000,000 per contract year (August 1 – July 31) for all inmates in the aggregate ("Cost Pool"). The City and VBCC shall be responsible for any costs or expenses resulting from Shared Cost Services that exceed \$1,000,000 per contract year for all inmates in the aggregate. If the costs for Shared Cost Services exceed the \$1,000,000 included in the annual Base Compensation, the costs for the next \$1,000,000 for Shared Cost Services ("Excess Shared Costs") will be shared between the Contractor and the City as follows:

Excess Shared Costs	Contractor Share	City Share
\$0 - \$250,000	30%	70%
\$250,001 - \$500,000	20%	80%

\$500,001 - \$1,000,000	10%	90%
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- b. If the costs paid by Contractor in any fiscal year for Shared Cost Services exceed the amount of the Cost Pool described above, Contractor may refer all additional invoices for costs for Shared Cost Services exceeding the amount of the applicable Cost Pool to the City and VBCC for payment by the City and VBCC directly to the third party provider. For any costs directly paid by Contractor in any fiscal year for Shared Cost Services that exceed the amount of the Cost Pool described above, Contractor shall invoice City for such amount. City shall pay such invoice within thirty (30) days of the date of invoice.
- c. Cost Pool reconciliation shall be completed annually by Contractor within 90 calendar days of the end of each twelve (12) month contract period.
- d. Any payments made by Contractor in excess of the Cost Pool amount shall be reimbursed by the City and VBCC to Contractor upon submission of the Cost Pool reconciliation as described above once funds have been appropriated by the City.
- e. Any Cost Pool amount not used by Contractor shall be handled as follows: If the Agreement is renewed for a subsequent one-year term, any unused amount of the Cost Pool shall be returned via check to the City within 30 days of the Cost Pool Reconciliation described above. If the Agreement is terminated, any unused amount of the Cost Pool shall be returned via check to the City within 90 days of the termination of this Agreement; provided that if Contractor receives a bill or invoice for an amount subject to the Cost Pool after Contractor has refunded such amount to City, City shall pay such bill or invoice directly.
- f. Pre-paid Cost Pool amounts shall be reviewed annually and adjusted, as necessary, by mutual agreement through a contract modification.
- g. "Shared Cost Services" shall mean the following services, products, equipment or other matters: (i) off-site healthcare services including, but not limited to, hospital services (whether inpatient or outpatient); emergency room services; off-site specialist services; off-site physical therapy; on-site and off-site dialysis; and off-site diagnostic services; (ii) off-site radiology and other imaging services (including but not limited to off-site x-rays, ultrasounds, CT scans, MRIs, etc.); (iii) off-site dental services; (iv) the cost of pharmaceuticals including but not limited to non-formulary medication, HIV and HEP-C medications, blood or plasma factors, dialysis medications, chemotherapy, and immuno-therapy; (v) costs associated with ambulance services; and (vi) other medical services rendered by providers who are not employees or independent contractors of Contractor. Notwithstanding the fact that Contractor shall only be financially responsible for a portion of the Shared Cost Services, Contractor shall identify the need, schedule, coordinate and arrange for the provision of all such services on behalf of the inmates and the VBCC.
- h. In no event shall Contractor be responsible for court ordered mental health evaluations and any inpatient hospital commitments at a state mental health facility.

XLI. General.

- a. As described in the Proposal, Contactor will provide an electronic medical record system for VBCC. Upon the termination of this Agreement, Contractor shall, at the election of VBCC, cause the electronic medical record system to be transferred to VBCC and, upon such transfer, VBCC shall thereafter pay all future license fees, maintenance fees and other costs associated with such system.
- b. If the Sheriff becomes dissatisfied with any employee provided by Contractor hereunder, Contractor, in recognition of the sensitive nature of correctional services, shall, following receipt of written notice from the Sheriff of the grounds for such dissatisfaction and in consideration of the reasons therefor, exercise its best efforts to resolve the problem. If the problem is not resolved satisfactorily to the Sheriff, Contractor shall cause the employee to cease providing services under this Contract; provided that Contractor will be allowed reasonable time to find an acceptable replacement without penalty to Contractor.
- c. Notwithstanding the foregoing, the Sheriff or his designee at all times shall retain sole discretion over whether to permit any individual to enter the VBCC's grounds or facility.

[Signatures on Following Pages]

As evidence of their agreement to the terms and conditions set forth herein, the Parties affix their authorized signatures hereto:

MEDIKO, INC.

By: [Signature]
Signature

Date: 7-10-2020

Name: Kaveh Ofogh, M.D.

Title: President and CEO

NOTARY
CERTIFICATE FOR CONTRACTOR

COMMONWEALTH OF Virginia
CITY/COUNTY OF Henrico, to-wit:

The foregoing instrument was acknowledged before me this 10 day of July, 2020 by Kaveh Ofogh, M.D. of MEDIKO, Inc., a Virginia corporation, on behalf of the corporation. He is personally known to be or has produced Va. Drivers License as proper identification.

[Signature]

Notary Public

My Commission expires: 12/31/23
My Registration Number: 7508360

