# MASTER SERVICES AGREEMENT

MASTER SERVICES AGREEMENT REFERENCE: (Year, Last Name)

Pursuant to the terms and conditions set forth herein, this Master Services Agreement (together with all the attachments hereto, referenced herein as the “MSA” or “Agreement” or “Master Services Agreement”) is entered into by and between **FHI Clinical** which has a place of business at 359 Blackwell Street, Suite 200, Durham, NC 27705(“FHI Clinical”) and **XXX**., whose address is **Address (“**Contractor”). This Master Services Agreement (“Agreement”) is made effective as of date of last signature (“Effective Date”) by the Parties. When signed by both parties, this Agreement will set forth the terms and conditions under which Contractor agrees to provide certain services to FHI Clinical as defined by Task Orders to be issued subject to the terms and conditions of this MSA.

Specific work in support of the Statement of Work in Attachment A shall be required by written Task Orders. Funding shall be obligated for and with each Task Order. Contractor agrees to perform all Task Orders in accordance with the terms and conditions set forth herein. All amounts/quantities specified herein are estimates only and do not represent a commitment on the part of FHI Clinical.

**Recitals:**

A. FHI Clinical and Contractor desire to enter into this Agreement whereby Contractor may be asked to support task orders for work supporting FHI Clinical sponsored or internal projects.

B. The services to be performed hereunder (the “Services”) shall be specified in the Task Order Statement of Work which will be subject to the terms of this MSA. Any obligations or other responsibilities not specifically transferred to Contractor via the Task Order Statement of Work shall remain the responsibility of FHI Clinical.

**Article 1. Agreement Type and Services**

This is a Master Services Agreement (“Agreement” or “MSA”). Task Orders issued under this MSA will be awarded on either time and materials, fixed unit price or firm fixed price basis, based on negotiated prices included as Attachment B – Budget in proposals Contractor submits in response for a request for proposal for a particular task order. Contractor rates are inclusive of any overhead, fringe, and general & administrative (G&A) costs, including any training required by FHI Clinical required to perform the services contemplated by this agreement.

**Article 2. Statement of Work**

Contractor shall perform the services ("Services") as outlined in one or more Task Orders executed by the parties pursuant to this Agreement and incorporated herein. The specific terms and conditions of each engagement will be delineated in the applicable Task Order, which shall be sequentially numbered and incorporated herein by reference. Contractor, as an independent contractor and not as an agent of FHI Clinical, will furnish necessary personnel, materials, services, equipment and facilities, and all other items necessary to accomplish all Task Orders awarded under this Agreement. Task Orders will include only those services specified in the Task Order **Attachment A - Statement of Work**, which, upon award by FHI Clinical, is hereby incorporated and made a part of this MSA. Contractor will provide the services outlined in the Attachment A - Statement of Work, at the prices specified in the Task Order which, upon award by FHI Clinical, is hereby incorporated and made a part of this MSA.

# article 3. Term and termination

The effective date of this Agreement is **November 16, 2020** or the date of last signature, whichever occurs first. This agreement will remain valid for a period of five (5) years, during which time FHI Clinical may request Contractor’s support for individual task orders from time to time. The period of performance may be extended upon mutual agreement of FHI Clinical and Contractor by written modification to this MSA. The period of performance for each task order shall be detailed in the task order award.

Termination for Convenience: FHI Clinical may terminate this Agreement in whole or in part for its sole convenience, whether or not Contractor is in default of any of its obligations hereunder, by giving at least five (5) days’ advance written notice to Contractor. Upon receipt of such notice Contractor shall, unless the notice directs otherwise, stop all work under this Agreement, and cause all of its suppliers and subcontractors to stop work, no later than the termination date specified in the notice. FHI Clinical shall pay Contractor for work performed and costs incurred in direct relation to the work being performed up to the termination date, as well as any reasonable charges, such as administrative costs, restocking charges, vendor cancellation charges, and settlement costs, that Contractor can demonstrate to FHI Clinical’s reasonable satisfaction have resulted from the termination. Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided, nor for any orders for materials or supplies placed after written notice of termination was issued by FHI Clinical. In no event shall Contractor be paid more than the total agreed-upon price reflected in the Order

Termination for Cause: FHI Clinical may terminate this Agreement for material breach upon ten (10) days’ written notice specifying the nature of the breach, if such breach has not been substantially cured within the ten (10) day period.

Bankruptcy. Either party may terminate this Agreement immediately upon provision of written notice if the other party becomes insolvent or files for bankruptcy.

Payment. FHI Clinical shall pay Contractor for all Services performed and reimburse Contractor for all costs and expenses incurred in accordance with the terms this Agreement and any Task Orders issued pursuant to this agreement, with payments to include all non-cancelable and non-avoidable costs incurred prior to termination but paid after the termination date.

Closeout. Upon termination of this Agreement, the Contractor shall cease performing all work not necessary for the orderly close-out of the Services or required by laws or regulations. FHI Clinical shall pay for all actual costs, including time spent by Contractor personnel, incurred to complete activities associated with the termination and close-out of the Projects, including the fulfillment of any regulatory requirements.

# ARTICLE 4. Minimum and Maximum

There is no minimum amount of this Agreement. The maximum amount of this Agreement is the cumulative amount of all Task Orders issued by FHI Clinical and completed by Contractor.

# ARTICLE 5. Ordering

a. Task Orders shall be issued for all goods and services ordered under this Agreement. All such Task Orders shall be subject to the terms and conditions of this Agreement. In the event of any conflict between this Agreement and any Task Order, this Agreement shall control.

b. Task Orders will be separately funded on either a Time and Materials, Fixed Unit price or Firm Fixed Price basis as mutually agreed to by the Parties. The Task Order also will contain a budget which will include the level of effort ordered, a description of the items ordered, quantity to be produced/provided and the approved Statement of Work.

c. Task Order budgets shall be submitted to FHI Clinical concurrent with Contractor’s proposal submission for a particular task order.

d. Each Task Order shall incorporate this Agreement by reference, and shall specify the following in the TO Statement of Work (Attachment A):

* List of Tasks Contractor is to perform
* List of deliverables
* Items or Level of Effort contemplated by the Statement of Work
* Location of performance of such services;
* Start date and delivery (completion) date for services;
* Reporting obligations, if any, to be prepared by Contractor, including the format, content, number of copies, time and place of delivery, and addressee(s);
* Additional Requirements as applicable, such as:
* Language(s) of reports and responsibility for translation;
* Key Personnel
* Items requiring Prior Approval

e. Each Task Order shall incorporate this Agreement by reference, and shall specify the following in the TO Price Budget (Attachment B):

* Description of products/services to be delivered
* Unit price(s) of products/services to be delivered
* Quantity to be delivered
* Extended price to be delivered
* Or, other such pricing information as requested in the Task Order request

f. Change Orders. Any change in the details of this Agreement or any Task Order awarded hereunder shall require a written amendment to the Agreement (a “Change Order”). For any Change Order that affects the scope of the regulatory obligations that have been transferred to Contractor, Contractor and FHI Clinical shall execute a corresponding amendment to the Task Order. FHI Clinical shall file such amendment where appropriate, or as required by law or regulation. Under no circumstances shall Contractor be obligated to perform work the cost of which exceeds its authorized funding amount unless written authorization is provided by FHI Clinical’s Authorized Point of Contact.

g. Notwithstanding the foregoing, Task Orders may be preceded by informal discussions and/or a formal request from FHI Clinical for a proposal from Contractor. Costs associated with such discussions or with preparing such proposals shall not be reimbursable under this Agreement unless otherwise approved in a Task Order.

# ARTICLE 6. PROJECT COORDINATION AND TECHNICAL DIRECTION

Technical and Administrative points of contact for each Task Order shall be defined in the specific Task Order award. Technical or programmatic direction provided by any FHI Clinical POC, other than the Authorized POC identified in the Task Order, is subject to written approval by the Authorized FHI Clinical POC.

# ARTICLE 7. Payments

Contractor shall invoice separately for each Task Order awarded under this Agreement with proper reference to the Task Order. Contractor will invoice FHI Clinical for Contractor’s fees in accordance with the payment schedule and monthly for its expenses and pass-through costs incurred in performing the Services. All invoice payments shall be made to Contractor within thirty (30) days of the invoice date if an invoice is delivered electronically, or from the date of receipt if FHI Clinical requests a paper invoice, except for prepayment and investigator invoices, which are due and payable upon receipt. Vendor shall invoice FHI Clinical at grsfinance@fhiclinical.com to the Attn: FHI Clinical Finance Department and be paid upon completion/acceptance of the required supplies/services. All invoices must reference a purchase order number. Expenses and pass-through costs will be supported by a detailed summary sheet. If any portion of an invoice is disputed, then FHI Clinical shall pay the undisputed amounts as set forth above and the parties shall use good faith efforts to reconcile the disputed amount as soon as practicable.

Any provisions contained within a Task Order that modify, conflict with or contradict any term or provision of this Agreement shall be deemed to be null and void. Upon completion of a Task Order, Contractor shall invoice for any remaining services rendered within 90 days. Payment will be made to the Contractor within 30 days of FHI Clinical’s receipt of appropriate invoice and any reasonable supporting documentation.

# **ARTICLE 8: CONFIDENTIALITY**

Confidential Information. Each Party and their Affiliates possess certain confidential and proprietary data and information, “Confidential Information” which each Party shall keep confidential. “Confidential Information” does not include information that is (i) already in the receiving party’s possession; (ii) part of the public domain through no fault of the receiving party; (iii) received from a third party authorized to provide it; (iv) independently developed by the receiving party; or (v) required by law to be disclosed provided each party shall notify the other party prior to making any required disclosure.

Obligations. Any Confidential Information exchanged hereunder shall be used by the receiving party, its affiliates and their employees only for purposes of performing the receiving party’s obligations hereunder.  Each party shall keep confidential all Confidential Information received from the other party or its affiliates, and will not disclose or publish Confidential Information to third parties without the other party’s prior written consent, provided, however, that the Receiving Party may disclose limited Confidential Information as necessary in furtherance of a project hereunder, provided that such third party is not a competitor of FHI Clinical and is bound by confidentiality obligations substantially similar to those set forth herein. These obligations of confidentiality and nondisclosure shall remain in effect for a period of five years after the completion or termination of this Agreement.

Publicity. Neither party will use the other party’s name in connection with any publication or promotion without the other party’s prior express written consent.

# ARTICLE 9: **OWNERSHIP AND INVENTIONS**

All data and information provided by Contractor to FHI Clinical as deliverables under this Agreement shall be the property of FHI Clinical, excluding Contractor Property (“FHI Clinical Property”). Any inventions that may evolve from FHI Clinical Property as the result of Services performed by Contractor under this Agreement shall belong to FHI Clinical and Contractor agrees to assign its rights in all such inventions and/or related patents to FHI Clinical, excluding that which relates to or constitutes Contractor Property.

Contractor and its affiliates own all right, title, and interest in and to the data, data models, databases, inventions, processes, know-how, copyrights, trade secrets, analytical methods, procedures and techniques, manuals, personnel data, pricing, financial information, technical expertise, software, and other intellectual property rights that (a) exist prior to the Effective Date or (b) are independently developed by or for Contractor and its affiliates; and any improvements, modifications and enhancements made to the foregoing during the term of this Agreement (collectively, “Contractor Property”).

Contractor Property shall also include its proprietary systems, platforms and applications (collectively, the “Contractor Technology”). To the extent that Contractor provides Services using the Contractor Technology, FHI Clinical grants to Contractor all rights necessary to use and manage the data entered into the Contractor Technology. Pursuant to the terms and conditions of this Agreement, FHI Clinical, if agreed herein, shall have the non-exclusive right, during the term specified herein, to use the Contractor Technology. Upon expiration or termination of this Agreement, FHI Clinical shall immediately cease use of the Contractor Technology. FHI Clinical shall have no right to use the Contractor Technology for any purpose other than specifically allowed under this Agreement. Contractor makes no representations or warranties as to the accuracy of the data entered into the Contractor Technology. Contractor does not warrant that use of the Contractor Technology will be uninterrupted or error free, nor does Contractor make any warranty as to the results to be obtained from the use of the Contractor Technology. Except as otherwise stated in this Agreement, THE CONTRACTOR Technology, THE SERVICES AND THE DELIVERABLES DELIVERED HEREUNDER ARE PROVIDED AND DISTRIBUTED ON AN “AS IS” BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

# ARTICLE 10: RECORDS AND MATERIALS

At the completion of the Services, Contractor will deliver to FHI Clinical all materials, information and all other data owned by FHI Clinical, regardless of the method of storage or retrieval, in such form as is then currently in the possession of Contractor, subject to the payment obligations set forth in Section 2 herein. Contractor, however, reserves the right to retain, at its own cost and subject to the confidentiality provisions herein, copies of all materials that may be neededto satisfy regulatory requirements or to resolve disputes regarding the Services.

# ARTICLE 11: RELATIONSHIP OF THE PARTIES

Independent Contractor. The parties hereto are independent contractors and nothing contained in this Agreement shall be construed to place them in the relationship of partners, principal and agent, employer/employee or joint venturers. Neither party shall have the power nor right to bind or obligate the other party, and neither party shall hold itself out as having such authority.

# ARTICLE 12: REGULATORY COMPLIANCE

General. Contractor agrees that its Services will be conducted in compliance with all applicable laws, rules and regulations and with the standard of care customary in the contract research organization industry. Contractor’s standard operating procedures will be used in performance of the Services, unless otherwise specifically stated in the Statement of Work. Contractor certifies that it has not been debarred under the United States Generic Drug Enforcement Act or any applicable law in any other country and that it will not knowingly employ any person or entity that has been so debarred to perform any Services under this Agreement. FHI Clinical further represents that it will cooperate with Contractor in taking any actions that Contractor reasonably believes are necessary to comply with the regulatory obligations that have been transferred to Contractor.

Data Protection. Both parties shall at all times abide by all applicable privacy laws and regulations, and this Agreement. In addition, Contractor shall at all times abide by its privacy policies and FHI Clinical’s instructions when processing personal data under this Agreement. If the Services will involve the collection or processing of personal data (as defined by applicable data protection legislation) within the European Union (“EU”), then FHI Clinical shall serve as the controller of such personal data, as defined by the General Data Protection Regulation (Regulation (EU) 2016/679 Regulation of the European Parliament and the Council on the Protection of individuals with regard to the processing of personal data and on the free movement of such data) (“GDPR”), and Contractor shall act only under the instructions of the FHI Clinical in regard to such personal data. If FHI Clinical is not based in the EU, FHI Clinical must appoint a third party to act as its local data protection representative or arrange for a co-controller established in the EU for data protection purposes in order to comply with GDPR as Contractor does not provide this service.

# Article 13: Audits and Regulatory Inspections.

FHI Clinical Audits. During the term of this Agreement, Contractor will permit FHI Clinical’s representatives (provided that (a) such representatives are not competitors of Contractor, and (b) prior to any audit FHI Clinical shall procure that its non-employee representative enter into a confidentiality agreement with Contractor on terms at least as stringent as the confidentiality terms herein) to examineor auditthe work performed hereunder and the facilities at which the work is conducted upon reasonable advance notice during regular business hours to determine that the Project assignment is being conducted in accordance with the agreed task and that the facilities utilized are adequate. FHI Clinical agrees that it shall not disclose to any third party any information ascertained by FHI Clinical in connection with any such audit or examination, except to the extent required by law or regulation.

Regulatory Inspections. Each party acknowledges that the other party may respond independently to any regulatory correspondence or inquiry in which such party or its affiliates is named. Each party, however, shall notify the other party promptly of any governmental or regulatory inspection or inquiry concerning any study or Project of FHI Clinical for which Contractor is providing Services. During any such inspection or inquiry, the parties agree to make reasonable efforts to disclose only the information required to be disclosed.

Audit and Inspection Costs. FHI Clinical shall reimburse Contractor for its time and expenses (including reasonable attorney fees and the costs of responding to findings) associated with any inspection, audit or investigation relating to the Services (“Inspection”) instigated by FHI Clinical or by a governmental authority, unless and to the extent such Inspection finds that Contractor breached this Agreement or any applicable law or regulation.

# Article 14: Non-solicitation of Employees

For the duration of the Work Order and for twelve (12) months after the termination of such Work Order, FHI Clinical will not, directly or indirectly, attempt to engage or solicit for engagement such Contractor Employees to provide services in any capacity whatsoever, including without limitation, as an employee, consultant, independent contractor or employee or representative of any third party, to FHI Clinical while such person remains an employee, subcontractor or consultant of Contractor. Notwithstanding the foregoing, FHI Clinical shall not be restricted from hiring any individual who initiates contact with FHI Clinical in response to publicly available job postings or advertisements.

# Article 15. HUMAN SUBJECTS

The welfare of human subjects (participants and patients) is the pre-eminent consideration of all work authorized by FHI Clinical. If the Statement of Work under this Agreement involves human subjects, Contractor agrees to take all reasonable and prudent care to protect patient/participant welfare. When necessary, this may include a review of study protocols by FHI Clinical staff and Institutional Review Boards. In addition, in accordance with the terms of this Agreement, Contractor’s effort may be reviewed from time to time by consultants retained by FHI Clinical. Contractor agrees to cooperate with all compliance efforts and will report any significant problems encountered during the course of the work to the FHI Clinical Technical Lead.

# Article 16. STANDARDS OF ETHICS AND BUSINESS CONDUCT

Contractor acknowledges and accepts FHI Clinical’ emphasis on the importance of accountability to those who benefit from its work, and the Parties’ mutual accountability to each other, to project collaborators, and to our sponsors. Contractor confirms its accountability to children and to all others whom its programs are intended to serve. In the case of children, Contractor will undertake to ensure that no individual with any history of crimes against children will be placed in a position involving direct interaction with children as part of the work under this Agreement.

Contractor acknowledges that FHI Clinical’ corporate policy requires that its activities be conducted within the letter and spirit of the law. By signing this Agreement, Contractor agrees to carry out the work of this project in a manner which is consistent with applicable law including those ethical practices that may be stipulated by FHI Clinical from time to time. Contractor, including any of its affiliates and their respective employees, agents, officers, or other members of its management will not make any payment, either directly or indirectly, of money or other assets to government or political party officials, candidates for public office, or representatives of other businesses or persons acting on behalf of any of the foregoing (referred to collectively as “Officials”) where such payment would constitute a violation of any law. In addition, regardless of legality, Contractor will make no payment either directly or indirectly to Officials if such payment is for the purpose of influencing decisions or actions with respect to the subject matter of this Agreement or any other aspect of FHI Clinical’ operations.

# Article 17: Anti-Bribery

Each party undertakes to the other party that:

(a) it will not, and will procure that each of its employees, directors, officers, affiliates, subcontractors and agents will not, (i) offer, promise or give an advantage to another person, or (ii) request, agree to receive or accept a financial or other advantage in violation of any anticorruption laws, rules, regulations and decrees applicable to the respective party (collectively, “Legislation”), including the United States Foreign Corrupt Practices Act, as amended, the United Kingdom Bribery Act 2010 and any implementing legislation under the OECD Convention Against the Bribery of Foreign Government Officials in International Business Transactions. It is each party’s responsibility to be familiar with, and comply with, the provisions of the applicable Legislation; and

(b) from time to time, at the reasonable request of the other party, it will confirm in writing that it has complied with its undertakings under Section 12(a) above and will provide any information reasonably requested by the other party in support of such compliance.

# ARTICLE 18: LIMITATION OF LIABILITY

Consequential Damages. Neither Contractor, FHI Clinical, their Affiliates nor any of their respective directors, officers, employees, subcontractors or agents shall have any responsibility or liability (including without limitation, contract, negligence and tort liability) for any loss of profits, opportunities or goodwill, or any type of incidental, indirect, special or consequential losses or damages in connection with this Agreement, a Party’s default or breach of this Agreement, or the Services performed by Contractor.

Damages Cap. In no event shall the collective, aggregate liability (including without limitation, contract, negligence and tort liability) of Contractor or its affiliates, directors, officers, employees, subcontractors or agents under this Agreement exceed the amount of fees actually received by Contractor from FHI Clinical under this Agreement.

# ARTICLE 19: INDEMNIFICATION

Contractor shall indemnify, defend and hold harmless FHI Clinical and its affiliates, and its and their directors, officers and employees (each, a “FHI Clinical Indemnified Party”), from and against any and all Losses, resulting or arising from any third-party claims, actions, proceedings, investigations or litigation relating to or arising from or in connection with this Agreement or the Services contemplated herein, to the extent such Losses are determined to have resulted solely from the gross negligence or intentional misconduct of an Contractor Indemnified Party.

Indemnification Procedure. A party seeking indemnification hereunder shall give the other party prompt notice of any such claim or lawsuit (including a copy thereof) served upon it and shall fully cooperate with the indemnifying party and its legal representatives in the investigation of any matter the subject of indemnification. The party seeking indemnification shall not unreasonably withhold its approval of the settlement of any claim, liability, or action covered by this Section 14, as applicable, will cooperate with counsel of the indemnifying or reimbursing party, and reserves the right to engage its own counsel to assist in the defense at the expense of the indemnifying party.

# Article 20 Cooperation; Disclosure of Hazards

FHI Clinical shall forward to Contractor in a timely manner all documents, materials and information in FHI Clinical’s possession or control necessary for Contractor to conduct the Services. FHI Clinical shall provide Contractor with all information available to FHI Clinical regarding known or potential hazards associated with the use of any substances supplied to Contractor by FHI Clinical, and FHI Clinical shall comply with all applicable laws and regulations, including without limitation those concerning the shipment of substances by the land, sea or air.

# Article 21 Force Majeure

In the event either party shall be delayed or hindered in or prevented from the performance of any act required hereunder by reasons of strike, lockouts, labor troubles, inability to procure materials or services, failure of power or restrictive government or judicial orders, or decrees, riots, insurrection, war, epidemics, pandemics, Acts of God, inclement weather or other reason or cause beyond that party’s control, then performance of such act (except for the payment of money owed) shall be excused for the period of such delay.

# Article 22: Notices and Deliveries

Any notice required or permitted to be given hereunder by either party shall be made in writing and via email if an email address is provided below. Notice shall be deemed given on the date received if delivered personally, by a reputable overnight delivery service, or three (3) days after the date postmarked if sent by regular, registered or certified mail, return receipt requested, postage prepaid to the following addresses:

|  |  |
| --- | --- |
| If to FHI Clinical: | Contractor: |
| Attention: Christopher Mikaelian  Title: Associate Director,  Global Contracts & Procurement  359 Blackwell Street, Suite 200  Durham, NC 27705  [cmikaelian@fhiclinical.com](mailto:cmikaelian@fhiclinical.com) | Attention:  Title:  Address #1  Address #2  City, State, Zip  Email |

# ARTICLE 23: INSURANCE

Contractor shall, at its sole cost and expense, obtain and maintain the following minimum insurance coverage and coverage limits: (1) workers compensation insurance (or its local equivalent) as required by the laws of the applicable jurisdiction, as well as employers’ liability coverage with minimum limits of $1,000,000 (or an equivalent value in local currency), covering all of Contractor’s employees who are engaged in any work under the Agreement; and any of the work is subcontracted, Contractor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the Agreement; (2) commercial general liability coverage on a comprehensive broad form on an occurrence basis in the minimum amount of $1,000,000 (or the equivalent value in the local currency) combined single limit (where the defense is in excess of the limit of liability); and (3) automobile liability covering all owned, hired, and non-owned vehicles used in connection with this Agreement, with a minimum combined single limit of $1,000,000 (or an equivalent value in local currency) bodily injury and property damage.  Such insurance shall be obtained from financially sound and reputable companies that are authorized to provide such coverage in the applicable jurisdiction. At FHI Clinical’s request, Contractor shall provide certificates of insurance evidencing the coverage required in this section.

General Requirements. All insurance amounts under this Section 23 may be obtained by full, individual primary policy amount; a primary amount of less than minimum requirement enhanced by a blanket excess umbrella policy; or a combination of either. FHI Clinical shall provide Contractor with a certificate of insurance upon request. FHI Clinical shall provide Contractor with at least thirty (30) days prior written notice of any cancellation or expiration of the above-required insurance or any material change to such insurance that causes it to no longer comply with the provisions above. In no event shall the obligations set out in this Section 23 in any way limit or reduce any of either party’s other obligations under this Agreement, including, without limitation, either party’s indemnification obligations set out in Section 19.

# Article 24: Binding Agreement and Assignment

This Agreement shall be binding upon and inure to the benefit of FHI Clinical and Contractor and their respective successors and permitted assigns. Neither party may assign any of its rights or obligations under this Agreement to any party without the express, written consent of the other party.

# Article 25: Choice of Law, Waiver and Enforceability

This Agreement shall be construed, governed, interpreted, and applied in accordance with the laws of the State of North Carolina, exclusive of its conflicts of law provisions. The failure to enforce any right or provision herein shall not constitute a waiver of that right or provision. Any waiver of a breach of a provision shall not constitute a waiver of any subsequent breach of that provision. If any provisions herein are found to be unenforceable on the grounds that they are overly broad or in conflict with applicable laws, it is the intent of the parties that such provisions be replaced, reformed or narrowed so that their original business purpose can be accomplished to the extent permitted by law, and that the remaining provisions shall not in any way be affected or impaired thereby.

# Article 26: Survival

The rights and obligations of FHI Clinical and Contractor, which by intent or meaning have validity beyond such termination (including, but not limited to, rights with respect to inventions, confidentiality, discoveries and improvements, indemnification, insurance, data protection and liability limitations) shall survive the termination of this Agreement.

# Article 27: Counterparts

This Agreement may be executed by electronic means (including .PDF) and in any number of counterparts, each of which when executed and delivered, shall constitute an original, but all of which together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.

# article 28: ORDER OF PRECEDENCE

In the event of a conflict or an inconsistency between provisions of this Agreement, the conflict or inconsistency will be resolved by giving precedence in the following order:

* The Schedule of the MSA;
* Any awarded Task Order
* Attachment A  General Terms and Conditions

# article 29: ENTIRE AGREEMENT

The Parties acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms. The Parties further agree that this Agreement, and amendment thereto, together with all of the referenced and incorporated attachments, including any executed Task Order, is the entire agreement between the Parties and that it supersedes all prior agreements, written or oral, relating to the subject matter of therein. No modification or amendment to this Agreement shall be effected by or result from the receipt, acceptance, signing or acknowledgment of any party’s purchase orders, order acknowledgements, invoices, shipping documents or other business forms containing terms or conditions in addition to or different from the terms and conditions set forth in this Agreement, and the terms of this Agreement shall supersede any provision in any purchase order or other document that is in addition to or inconsistent with the terms of this Agreement. A party’s general terms and conditions contained in any order acknowledgements, invoices, shipping documents or other business forms containing terms or conditions shall not be binding upon the other party by acceptance of such document, or the performance of services provided by such document, by the other party.

# Article 30. Attachments

A Statement of Work

B Pricing / Budget

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto through their duly authorized officers.

ACKNOWLEDGED, ACCEPTED AND AGREED TO:

|  |  |
| --- | --- |
| FHI Clinical Inc. | Contractor |
| By:  (signature) | By:  (signature) |
| Print Name: | Print Name: |
| Title: | Title: |
| Date: | Date: |
|  |  |

**ATTACHMENT A**

**Statement of Work**

ATTACHMENT B

Budget and Payment Schedule

**Reserved**

\*Price List above is a ceiling value.  Rates may be negotiated and agreed by the Parties in the Task Order