

SOFTWARE-AS-A-SERVICE AGREEMENT

This SOFTWARE-AS-A-SERVICE AGREEMENT (this “**Agreement**”) is entered into to be effective as of the date this Agreement is fully executed by the Parties (the “**Effective Date**”), by and between MSB School Services, LLC, a limited liability company, having an address of 1615 Scottsdale Dr., Bldg. 2, Ste. 200C, Leander, Texas 78641 (“**MSB**”); and Frisco ISD having an address of 5515 Ohio Dr 2nd Floor Frisco, TX 75035 (the “**District**”). MSB and the District are each referred to herein as a “**Party**” and, collectively, as the “**Parties**.”

WHEREAS, MSB is in the business of providing Medicaid consultation and billing services to school districts; and

WHEREAS, the District desires to access such services, and MSB desires to provide such services to the District, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Definitions.** Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in this Section 1.

“**Aggregated Statistics**” means data and information related to the District’s use of the Services that is used by MSB in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services.

“**Authorized User**” means the District’s employees, consultants, contractors, and agents (i) who are authorized by the District to access and use the Services under the rights granted to the District pursuant to this Agreement, and (ii) for whom access to the Services has been purchased hereunder.

“**District Data**” means, other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of the District or an Authorized User through the Services.

“**Documentation**” means MSB’s user manuals, handbooks, and guides relating to the Services provided by MSB to the District either electronically or in hard copy form.

“**IEP**” means the District’s enrolled students with an individualized education plan under the Individuals with Disabilities Education Act. Unless otherwise agreed in writing, the Parties shall use the most recent number of IEPs reported by the Texas Education Agency. Any time the Parties need to determine the number of the District’s IEPs hereunder, the number of the District’s IEPs shall be the number of “Special Education” students in the District as set forth in the Texas Education Agency’s most recent Student Program and Special Populations Report: see <https://rptsvr1.tea.texas.gov/adhocrpt/adspr.html>. Notwithstanding anything herein to the contrary, in the event the Initial Term hereof is three (3) years or more, then the Parties agree

that, after initial determination of the number of IEPs hereunder, such number shall not be subject to increase at any time during the Initial Term (but shall be subject to increase/re-evaluation as required hereunder at any time during any Renewal Term thereafter).

“MSB Intellectual Property” means the Services, the Documentation, and any and all intellectual property (including any software) provided to the District or any Authorized User in connection with the foregoing. For the avoidance of doubt, MSB Intellectual Property includes Aggregated Statistics and any information, data, or other content derived from MSB’s monitoring of the District’s access to or use of the Services, but does not include District Data.

“Payment Date” means the applicable payment date set forth on Exhibit C attached hereto, and incorporated herein by reference.

“Pricing Proposal” means the agreed pricing proposal set forth on Schedule 1 attached hereto, and incorporated herein by reference, as may be amended in accordance with Section 5.c.

“Services” means the software-as-a-service offering and any related implementation, training, or other support services to be provided by MSB hereunder, in each case as described in Exhibit A, which is attached hereto and incorporated herein by reference.

2. **Term.** The initial term of this Agreement begins on the Effective Date and, unless terminated earlier pursuant to this Agreement’s express provisions, will continue in effect until 1 year(s) following the Effective Date (the **“Initial Term”**). Upon expiration of the Initial Term, this Agreement will automatically renew for successive one (1) year term(s) unless either Party gives the other Party written notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term (each a **“Renewal Term”** and together with the Initial Term, the **“Term”**).
3. **Services and Grant of Rights.**
 - a. **Access to Services.** Subject to and conditioned on the District’s payment of Fees and compliance with all other terms and conditions of this Agreement, MSB hereby grants the District a non-exclusive, non-transferable right to access and use the Services during the Term, solely for use by Authorized Users in accordance with the terms and conditions herein. Such use is limited to the District’s internal use.
 - b. **Documentation License.** Subject to the terms and conditions contained in this Agreement, MSB hereby grants to the District a non-exclusive, non-sublicensable, non-transferable license to use the Documentation during the Term solely for the District’s internal business purposes in connection with its use of the Services.
 - c. **Use Restrictions.** The District shall not use the Services for any purposes beyond the scope of the access granted in this Agreement. The District shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of

- the Services or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; (iv) remove any proprietary notices from the Services or Documentation; or (v) use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.
- d. Reservation of Rights. MSB reserves all rights not expressly granted to the District in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to the District or any third party any intellectual property rights or other right, title, or interest in or to any MSB Intellectual Property.
- e. Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, MSB may monitor the District's use of the Services and collect and compile Aggregated Statistics. As between MSB and the District, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by MSB. The District acknowledges that MSB may compile Aggregated Statistics based on District Data input into the Services. The District agrees that MSB may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law.
- f. Third-Party Products. MSB may from time to time make products provided by third parties available to the District hereunder ("**Third-Party Products**"). All Third-Party Products are provided "as is" and any representation or warranty of or concerning any Third-Party Products is strictly between the District and the third-party owner, licensor or distributor of such Third-Party Products.
- g. Limited Warranty. MSB represents and warrants to the District that to MSB's knowledge as of the Effective Date, as accessed and used by the District or any Authorized User in accordance with this Agreement, the Services and materials provided by MSB under this Agreement will not infringe, misappropriate, or otherwise violate any intellectual property right or other right of any third party. THE FOREGOING WARRANTY DOES NOT APPLY, AND MSB STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS. The District's sole and exclusive remedy for a breach of the foregoing warranty is set forth in Section 8.
- h. DISCLAIMER OF OTHER WARRANTIES. EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, THE MSB INTELLECTUAL PROPERTY IS PROVIDED "AS IS" AND MSB HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. MSB SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. MSB MAKES NO WARRANTY OF ANY KIND THAT THE MSB

INTELLECTUAL PROPERTY, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET THE DISTRICT'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

- i. **Suspension.** Notwithstanding anything to the contrary in this Agreement, MSB may temporarily suspend the District's and any Authorized User's access to any portion or all of the Services if: (i) MSB reasonably determines that (A) there is a threat or attack on any of the MSB Intellectual Property; (B) the District's or any Authorized User's use of the MSB Intellectual Property disrupts or poses a security risk to the MSB Intellectual Property or to any other customer or vendor of MSB; (C) the District, or any Authorized User, is using the MSB Intellectual Property for fraudulent or illegal activities; (D) subject to applicable law, the District has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) MSB's provision of the Services to the District or any Authorized User is prohibited by applicable law; (ii) any vendor of MSB has suspended or terminated MSB's access to or use of any Third-Party Products or services required to enable the District to access the Services; or (iii) in the event the District fails to pay any amounts as and when due hereunder, and such failure continues for thirty (30) days or more (any such suspension described in subclause (i), (ii), or (iii), a "**Service Suspension**"). MSB shall use commercially reasonable efforts to provide written notice of any Service Suspension to the District and to provide updates regarding resumption of access to the Services following any Service Suspension. MSB shall use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Suspension is cured. MSB will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that the District or any Authorized User may incur as a result of a Service Suspension.
4. **District Responsibilities.** The District shall be responsible for performing the obligations and complying with the terms set forth in Exhibit B, which is attached hereto and incorporated herein by reference. Further, the District shall: (i) respond promptly to any requests from MSB for instructions, information, or approvals required by MSB to perform the Services, (ii) cooperate with MSB in its performance of the Services, and (iii) take all reasonable steps to prevent District-caused delays in MSB's provision of the Services. Without limiting the generality of the foregoing, the District acknowledges and covenants that MSB shall have quarterly access to District's direct program stakeholders for consultation, training and question and answer sessions. These meetings may take place in person or online at MSB's discretion, but in-person meetings shall take place at the District. The District acknowledges that regular and direct access with District program stakeholders is critical as best practices and regulations change and the District's awareness of these changes and best practices are critical hereunder.

5. Compensation.

- a. Fees. In consideration for the provision of the Services by MSB, the District shall pay MSB the compensation (collectively, the “*Fees*”), in the amounts set forth in the Pricing Proposal attached hereto, in accordance with this Agreement and the terms set forth in Exhibit C.
- b. Additional Payment Terms. The District agrees to pay all invoices within 30 days from the date of the invoice. MSB reserves the right to adjust the Fees and related percentages set forth in Exhibit C, or terminate this Agreement, in the event the Federal and/or State governments materially revise the protocols for submitting and/or paying Medicaid claims or as otherwise needed to comply with applicable law. Payments and disputes shall be governed by Texas Government Code Chapter 2251.
- c. Pricing Changes. Notwithstanding anything herein to the contrary, effective as of each anniversary of the Effective Date, MSB shall have the right to increase, amend, or otherwise modify Exhibit C and the Pricing Proposal; provided, that: (i) the Contingency Percentage (as defined in Exhibit C) shall not be increased by more than two percent (2%) higher than the Contingency Percentage in effect during the prior year, (ii) all other Fee increases shall not exceed more than eight percent (8%) of the Fees in effect the prior year, and (iii) MSB shall give the District ninety (90) days’ prior written notice of any such pricing change.

6. Termination.

- a. Mutual. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured sixty (60) days after the non-breaching Party provides the breaching Party with written notice of such breach.
- b. Termination for Non-Payment. MSB may terminate this Agreement upon written notice to the District in the event that the District fails to pay any amounts when due hereunder, and such failure continues for thirty (30) days after MSB’s delivery of written notice thereof.
- c. Payments Upon Termination. In the event the District terminates this Agreement prior to expiration of the Term, then the District agrees to immediately pay MSB the full amount of any Fees due upon termination, as identified in Exhibit C. The Parties hereby agree that the amounts described in this Exhibit C represent a reasonable estimate of the damages MSB will suffer as a result of the District’s early termination and that the amounts are not penal in nature. The District hereby waives all challenges to the payment of the amounts described in this Exhibit C as penal or unreasonable.
- d. Effect of Termination. Upon expiration or earlier termination of this Agreement, the District shall immediately discontinue use of the MSB Intellectual Property and the District shall delete, destroy, or return all copies of the MSB Intellectual Property and certify same in writing to MSB. No expiration or termination will affect the District’s obligation to pay all Fees

that may have become due before such expiration or termination or entitle the District to any refund of amounts previously paid hereunder. Any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

7. **Intellectual Property Ownership.**

- a. **District Data.** All District Data is and shall remain the proprietary information of the District and may not be copied or used in any way without the express written permission of the District. Notwithstanding the foregoing, the District hereby grants to MSB a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the District Data and perform all acts with respect to the District Data as may be necessary for MSB to provide the Services hereunder, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display District Data incorporated within the Aggregated Statistics. Within sixty (60) days following the District's written request upon termination of this Agreement, MSB will provide the District with all District Data in MSB's possession, in such a format that MSB deems appropriate.
- b. **MSB Intellectual Property.** The District acknowledges that: (i) as between the District and MSB, MSB owns all right, title, and interest, including all intellectual property rights, in and to the MSB Intellectual Property; and (ii) with respect to Third-Party Products, the applicable third-party providers own all right, title, and interest, including all intellectual property rights, in and to the Third-Party Products.
- c. **Feedback.** If the District or any of its employees or contractors sends or transmits any communications or materials to MSB by mail, email, telephone, or otherwise, suggesting or recommending changes to the Services or any MSB Intellectual Property, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("***Feedback***"), MSB is free to use (but is not required to use) such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback, without any attribution or compensation to any party, including any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever.

8. **Indemnification; Limitation of Liability.**

- a. **MSB Indemnification.** MSB shall indemnify, defend, and hold harmless the District from and against any and all losses, damages, liabilities, costs (including reasonable attorneys' fees) ("***Losses***") incurred by the District, solely to the extent resulting from any third-party claim, suit, action, or proceeding ("***Third-Party Claim***") arising out of MSB's breach of the limited warranty set forth in Section 3(g) above; provided that the District promptly notifies MSB in writing of such Third-Party Claim, cooperates with MSB, and allows MSB sole authority to control the defense and settlement of such Third-Party Claim. If a Third Party-Claim is made

- or appears possible, the District agrees to permit MSB, at MSB's sole discretion, to (A) modify or replace the Services, or component or part thereof, to make it non-infringing, or (B) obtain the right for the District to continue use. If MSB determines that neither alternative is reasonably available, MSB may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to the District. This Section 8(a) will not apply to the extent that the alleged infringement arises from: (A) use of the Services in combination with data, software, hardware, equipment, or technology not provided by MSB or authorized by MSB in writing; (B) modifications to the Services not made by MSB; (C) District Data; or (D) Third-Party Products.
- b. Sole Remedy. THIS SECTION 8 SETS FORTH THE DISTRICT'S SOLE REMEDIES AND MSB'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.
- c. Limitations on Liability. IN NO EVENT WILL MSB BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY, OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER MSB WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL MSB'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID AND AMOUNTS ACCRUED BUT NOT YET PAID TO MSB UNDER THIS AGREEMENT IN THE SIX MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
9. **Force Majeure**. Neither Party shall be deemed to have breached any provision of this Agreement or be liable to the other Party, for any failure or delay in fulfilling or performing any term of this Agreement (other than obligations to make payment as and when due hereunder), when and to the extent such failure or delay is caused by or results from events beyond the reasonable control of such Party, including: acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or internet equipment or service, pandemic, other catastrophes, or any other occurrences which are reasonably beyond the impacted Party's control (any such event, a "**Force Majeure Event**"). During the Force Majeure Event, the non-affected party may similarly suspend its performance obligations until such time as the affected party resumes performance. The affected party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized and shall resume performance of its obligations as soon as reasonably practicable after the removal of the cause.

10. Miscellaneous.

- a. Jointly Drafted. This Agreement shall be deemed to have been drafted by both Parties and, in the event of a dispute, shall not be construed against either Party.
- b. Relationship of Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.
- c. Further Assurances. If requested by one Party, the other Party shall execute and deliver such other documents and take such other action as may be necessary to affect the terms of this Agreement.
- d. Publicity. Neither Party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement, or otherwise use the other party's trademarks, service marks, trade names, logos, symbols, or brand names, in each case, without the prior written consent of the other Party; provided, however, that MSB may, without the District's consent, include the District's name and other indicia in its lists of MSB's current or former customers of MSB in promotional and marketing materials.
- e. Authority to Execute. Each Party represents and warrants to the other Party that the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the Party.
- f. Exclusions. MSB in no way implies, nor should any language herein be construed that MSB guarantees that the utilization of the Services by the District, or that MSB guarantees the District's compliance with State or Federal requirements relative to Medicaid reimbursements. No utilization of the Services by the District will constitute the formation of an attorney-client relationship between MSB and the District. THE SERVICES AND MSB INTELLECTUAL PROPERTY ARE PROVIDED "AS IS" AND MSB HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. MSB SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. MSB MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES, THE MSB INTELLECTUAL PROPERTY, OR RESULTS OF THE USE THEREOF, WILL MEET THE DISTRICT'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

- g. Notices. Except as otherwise expressly set forth in this Agreement, all notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (iii) on the date sent by email if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient, or (iv) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the addresses set forth below (or at such other address for a Party as shall be specified in a notice given in accordance with this Section):

If to DISTRICT:

5515 Ohio Drive
Frisco, TX 75035
Email: kolnie@friscoisd.org
Attention: Esther Kolni, General Counsel

If to MSB:

1615 Scottsdale Dr. Ste 200C
Leander, TX 78641
Email: contracts@msbconnect.com
Attention: Tabbatha Callaway

- h. FERPA. To the extent District grants MSB access to Personally Identifying Information (PII) or other protected FERPA data, or MSB has access to or stores or holds any such District PII or FERPA protected data, MSB agrees to: (i) access and use such data solely for the purpose of to provide the Services to District pursuant to this Agreement; (ii) maintain physical, technical, and administrative safeguards to protect said data against unauthorized access, use, or disclosure while it is accessible to or held by MSB; and (iii) not disclose said data to any third party, except: (x) to its employees, consultants or contractors who need to have access to such information and solely for purposes of providing Services to the District, provided that such recipients are bound by confidentiality provisions no less restrictive than those set out in this Agreement; and (y) to the extent required by a judicial order or other legal obligation, provided that, to the fullest extent permitted by law, MSB will promptly notify District of such a required disclosure to allow intervention by District (and will cooperate with the District) to contest or minimize the scope of the disclosure. Nothing in this contract shall require MSB to take measures in excess of those commonly accepted in the industry as commercially reasonable.
- i. Confidentiality. From time to time during the Term, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as “confidential” (collectively, “**Confidential Information**”). For the avoidance of doubt, MSB’s Confidential

- information includes the terms of this Agreement, and any materials disclosed by MSB in connection therewith, including any pricing or other terms of MSB's products and services. Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving Party at the time of disclosure; (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (d) independently developed by the receiving Party. The receiving Party shall not disclose the disclosing Party's Confidential Information to any person or entity, except to the receiving Party's employees who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations hereunder. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five years from the date first disclosed to the receiving Party; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.
- j. Non-Solicitation. During the Term of this Agreement and for a period of one (1) year thereafter, the District shall not, directly or indirectly, in any manner solicit or induce for employment any person who performed any work under this Agreement who is then in the employ of MSB. A general advertisement or notice of a job listing or opening or other similar general publication of a job search or availability to fill employment positions, including on the internet, shall not be construed as a solicitation or inducement for the purposes of this Section, and the hiring of any employee or independent contractor who freely responds thereto shall not be a breach of this Section.
- k. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.
- l. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of such State or any other jurisdiction) that would cause the

application of laws of any jurisdiction other than those of the State of Texas. Any legal suit, action, or proceeding arising out of or related to this Agreement or the Services provided hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Texas, in each case located in Williamson County, Texas, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

- m. Entire Agreement. This Agreement, together with all Exhibits attached hereto and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.
- n. Amendment; Waiver. This Agreement may be amended, modified, or supplemented only by an agreement in writing signed by each Party hereto. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- o. Assignment; Successors and Assigns. The District may not assign, transfer, or delegate any or all of its rights or obligations under this Agreement, including by operation of law, change of control, or merger, without the prior written consent of MSB. MSB may assign, transfer, or delegate any or all of its rights or obligations hereunder without the District's prior consent. No assignment shall relieve the assigning Party of any of its obligations hereunder. Any attempted assignment, transfer, or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.
- p. No Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.
- q. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

- r. Required Provisions.
- i. MSB verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If MSB has misrepresented its inclusion on the Comptroller's list, such omission or misrepresentation will void this Agreement.
 - ii. Pursuant to Texas Government Code Chapter 2270, if this Agreement is valued at \$100,000 or more and if MSB has at least ten (10) full-time employees, then MSB represents and warrants to the District that MSB does not boycott Israel and will not boycott Israel during the term of this Agreement. This section does not apply to a sole proprietorship.
 - iii. Pursuant to Texas Government Code Chapters 2274 and 809, if this Agreement is valued at \$100,000 or more and if MSB has at least ten (10) full-time employees, then MSB represents and warrants to the District that MSB does not boycott energy companies and will not boycott energy companies during the term of this Agreement. This provision does not apply to sole proprietorships.
 - iv. Pursuant to Texas Government Code Chapter 2274, if this Agreement is valued at \$100,000 or more and if MSB has at least ten (10) full-time employees, then MSB represents and warrants to the District that MSB does not discriminate against firearm entities or firearm trade associations and will not discriminate against firearm entities or firearm trade associations during the term of this Agreement. This provision does not apply to sole proprietorships.
 - v. Pursuant to Texas Government Code Chapter 2272, the District is prohibited from contracting with any abortion provider or an affiliate of an abortion provider whereby the provider or affiliate received something of value derives from state or local tax revenue. Any contract entered into by the District is void if the prospective entity has such prohibited affiliation or contractual relationship. By entering into this Agreement, MSB is certifying to the District that it does not have such affiliation or contractual relationship.
 - vi. Renewal of this contract (if appropriate) will be in accordance with the Texas Local Government Code Section 271.903 concerning the non-appropriation of funds for multi-year contracts. The District reserves the right to rescind the Agreement at the end of the District's fiscal year if it is determined that there are insufficient funds to extend the Agreement.
- s. Federal Terms. MSB agrees to comply with the Federal Terms and Conditions attached hereto as Exhibit D.
- t. No Waiver of Immunity. Except to the extent stated herein, nothing in this Agreement shall be construed as a waiver or relinquishment of any governmental immunities or defenses on behalf of the District, its trustees, officers, employees, or agents as a result of the execution of this Agreement or performance of the functions or obligations described herein.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement to be effective as of the Effective Date.

DISTRICT:

Frisco ISD _____

By: _____

Name: _____

Title: _____

Date: _____

MSB:

MSB SCHOOL SERVICES, LLC

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

DESCRIPTION OF SERVICES

As the consulting and billing agent, MSB agrees to adhere to all rules and regulations that pertain to the submission of claims under the Rules and Regulations that govern School-Based Medicaid reimbursement programs.

MSB is pleased to provide the following Services to the District:

IMPLEMENTATION

- Integrations Set-up and Support
- Documentation Decisions & Departmental Sandbox Meetings including all services areas (Personal Care, Related Services, Transportation, Nursing)
- Financial Planning (Goal Setting and Quarterly Check-ins)
- IEP Services Consultation including Parental Consent Procedures & Management, Personal Care Supplements Management, Prescriptions & Credentials Management

BILLING MANAGEMENT SERVICES

- Access to assigned local Program Specialist who will provide a single point of contact to manage your entire Medicaid to schools program
- Enrollment management for National Provider Identifier
- Enrollment management for Texas Provider Identifier
- Management of Fairbanks (STAIRS) account
- Maintain annual state training certifications for Cost Reporting, Random Moment Time Study (RMTS) Participant List and MAC
- Management of quarterly RMTS Participant List certification, including staff training and response management
- State and federal Medicaid information, liaisons, and updates: Timely and accurate information regarding the rules and regulations associated with Medicaid reimbursement to schools
- Advise school districts in contract negotiations with non-employees regarding contract sections related to payment terms and proper documentation for billing purposes
- Management of Provider credentials to ensure they are current per SHARS billing guidelines
- Management of Professional Oversight of applicable Providers (COTA, PTA, SLPA, Grandfathered SLP, Delegated Nursing Services) per SHARS billing guidelines
- Management of Specialized Transportation sessions and claiming
- Monitoring of Provider participation in the SHARS program (Clinical documentation)
- Processing of Medicaid claims using both paper logs and/or the electronic files generated by the school districts' health care practitioners and other qualified staff via X Logs™ service documentation

- Audit Provider clinical notation for SHARS compliance and deny or hold any sessions missing needed information
- Tracking and Reconciliation of submitted claims from Texas Medicaid & Healthcare Partnership (TMHP), including the resubmission of rejected claims and the appeal of denied claims
- Reports which show the status of Medicaid transactions, reimbursements and cataloging of electronic service delivery records
- Special reports as requested by the school districts
- Storage of Remittance and Status reports from TMHP

SOFTWARE/SUPPORT/DATA HOSTING

- School data hosted on a secure server
- X Logs™ web-based software usage
- Technical support – 5 days a week via toll free number, Live Chat, and/or email
- Supporting documentation (Online User Guides, Video Tutorials)
- X Logs™ software updates
- Training on SHARS documentation requirements for staff

COST REPORTING SERVICES

- Analysis, audit and appeal/corrections of the previous two years' Cost Reports as allowed by the State
- Management of the annual Cost Reporting Process
- Management of the salary allocation for SSAs and Co-ops
- Provision of Cost Report Analysis annually in order to compare what was financial trends, variances, and make subsequent recommendations to work toward the most accurate, compliant, maximized submission. Additional review of subsequent cost reports to ensure the settlement trend is consistent across years. If an appeal opportunity is identified, MSB advises the district of the appeal and prepares the documentation to submit to the state. If no appeal is needed, MSB supports the district in next steps to waive the appeal and receive funds.
- Provision of audit services to defend methodologies and provide information and reasoning for what was reported. Cost reports are subject to audit for up to 7 years beyond the state submission date.
- Provision of administrative, consulting, statistical and audit services
- Management of the audit process, including but not limited to: audit preparation, facilitation to assist with proper procedure and rigorous compliance, and when appropriate interfacing with State Medicaid Agencies and State Education Agencies
- Management of Medicaid Administrative Claiming (MAC) enrollment (if applicable)
- Management of MAC financial certification (if applicable)

- Management of the Certification of Funds process

WORKSHOPS/TRAINING

- Training on SHARS documentation requirements for staff
- RMTS Training
- Access to a trainer from MSB to provide support, tips, and guidance on compliant billing.

EXHIBIT B

DISTRICT RESPONSIBILITIES

As the Provider of Record, the school district agrees to provide information to MSB that adheres to all Rules and Regulations that govern school-based Medicaid programs. Below is a list of responsibilities that the District agrees to fulfill:

The District is responsible for the following:

- Maintain X Logs™ forms and fields related to certifications, licensures, etc. of all staff for whose services the District is seeking reimbursement
- Maintain individual education programs (IEP)s within the school-based Medicaid program guidelines for all services for which the District is seeking reimbursement
- Maintain necessary paperwork related to all Medicaid required referrals, orders or recommendations for services for which the District is seeking reimbursement
- Maintain accurate attendance records
- Maintain accurate cost data for covered services
- Provide timely and comprehensive service-delivery documentation and submit to MSB for billing and record retention.
- Submit necessary financial documentation for cost reports, appeals, and MAC to MSB within the agreed upon timeframes in order to allow for accurate processing, analyzation, and submission.
- Maintain annual state training certifications for Cost Reporting, Random Moment Time Study (RMTS) Participant List and MAC
- Provide accountability for timely billing documentation in order to ensure financial goals are communicated and achieved.

EXHIBIT C

FEES

GENERAL:

This Exhibit C incorporates by reference the Pricing Proposal attached hereto as Schedule 1. The Pricing Proposal and Fees described herein are subject to change as set forth in Section 5(c) of the Agreement.

In the event District is part of an Account with multiple districts (as indicated in the Pricing Proposal), all pricing will be subject to reallocation and adjustment by MSB upon any change in the amount of districts participating in the Account.

IMPLEMENTATION FEE:

Implementation Fee Payment Date: As set forth in the Pricing Proposal (if any).

To the extent set forth in the Pricing Proposal, the District shall pay MSB a one-time, flat implementation fee, in the amount set forth in the Pricing Proposal (the "**Implementation Fee**") as compensation for the estimated time and expense incurred by MSB implementing the structure, processes, and procedures necessary for the Parties' performance under this Agreement. The Implementation Fee (if any) shall be due and payable on as set forth in the Pricing Proposal.

BILLING MANAGEMENT SERVICES FEE:

Billing Management Services Fee Payment Date: As set forth in the Pricing Proposal (if any).

To the extent set forth in the Pricing Proposal, during the Term of this Agreement, the District shall pay MSB an annual Billing Management Services fee (the "**Billing Management Services Fee**"), in the amount set forth in the Pricing Proposal. The initial Billing Management Services Fee (if any) is due and payable on the as set forth in the Pricing Proposal, and thereafter on each yearly anniversary of such payment date during the Term (if any). Each Billing Management Services Fee (if any) is earned when due and is not refundable.

CONTINGENCY FEE FOR COST REPORT SERVICES:

The District shall additionally pay MSB an annual contingency fee (the "**Contingency Fee**"), in an amount equal to the greater of: (i) the minimum amount set forth in the Pricing Proposal (the "**Reconciliation Minimum**"), and (ii) the applicable Contingency Percentage multiplied by the Contingency Revenue (as such terms are defined below). All applicable Contingency Fees are payable to MSB regardless of whether the District receives the reimbursement(s) or other payments during or after the Term of this Agreement. For purposes of this Agreement: (i) the term "**Contingency Revenue**" means any and all amounts received by the District before, during, or after the Term, as a result of any Services performed by MSB, as designated in the Pricing Proposal, and (ii) the term "**Contingency Percentage**" means the applicable percentage set forth in the Pricing Proposal.

The minimum Contingency Fee is set forth in the Pricing Proposal. The initial minimum Contingency Fee payment shall be due within thirty (30) days following receipt of invoice therefor from MSB. MSB shall submit such invoice promptly following MSB's receipt of notification of an applicable reimbursement payment.

Unless otherwise indicated in the Pricing Proposal, RMTS Survey Appeal Support is not included in the Services, but may be provided for additional charges upon mutual agreement of MSB and District.

Additional charges may apply for Student Ratio Production, Ancillary Cost Processing and RMTS Survey Appeal Support should the District require additional support beyond what is identified in the Pricing Proposal.

LICENSE FEE:

License Fee Payment Date: As set forth in the Pricing Proposal (if any).

To the extent set forth in the Pricing Proposal, the District shall additionally pay MSB an annual licensing fee in the amount set forth in the Pricing Proposal (the “**License Fee**”), each year during the Term. The initial License Fee (if any) is due and payable as set forth in the Pricing Proposal, and thereafter on each yearly anniversary of such payment date during the Term (if any). Each License Fee (if any) is earned when due and is not refundable.

TRAINING/WORKSHOP PACKAGES:

The District shall additionally pay MSB for each Training/Workshop Package purchased by the District, in the amounts set forth in the Pricing Proposal (the “**Training Fees**”). Payment of the Training Fees for each Training/Workshop Package is due upon receipt of invoice for same at time of purchase and is not refundable.

The initial agreed Training/Workshop Packages (if any) and the corresponding Training Fees due in connection therewith are set forth in the Pricing Proposal, but the District may purchase additional Training/Workshop Packages as agreed in writing by the Parties, at MSB’s then-current prices.

PAYMENTS UPON TERMINATION OR EXPIRATION:

Upon the expiration or earlier termination of the Term, then the District agrees to immediately pay MSB: (i) all unpaid Billing Management Services Fees, License Fees, and Training Fees otherwise payable to MSB during the Term; and (ii) in the event of early termination, the estimated amount of the Contingency Fee that would be due to MSB had the Agreement not terminated early (as determined by MSB in good faith). If the Contingency Revenue received by District is higher than MSB’s estimated Contingency Fee, the District will pay the amount of the excess multiplied by the Contingency Fee rate stated above within 30 days of receipt of the excess amount. The District hereby waives all challenges to the payment of the amounts described in this paragraph as penal or unreasonable.

SCHEDULE 1

PRICING PROPOSAL

Please see attached Pricing Proposal.

EXHIBIT D

Federal Terms and Conditions

FEDERAL TERMS AND CONDITIONS

EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR) Contracts Under Federal Awards – Required Terms and Conditions

Pursuant to 2 CFR § 200.326, all contracts, including small purchases, awarded by the District (“DISTRICT”) and the DISTRICT’s subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable. Accordingly, in addition to other terms and conditions herein provided, the following provisions are incorporated into the Agreement, as applicable, and Contractor agrees to comply with these provisions:

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when the DISTRICT expends federal funds, the DISTRICT reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

- (B) All contracts in excess of \$10,000.00 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Pursuant to Federal Rule (B) above, when the DISTRICT expends federal funds, the DISTRICT reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor in the event Vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. The DISTRICT also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if the DISTRICT believes, in its sole discretion that it is in the best interest of the DISTRICT to do so. Vendor will be compensated for work performed and accepted and goods accepted by the DISTRICT as of the termination date if the contract is terminated for convenience of the DISTRICT. Any award under this procurement process is not exclusive and the DISTRICT reserves the right to purchase goods and services from other vendors when it is in the DISTRICT’s best interest.

- (C) Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 F.R. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Pursuant to Federal Rule (C) above, when the DISTRICT expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000.00 awarded by non-Federal entities must include a provision for compliance with the Davis- Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a

rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when the DISTRICT expends federal funds during the term of an award for all contracts and subgrants for construction or repair, Vendor will be in compliance with all applicable Davis-Bacon Act provisions.

- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000.00 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when the DISTRICT expends federal funds, Vendor certifies that Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by the DISTRICT resulting from this procurement process.

- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub-recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

EDGAR FEDERAL TERMS & CONDITIONS

Pursuant to Federal Rule (F) above, when federal funds are expended by the DISTRICT, Vendor certifies that during the term of an award for all contracts by the DISTRICT resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

- (G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (“EPA”).

Pursuant to Federal Rule (G) above, when federal funds are expended by the DISTRICT, Vendor certifies that during the term of an award for all contracts by the DISTRICT resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

- (H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (*see* 2 C.F.R. 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (“SAM”), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by the DISTRICT, Vendor certifies that during the term of an award for all contracts by the DISTRICT resulting from this procurement process, Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000.00 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (I) above, when federal funds are expended by MISD, Vendor certifies that during the term and after the awarded term of an award for all contracts by MISD resulting from this procurement process, the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence

an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.

- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

- (J) Contract Cost and Price - §200.323. (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals. (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles. (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

Pursuant to Federal Rule (J) above, when federal funds are expended by the DISTRICT, Vendor certifies that during the term of an award for all contracts by the DISTRICT resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (J) above.

- (K) Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment - §200.216. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to: (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). (ii) Telecommunications or video surveillance services provided by such entities or using such equipment. (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained. See Public Law 115-232, section 889 for additional information. See also §200.471.

EDGAR FEDERAL TERMS & CONDITIONS

Pursuant to Federal Rule (K) above, when federal funds are expended by the DISTRICT, Vendor certifies that during the term of an award for all contracts by the DISTRICT resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (K) above.

- (L) Domestic Preferences for Procurements - §200.322. (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. (b) For purposes of this section: (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Pursuant to the Federal Rule above, the DISTRICT has a preference for goods, products, or materials produced in the United when spending federal funds. Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (L) above.

- (M) Procurement of Recovered Materials. For all contracts greater than \$10,000.00, Vendor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act and any implementing regulations where applicable and provide such information and certifications as the DISTRICT may require to confirm estimates and otherwise comply. The requirements of Section 6002 includes (1) procuring only items designated in guidelines of the Environmental Protection Agency ("EPA") at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000.00 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.00; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to the Federal Rule above, when federal funds are expended by the DISTRICT, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c) (3) (A) (i)), the vendor certifies, by signing this document, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

- (N) Small, Minority, Women's Business Enterprises, and Labor Surplus Affirmative Steps. If any subcontracts are to be let by the Contractor, Contractor will be required to shall take affirmative steps to encourage participation by and facilitate contracting with small and minority businesses, women's business enterprises and labor surplus area business firms as set out in 2 C.F.R. 200.321. The affirmative steps include the following: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of

Commerce; (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

- (O) Records Retention Requirements for Contracts Involving Federal Funds. When federal funds are expended by DISTRICT for any contract resulting from this procurement process, Vendor agrees to comply with the record retention requirements detailed in 2 CFR § 200.333. Vendor further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.
- (P) Equal Employment Statement. It is the policy of DISTRICT not to discriminate on the basis of race, color, national origin, sex, religion, age, (applies to individuals who are 40 years of age or older), disability, or genetic information in its programs. Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.
- (Q) Certification of Access to Records - 2 C.F.R. § 200.336. Vendor agrees that the DISTRICT's Inspector General or any of their duly authorized representatives shall have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.
- (R) Copyright. All contracts paid from state or federal grants administered by the Texas Education Agency ("TEA") must retain copyright for TEA and for the federal government (if a federally funded contract) unless otherwise negotiated in writing with TEA. Pursuant to the provisions in 2 C.F.R. 200.315, title to intangible property vests in the DISTRICT as long as such property is used for authorized purposes. However, TEA and the federal awarding agency reserve a royalty-free, nonexclusive and irrevocable right to reproduce, public, or otherwise use the work for federal purposes, and to authorize others to do so.
- (S) Certification of Compliance with the Energy Policy and Conservation Act. When DISTRICT expends federal funds for any contract resulting from this procurement process, Vendor certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).
- (T) Certification of Compliance with Buy America Provisions. DISTRICT has a preference for domestic end products for supplies acquired for use in the United States when spending federal funds (purchases that are made with non-federal funds or grants are excluded from the Buy America Act).

EDGAR FEDERAL TERMS & CONDITIONS

Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act.

(U) For all professional services contracts paid with federal funds, the contract contains the following provisions:

1. All services will be completed during the effective dates of the contract.
2. All services will be paid only upon receipt of a proper invoice that coincides with the contract upon verification that the services were satisfactorily performed in accordance with the description in the contract. For ongoing services, payment may be made at the end of every month upon receipt of the invoice. Contractors will not be paid in advance.
3. The invoice provided by the contractor will include the list of services provided, dates of services, and location(s) where services were provided during the billing period.
4. The DISTRICT complies with the regulations pertaining to procurement in 2 C.F.R. § 200.318 - .323.
5. The DISTRICT complies with the provisions in 2 C.F.R. § 200.459 pertaining to allowable professional service costs.
6. The contract will identify the funding source(s) that will be charged for the services provided, including the specific amount and/or percentage of the total contract amount to be charged to each funding source.
7. The contract will identify and list only reasonable, necessary, and allocable services to be provided in accordance with the funding sources that will be charged.
8. The administrative costs charged to the grant in the contract must be reasonable and must comply with any statutory limitations for administrative costs specified in the federal program funding source.

(V) Applicability to Subcontractors. Vendor agrees that all contracts it awards pursuant to the contract shall be bound by the foregoing terms and conditions.

(W) The Vendor also represents and warrants compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances. It is further acknowledged that Vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted below:

1. Americans with Disabilities Act, P. L. 101-336, 42 U.S.C. section 12101, and the regulations effectuating its provisions contained in 28 C.F.R. Parts 35 and 36, 29 C.F.R. Part 1630, and 47 C.F.R. Parts 0 and 64.
2. Title VI of the Civil Rights Act of 1964, as amended (prohibition of discrimination by race, color, or national origin), and the regulations effectuating its provisions contained in 34 C.F.R. Part 100.
3. Title IX of the Education Amendments of 1972, as amended (prohibition of sex discrimination in educational institutions), and the regulations effectuating its provisions contained in 34 C.F.R. Part 106, if the Vendor is an educational institution.
4. Section 504 of the Rehabilitation Act of 1973, as amended (nondiscrimination on basis of handicapping condition), and the regulations effectuating its provisions contained in 34 C.F.R. Part 104.
5. Age Discrimination Act of 1975, as amended (prohibition of discrimination on basis of age), and any regulations issued thereunder, including the provisions contained in 34 C.F.R. Part 110.
6. Family Educational Rights and Privacy Act ("FERPA") of 1975, as amended (ensures access to educational records for students and parents while protecting the privacy of such records), and any regulations issued thereunder, including Privacy Rights of Parents and Students (34 C.F.R. Part 99), if the Vendor is an educational institution (20 U.S.C. 1232g).
7. Section 509 of H.R. 5233, as incorporated by reference in P. L. 99-500 and P. L. 99-591 (prohibition against the use of federal grant funds to influence legislation pending before Congress).

8. Pro-Children Act of 2001, which states that no person shall permit smoking within any indoor facility owned or leased or contracted and utilized for the provision of routine or regular kindergarten, elementary, or secondary education or library services to children (P. L. 107-110, Section 4303[a]). In addition, no person shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted and utilized for the provision of regular or routine health care or day care or early childhood development (Head Start) services (P. L. 107-110, Section 4303[b][1]). Any failure to comply with a prohibition in this Act shall be considered to be a violation of this Act, and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty, as determined by the Secretary of Education (P. L. 107-110, Section 4303[c][1]).
9. Buy America Act: DISTRICT, to the greatest extent practicable, has a preference for domestic end goods, products, or materials for supplies acquired for use in the United States when spending federal funds (purchases that are made with non-federal funds or grants are excluded from the Buy America Act). The Vendor certifies that it is in compliance with the Buy America Act in that each end product purchased under any federally funded supply contract exceeding \$2,500.00 is considered to have been substantially produced or manufactured in the United States. End products exempt from this requirement are those for which the cost would be unreasonable, products manufactured in the U.S. that are not of satisfactory quality, or products for which the agency head determines that domestic preference would be inconsistent with the public interest. The Vendor also certifies that documentation will be maintained that documents compliance with this requirement (FAR 25.1-25.2).
10. P.L. 103-227, Title X, Miscellaneous Provisions of the GOALS 2000: Educate America Act; P.L. 103-382, Title XIV, General Provisions of the Elementary and Secondary Education Act, as amended; and General Education Provisions Act, as amended.
11. Prohibition of Text Messaging and E-mailing while Driving during Official Federal Grant Business: Personnel funded from federal grants and their subcontractors and subgrantees are prohibited from text messaging while driving an organization-owned vehicle, or while driving their own privately owned vehicle during official grant business, or from using organization-supplied electronic equipment to text message or email while driving. Recipients must comply with these conditions under Executive Order 13513, "Federal Leadership On Reducing Text Messaging While Driving," October 1, 2009 (pursuant to provisions attached to federal grants funded by the U.S. Department of Education).
12. Trafficking Victims Protection Act of 2000 ("TVPA"), as amended (22 U.S.C. 7104[g]): In accordance with 2 C.F.R. 175, this award may be terminated unilaterally, without penalty, if Contractor or an employee of Contractor violates any of the applicable prohibitions of this award term through conduct that is either associated with performance under this award or imputed to Contractor using the standards and due process for imputing the conduct of an individual to an organization that are provided in 34 C.F.R. 85.630. Contractor and Contractor's employees may not (i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect; (ii) Procure a commercial sex act during the period of time the award is in effect; or (iii) Use forced labor in the performance of the award or subaward.
13. Fair Labor Standards Act (29 U.S.C. 207), as applicable, and their implementing regulations in 29 CFR 500-899.
14. Energy Policy and Conservation Act (42 USC 6321 et seq.; 49 CFR Part 18) and the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the EPCA

PRICING SHEET

We simplify Medicaid so you can impact students.

Account: TXFRISCO

District: Frisco ISD

IMPLEMENTATION SERVICES



- Success Roadmapping
- Integrations Set-up and Support
- Documentation Decisions & Departmental Sandbox Meetings
- Financial Services (Goal Setting and Quarterly Check-ins)
- IEP Services Consultation

\$0.00

X LOGS LICENSING FEE



- Billing & Documentation Tool
- Unlimited users
- Access to Client Care
- Virtual Assistant
- X Logs Resource Center
- Unlimited static reports
- IEP Service Analysis
- Progress monitoring
- Data Retention

\$161,352.00

BILLING MANAGEMENT SERVICES



- RMTS / Participant List
- Data Entry
- Provider Utilization of X Logs
- Administrative Support
- Integrations Monitoring
- Billing Management & Strategy

\$40,000.00

COST REPORT SERVICES



- Data collection and Financial Processing
- Preparation / Analysis of the cost report
- 3 Year Analyses Reviews
- 60 Day Corrections Recommendations & Support
- Desk Review / Audit Support
- Informal/Formal Appeal Recommendations & Support
- MAC Processing (if applicable)

3.00%

WORKSHOP/TRAINING SERVICES



- 2 hour sessions per 40 attendees

\$31,875.00

Discover how MSB can help you achieve your goals with our comprehensive range of services that cater to **every need**.

Pricing and services on this sheet apply to standard packages only. Customizations will be outlined in a formal proposal, which will supersede this pricing sheet. Pricing subject to change annually; minimums may apply

PROPOSAL

Date: 02/19/25

Account: TXFRISCO

District: Frisco ISD

MSB Representative: Tabbatha Callaway

tabbatha@msbconnect.com

512-698-7416

calendly.com/tabbatha

Special Education Population

Individual ISD: 5,976

Account Cost Allocation: 100.00%

Account Total: ¹ 5,976

Districts in Account: 1

Account Proposal

FREQUENCY	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
One-Time	Implementation Fee	1	\$0.00	\$0.00
Annual Fixed Fees				
Annual	License Fee	5,976	(\$36) \$215,136.00	\$161,352.00 25%
Annual	Training Fee A La Carte: Onsite	17	\$2,500.00	\$31,875.00 25%
Annual	Billing Management Fee	1	\$50,000.00	\$40,000.00 20%
Fixed Fees Total				\$233,227.00 Minimum: -
Contingency Fee	Contingency Fee ² Cost Reporting - MAC Cost Report Services ³		3.00%	3.00% Minimum: ⁴ \$77,525

Payment Date

One-Time Fee: Within 30 days of invoice

Fixed Fees: Within 30 days of invoice

Cost Report Minimum Fee: ⁵ Invoices issued monthly, divided into 12 equal installments.

Contingency Fee: Within 30 days of payment (if applicable)

Administration Fee Total

Frisco ISD

One-Time	\$0.00
Fixed Fees Total	\$233,227.00
Plus Contingency Fee	3.00% Minimum with allocation: \$77,525.00

Recurring Fees Total \$310,752.00

Allocation applied if applicable

Adjusted Special Education Student Count from the PEIMS count to the last Medicaid fiscal year total number of students with documentation in X Logs.

1 ACCOUNT TOTAL: Pricing is subject to change if there is a change in the total population of students.

2 CONTINGENCY FEE: There is no fee for interim billing services.

3 STUDENT RATIO PROCESSING: Standard service includes student data when derived from interim billing services. However, an additional fee will be assessed if the client requires service documentation to be processed in order to create ratios. This fee will cover the additional time, resources, and administrative efforts required for processing.

3 RMTS SURVEY APPEAL SUPPORT: There is no standard service support. Contact MSB Representative for pricing.

3 ANCILLARY COST PROCESSING: Standard service includes general ledger evaluation. PO's or other supplemental documentation is not included.

4 MINIMUM COST REPORT CONTINGENCY FEE: Payment covers up to \$2,584,166.67 in cost report reimbursements before contingency is applied to account. Estimated allocated share: \$2,584,166.67

5 COST REPORT MINIMUM PAYMENT: Unless otherwise agreed, our standard invoicing cycle is annual, with invoices issued in October for the upcoming service year. If services for a prior year remain outstanding and the October billing cycle has already passed, we reserve the right to issue an invoice immediately for the outstanding services. Payment for all invoices is due in accordance with the terms outlined in the agreement.

Signature: _____

CONFIDENTIALITY NOTICE: This message and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to which it was intended.

EXPIRATION: This proposal is good for a period of up to 90 days from the date of issue. [View Original Document Hash: 9e20b282d88f435db37ff3e75d494ac5](#)

Document Details

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