

EQUIPMENT LEASE AGREEMENT

This Equipment Lease Agreement (this “Agreement”), dated as of _____, 20__ (the “Effective Date”), is made by and between Saint Luke’s Health System, Inc., a Kansas nonprofit corporation with a place of business at 901 E. 104th St. Kansas City, MO 64131 (“Saint Luke’s”), on its behalf and on behalf of the Facilities (as hereinafter defined), and [Company Name] with a place of business at [address] (“Company”).

RECITALS

WHEREAS, Saint Luke’s is an integrated healthcare delivery system consisting of various acute care hospitals and medical facilities which are subsidiaries or affiliates of Saint Luke’s; and

WHEREAS, Saint Luke’s Facilities provide medical care to patients in the communities they serve, and Saint Luke’s has identified a need to lease certain medical equipment in order to allow the Facilities to provide high-quality and efficient patient care services; and

WHEREAS, Company possesses certain medical equipment and is willing to lease to Saint Luke’s, for use by the Facilities, rights to use that certain equipment, on the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual benefits and covenants set forth herein, the parties hereto, intending to be legally bound hereby, agree as follows.

1. Facilities. Company acknowledges and agrees that this Agreement is entered into by Saint Luke’s for its benefit and for the express, intended benefit of its subsidiaries, Affiliates and for such entities for which it performs contracting services (where Saint Luke’s, via a written agreement has been granted or delegated contracting authority)(“Client Entity”). As used herein, an “Affiliate” means, with respect to a specified entity, an entity that directly or indirectly through one or more intermediaries, controls or is controlled by Saint Luke’s or is under common control with Saint Luke’s, in each case where the term “control” means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by membership, by contract interest or otherwise. Herein, each Saint Luke’s subsidiary, Saint Luke’s Affiliate and each Client Entity shall be a “Facility” and collectively the “Facilities”. Company acknowledges and agrees each of the Facilities shall be and constitutes an intended third party beneficiary of the representations, warranties, covenants and agreements of the Company contained herein, and each of the Facilities shall be entitled to enforce the terms and provisions of this Agreement to the same extent as Saint Luke’s. Company acknowledges that Saint Luke’s and each Facility are separate legal entities; none of the obligations or liabilities of a Facility shall be treated as a joint obligation or liability of Saint Luke’s or any other Facility. Company acknowledges and agrees that each Affiliate or Client Entity that is listed on Exhibit A with respect to the lease of Equipment identified therein, shall be solely responsible to Company for lease payments associated with the leased Equipment, and that each such Affiliate and Client Entity is solely responsible for its compliance with all of the terms herein. Herein all rights of Saint Luke’s, and all warranties made by Company and all Company obligations hereunder, shall apply equally to each Facility that is the renter of the Equipment hereunder.

2. Equipment Lease.

2.1. Equipment. Company hereby leases the equipment set forth on Exhibit A, attached hereto and incorporated herein (the "Equipment"), to Saint Luke's, for use by each Facility identified on Exhibit A, to support the Facility's provision of professional medical services to patients at the Facility's location during the Term (as defined in Section 4.1 below), on an exclusive basis (meaning that the Facilities exclusively get to use the Equipment during the Term). Exhibit A shall set forth each piece of Equipment to be leased, and each Facility and Facility location at which the Equipment will be placed and leased.

(a) Company will cause the Equipment to be delivered to each Facility identified in Exhibit A within [redacted] business days following the Effective Date. Company is solely responsible for all shipping and transport of the Equipment to each Facility, and bears all risk of loss to the Equipment until such time as the Equipment is placed at the applicable Facility. All Equipment will be received by a Facility subject to its right of inspection and rejection. Neither Saint Luke's nor any Facility shall not be deemed to have accepted any Equipment until thirty (30) days after the first billable clinical patient use. No Fees (as defined herein) shall commence herein with respect to the Equipment prior to acceptance. In addition, prior to acceptance, Saint Luke's/Facilities shall bear no cost associated with the rejection of any nonconforming Equipment, including, but not limited to restocking fees, shipping fees, etc. If after thirty (30) days of the Equipment being made ready for use, Saint Luke's is not prepared to "go live" with the Equipment due to mechanical issues, payment of the monthly Fee is not due to Company until thirty (30) days from the "go live" date.

(b) Company may not remove the Equipment from a Facility during the Term of this Agreement, the Equipment is leased for the exclusive use of the applicable Facility during the Term.

2.2. Title and Maintenance. During the Term of this Agreement, Company grants to Saint Luke's and the applicable Facility the right to use the Equipment on the terms and conditions hereinafter set forth. Title to the Equipment, including any improvements thereto, shall be and remain in Company at all times. Saint Luke's agrees to take no action that it knows would adversely affect Company's title to or interest in the Equipment. At all times, Saint Luke's shall use the Equipment hereunder in a careful and proper manner, and in accordance with all applicable Company written specifications, which Company shall provide to Saint Luke's with the Equipment. All maintenance, repair and replacement, if necessary, of the Equipment shall be performed by Company, including, where necessary, the replacement or substitution of parts, and Company shall be responsible for the cost of any such maintenance, repair or replacement (such costs being included in the Fees to be paid hereunder), except for such repairs as are occasioned by the gross negligence, reckless or willful conduct of Saint Luke's, which shall be the financial responsibility of Saint Luke's. Saint Luke's shall not undertake any repairs or modifications to the Equipment without the express written consent of Company. Saint Luke's shall promptly notify Company of any defective or malfunctioning Equipment.

2.3. Licenses and Permits. Each party shall obtain and maintain throughout the Term all licenses, permits and other registrations required for the performance of their respective functions hereunder, including, but not limited to, the lawful possession and operation of the Equipment under all applicable laws and regulations.

2.4. Liens, Encumbrances. Saint Luke's shall not directly or indirectly create or suffer to exist any mortgage, security interest, attachment, writ or other lien or encumbrance on the Equipment, and will promptly and at its own expense, discharge any such lien or encumbrance which shall arise, unless the same shall have been created or approved by Company.

3. Representations, Warranties and Covenants.

3.1. Authority. Company hereby represents that (i) it is duly incorporated or organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization; (ii) it has the power, authority and legal right to enter into this Agreement and to lease the Equipment contemplated hereunder, and that it has taken all necessary corporate action to authorize execution of this Agreement; (iii) all necessary consents, approvals and authorizations of governmental authorities and other persons required to be obtained related to the performance of this Agreement and lease of the Equipment have been obtained and all approvals will be in full force and effect during the Term; and (iv) the execution and delivery of this Agreement will not materially conflict with or violate any material requirement of any applicable law or regulation and does not materially conflict with or constitute a material default under any contractual obligation enforceable against it.

3.2. Title to Equipment. Company represents and warrants that it has sufficient right, title and interest in the Equipment to fulfill its obligations under this Agreement.

3.3. Equipment Warranties. Company represents and warrants that: (i) the Equipment it leases under this Agreement shall be free from defects in workmanship and material at the time of delivery and conform to the manufacturer's published specifications and Company's representations, warranties and covenants regarding the functions and uses for which the lease of the Equipment has been marketed to, and relied upon by Saint Luke's and the Facilities; (ii) the Equipment shall comply with all applicable federal, state and local laws rules and regulations, and (iii) none the Equipment shall violate any intellectual property or other right of any third party. Company further represents and warrants that throughout the Term, Company shall, and all Equipment shall conform to, be and shall remain in compliance with, all applicable federal, state and local laws, regulations, ordinances, regulations and codes, including, but not limited to: (i) those relating to the privacy or security of information including, but not limited to, HIPAA (as hereinafter defined) and corresponding regulations; (ii) Medicare and Medicaid law; and (iii) all laws and regulations relating to the licensing, regulation and accreditation of health care facilities, (inclusive of the requirements of The Joint Commission or other private accreditation organizations that have established standards relevant to medical care). Company further warrants that Equipment leased to each Facility, shall if required by law or regulation, have received FDA approval or will have 510K clearance prior to delivery to Facility and that all Equipment delivered to Facility will be in compliance with FDA regulations. Company shall reimburse Saint Luke's and the Facilities for all costs and expenses associated with any breach of this warranty, including by example only corrective action, withdrawal or recall requested by Company or by any governmental entity.

4. Payment Provisions.

4.1. Fee.

(a) In consideration of the lease of the Equipment, Saint Luke's shall pay Company a fixed per month rental amount for each piece of Equipment ("Fee") as outlined in Exhibit A. The parties expressly agree that the Fee shall be a fixed fee, and in no event shall the Fee be a "per click" or "per use" fee/rate. Company shall not increase the Fee during the Term of this Agreement, the Fee shall be held firm. The fair market value of the Equipment upon the Effective Date is listed in Exhibit A.

(b) Saint Luke's shall pay the Fee to Company monthly, within forty-five (45) days of submission by Company of an undisputed invoice. In the event the Term of this Agreement includes any portion of a month which is not an entire calendar month, either at the beginning or end, the Fee for such month shall be determined on a *pro rata* basis.

(c) Saint Luke's represents that, unless otherwise indicated, Saint Luke's and the subsidiaries are tax-exempt entities under Sections 501(a) and 501(c)(3) of the Internal Revenue Code of the United States, as amended and under state law. A copy of the tax exemption certificate for Saint Luke's and the applicable subsidiary will be provided to Company upon request. Company shall take all action required to cause Saint Luke's lease of the Equipment to be treated as tax-exempt transactions, and in no event shall Saint Luke's or the subsidiaries be responsible for any sales, use, property, gross receipts, or similar taxes levied against any part. Company further agrees that the Fee will not, and the amounts to be invoiced hereunder (unless expressly agreed by Saint Luke's) will not, include any tax with respect to which exemption is available or indicated by Saint Luke's for it or otherwise, or any Federal Excise tax with respect to which Saint Luke's has furnished an applicable tax exemption determination letter.

4.2. **Reasonableness of Fee.** The parties hereto represent, warrant and acknowledge that the Fee paid and payable hereunder by Saint Luke's to Company has been determined by the parties through good-faith and arm's length bargaining, and is commercially reasonable and reflects the fair market rental/lease value of the Equipment; the aggregate Fee does not exceed that which is reasonably necessary to accomplish the commercially reasonable business purpose of the Equipment lease. The Fee has not been determined in a manner that takes into account, either directly or indirectly, the volume or value of any referrals from Saint Luke's to Company (or its affiliates), or from Company (or its affiliates) to Saint Luke's. No amount paid or payable hereunder is intended, nor shall be construed to be, an inducement or payment for referral of or recommending referral of, patients by Saint Luke's to Company (or its affiliates), or by Company (or its affiliates) to Saint Luke's, or for ordering, leasing or purchasing any item, product or service covered by any governmental or private health care payment program. In addition, the Fee charged hereunder does not include any discount, rebate, kickback or other reduction in charge.

5. Term and Termination.

5.1. **Term.** This Agreement shall have an initial term of one (1) year from the Effective Date, and will automatically renew for successive one (1) year terms unless terminated as provided for herein (the "Term").

5.2. **Termination.** This Agreement shall terminate upon the happening of any of the following events:

(a) **Termination Without Cause.** Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party hereto.

(b) **Termination for Cause.** Either party may terminate this Agreement for cause if the other party fails to cure any material breach of this Agreement within thirty (30) days after receiving written notice of such breach.

(c) Change of Law and Material Adverse Financial Effects. If, in the opinion (the “Opinion”) of the legal counsel of either party, it is determined that it is more likely than not that applicable legislation, regulations, rules or procedures (collectively referred to herein as a “Law”) in effect or to become effective as of a date certain, or if a party receives notice (the “Notice”) of an actual or threatened decision, finding or action by any governmental or private agency or court (collectively referred to herein as an “Action”), which Law or Action, if or when implemented, would: (a) result in a party’s continued performance under the terms of this Agreement to have a material adverse financial effect on such party; or (b) have the effect of subjecting a party to civil or criminal prosecution under state and/or federal laws, or other material adverse proceeding or effect, including without limitation, jeopardizing a party’s status as a recipient of governmental or private funds for the provision of health care services or its status as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any successor statute, on the basis of their participation herein, then such party shall provide such Opinion or Notice to the other party. The parties shall attempt in good faith to amend this Agreement to the minimum extent necessary in order to comply with such Law or to avoid the Action, as applicable. If, within ninety (90) days of providing written notice of such Opinion or such Notice to the other party, the parties hereto acting in good faith are unable to mutually agree upon and make amendments or alterations to this Agreement to meet the requirements in question, or alternatively, the parties mutually determine in good faith that compliance with such requirements is impossible or unfeasible, then this Agreement shall be terminated without penalty, charge or continuing liability upon the earlier of the following: (i) the date one hundred and eighty (180) days subsequent to the date upon which any party provides the Opinion or Notice to the other party, or (ii) the effective date upon which the Law or Action prohibits the relationship of the parties pursuant to this Agreement.

5.3. Effect of Expiration or Earlier Termination. Upon the expiration or earlier termination of this Agreement, no party shall have any further obligations hereunder except for: (a) obligations accruing prior to the date of expiration or termination; and (b) obligations, promises or covenants contained herein which are expressly made to extend beyond the Term. In the event of any termination of this Agreement, Saint Luke’s shall pay to Company all accrued but unpaid Fees due to Company under this Agreement that are due and owing as of the date of termination. At the end of the Term, Saint Luke’s shall, or shall cause the Facilities to return the Equipment to Company, in the same condition as when received by Saint Luke’s, reasonable wear and tear excepted. Facilities shall cease use of the Equipment upon termination or expiration of this Agreement.

5.4. Termination During the Initial Term. In the event that either party terminates this Agreement during the Initial Term, the parties shall not enter into a new agreement that contains substantially the same terms (or covers substantially the same services on different terms) as those set forth in this Agreement for a period of at least one (1) year from the Effective Date.

5.5. Holdover. If this Agreement is terminated or expires, and should the Facilities retain possession of and continue use of the Equipment, the parties agree that this Agreement shall continue in effect until termination and return of the Equipment to Company, with such holdover being on the same terms and conditions herein.

6. Regulatory; Compliance.

6.1 Non-Exclusion. Company represents and warrants that neither it, nor any of its employees, agents or other contracted staff (collectively referred to in this Section as “employees”) has been or is about to be excluded from participation in any Federal Health Care Program (as defined herein). If at any time during

the Term of the Agreement, Company: (i) is charged with a criminal offense related to Federal Health Care Program or is proposed for exclusion from participation in Federal Health Care Program or procurement or non-procurement programs; or (ii) has notice that any of its employees has been charged with a criminal offense related to Federal Health Care Program or is proposed for exclusion, Company agrees to notify Saint Luke's immediately. In the event of any such notification, Saint Luke's shall have the right to terminate the Agreement immediately upon notice to Company. For the purpose of this paragraph, the term "Federal Health Care Program" means the Medicare program, the Medicaid program, TRICARE, any health care program of the Department of Veterans Affairs, the Maternal and Child Health Services Block Grant program, any state social services block grant program, any state children's health insurance program, or any similar program. Further, in the event that Saint Luke's becomes aware that any criminal charges or exclusions as described above are pending or proposed against Company, or that any employee of Company may otherwise be in violation of (or put Company in violation of) the Agreement, Saint Luke's reserves the right in its sole discretion to terminate the Agreement or to exclude such individual/party or parties from participation in the Agreement, or to take other appropriate steps to protect patients and state and Federal program funds.

6.2 **Anti-Kickback Statute.** Each party is responsible for compliance with all applicable laws, rules, regulations, or ordinances which may relate to its respective activities and responsibilities under this Agreement. The purpose of the Agreement is to enter into a commercially reasonable and fair market value arrangement. The parties in good faith believe that this Agreement fully complies with the provisions of 42 U.S.C. 1320a-7b (the Medicare/Medicaid "Anti-Kickback Statute"). Neither Saint Luke's nor Company are, by virtue of this Agreement or otherwise, willfully offering, paying, soliciting, or receiving remuneration in return for referring an individual to or from each other for the furnishing of any item or service reimbursed under the Medicare or other federal or state health care programs. The Fees hereunder do not take into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under Medicare or a state health care program. The parties intend for this Agreement to comply with the Anti-Kickback Statute and the equipment rental safe harbor thereunder (42 C.F.R. §1001.952(c)); this Agreement shall be interpreted and construed therewith.

6.3 **Notices.** Company shall monitor adverse event and other failure reports or complaints and promptly advise Saint Luke's of information indicating a significant trend of adverse events, consumer or practitioner complaints, or failures or injuries related to the use of the Equipment. Company will promptly provide Saint Luke's (via letter, e-mail or other similar form of communication) with any and all information regarding any safety announcements, and clinical information regarding the Equipment. Company shall immediately provide Saint Luke's with a copy of all communications from Company and/or the FDA advising of a recall, request for a recall, market withdrawal, or safety alert relating to the Equipment. Company shall provide Saint Luke's with written notice of any Class I recall, whether voluntary or initiated by the FDA, affecting any of the Equipment within twenty-four (24) hours of Company's receipt of any such request for a recall, or shorter period of time provided in the recall strategy. Company shall reimburse Saint Luke's for any costs actually incurred by Saint Luke's in complying with any recall instructions and processes provided by Company. In addition, Company shall, at no additional cost to Saint Luke's, replace any such Equipment which are the subject of a recall with Company products which have been approved by Saint Luke's as being clinically equivalent to the recalled Equipment.

6.4 **Equal Opportunity.** **The parties shall abide by the requirements of 41 C.F.R. 60-1.4(a), 60-300.5(a) and 60-741.5(a), and the posting requirements of 29 C.F.R. Part 471, appendix A to subpart A, if applicable. These regulations prohibit discrimination against qualified individuals based on their**

status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

6.5 Anti-Corruption Laws. Company represents, warrants and covenants that: (i) it is fully aware of and shall comply with, and in the performance of its obligations to Saint Luke's shall not take any action or omit to take any action that would cause either party to be in violation of: (a) the U.S. Foreign Corrupt Practices Act, (b) any other applicable anti-corruption laws, or (c) any regulations promulgated under any such laws; (ii) neither it nor any Company personnel is an official or employee of any government (or any department, agency or instrumentality of any government), political party, state owned enterprise or a public international organization such as the United Nations, or a representative or any such person (each, an "Official"); (iii) neither it nor any Company personnel has offered, promised, made or authorized to be made, or provided any contribution, thing of value or gift, or any other type of payment to, or for the private use of, directly or indirectly, any Official for the purpose of influencing or inducing any act or decision of the Official to secure an improper advantage in connection with, or in any way relating to: (a) any government authorization or approval involving Saint Luke's, or (b) the obtaining or retention of business by Saint Luke's; and (iv) it shall not in the future offer, promise, make or otherwise allow to be made or provide any such payment and it shall take all lawful and necessary actions to ensure that no such payment is promised, made or provided in the future by it or any Company personnel.

6.6 Access to Books and Records. To the extent that Section 952 of the Omnibus Reconciliation Act of 1980 (the "Act") and the regulations promulgated thereunder are applicable to this Agreement, Company, and any organizations related to it performing any of the duties pursuant to this Agreement valued at Ten Thousand Dollars (\$10,000) or more in any twelve (12)-month period shall, until four (4) years after the furnishing of services pursuant to this Agreement, comply with requests of the Comptroller General, the Secretary of the Department of Health and Human Services, and their duly authorized representatives for access (in accordance with Section 952 of the Act) to any contract or agreement between Company and Saint Luke's for services and/or Equipment and to any contract or agreement between Company and such related organizations, as well as the books, documents and records of Company and its related organizations, if any, which are necessary to verify the cost of the services and/or Equipment provided. Company shall promptly advise the Saint Luke's of such request, and shall promptly provide to Saint Luke's copies of any documents so provided. No party shall be deemed to have waived any attorney-client or work-product privilege by virtue of this Section.

6.7 Referral Relations. In relation to and for purposes of compliance with the "Stark" law, 42 U.S.C. § 1395nn, Company represents and warrants that: (i) it is not a physician owned distributor or "POD", (ii) it is not owned by one or more providers or physicians (as defined by the Stark law, and (iii) there are no physicians or providers with investment interests in the Company, in the case of (ii) and (iii) where any such ownership or investment interest would cause this arrangement to create a financial relationship between a "DHS entity" and a physician. In the event the above representation and warranty changes so that it is inaccurate, Company will provide Saint Luke's with prompt written notice and the parties will negotiate any amendments to this Agreement necessary to ensure compliance with the Stark law. Further, in order for Saint Luke's to ensure compliance with applicable federal laws and regulations, Company will provide to Saint Luke's in writing a list of all relationships between the Company and any Saint Luke's employed or affiliated

physician or family member of a physician. These relationships would include but not be limited to, existing consulting agreements, existing service agreements, research projects, other professional engagements, training center or demonstration site agreements, charitable donations, ownership, investment or royalty interests and the like. Company will update its list on an annual basis and provide the written update to a designated representative of Saint Luke's.

6.8 Facility Policies. Company agrees to comply with the applicable Facility's policies and with Saint Luke's Code of Business and Ethical Conduct made known to Company, as they may be modified from time to time. All of Company's representatives, agents, employees, and contractors that enter any Facility premises on behalf of Company in the performance of this Agreement must do so only after reasonable advance notice, must be acceptable to Facility in such Facility's sole discretion, and must comply with all Facility policies and procedures while on site, including any vendor registration policies. All of Company's representatives, agents, employees, and contractors will be required to, and shall comply with, the terms of this Agreement and Company will take all steps to ensure and be responsible for such compliance.

7. Confidentiality.

7.1 Confidentiality Obligations. During the course of performance of the Agreement, it is expected that Company will learn of certain confidential and proprietary information and/or trade secrets ("Confidential Information") of Saint Luke's and/or the Facilities. Saint Luke's Confidential Information includes, but is not limited to, (i) all information concerning Saint Luke's business affairs, proprietary information and trade secrets, internal reports, patient lists, marketing plans, purchasing information, pricing information, strategic plans, sales tracings, financial and other business information and clinical information, (ii) all information Company knows or reasonably should know is to be or should be treated as confidential, and (iii) all materials that are marked as confidential or proprietary. All Confidential Information is and remains, Saint Luke's property. Company warrants that it will not, directly or indirectly, (a) use any Confidential Information for any purpose that is not directly and solely related to the performance of its obligations under the Agreement, (b) publish or disclose any Confidential Information to any third party, or (c) use the Confidential Information in any manner for its business development or any commercial purposes. For sake of clarity, Company expressly agrees that it will not monetize or use any Confidential Information (regardless of whether it is aggregated or de-identified). Company shall maintain the Confidential Information in a secure manner that is at least as protective as that which Company uses with respect to its own confidential and proprietary information, but in no event shall Company provide Confidential Information less than reasonable protection. Company will take such action as necessary, including agreements with or instructions to its employees and agents, to enable it to perform its obligations with respect to Confidential Information. Company expressly acknowledges and agrees that any documents, data and information ("Information") that it discloses or provides to Saint Luke's pursuant to this Agreement (whether provided directly or indirectly, in whatever form or medium, and regardless of whether such Information is marked as "confidential") will become, upon disclosure/provision, Saint Luke's property and may be used and disclosed by Saint Luke's for any purpose. Company hereby warrants that it has the legal right and ability, and without violation of any (i) third party intellectual property right, or (ii) duty of confidentiality owed to a third party, to disclose and provide its Information to Saint Luke's and that, upon such disclosure/provision, Saint Luke's will be the owner of such Information.

7.2 Remedies. Both parties acknowledge that a breach or attempted breach of Section 7 may cause Saint Luke's irreparable damage and that damages at law will be an insufficient remedy. Accordingly, both parties agree that Saint Luke's shall be entitled as a matter of right to injunctive relief in the Sixteenth Circuit

Court of Jackson County, Missouri or the United States District Court for the Western District of Missouri, without necessity of bond or proof of damages, in order to restrain the breach or threatened breach of Confidential Information.

7.3 HIPAA; Unauthorized Disclosures. Company warrants that its lease and provision of the Equipment (and any related services hereunder) does not require possession or use of, or access to, any Protected Health Information (“PHI”) or Electronic Protected Health Information (“ePHI”), each as defined by HIPAA. Company shall not seek to receive, possess, access or maintain any PHI or ePHI on behalf of Saint Luke’s. Company further agrees that, if deemed necessary by Saint Luke’s in relation to any such Company access or in relation to any functions or duties of Company under this Agreement, Company will execute a business associate agreement (“BAA”) that complies with the Health Insurance and Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. §1320d, et seq., and the regulations promulgated there under (“HIPAA”); failure of Company to execute the Saint Luke’s provided BAA will be a breach of this Agreement by Company and, without limitation of Saint Luke’s rights, Saint Luke’s may immediately terminate this Agreement without penalty. Without limitation of the above, in the event of an unauthorized use or disclosure by Company, its employees, agents or subcontractors of personally identifiable information possessed or held by Saint Luke’s or Facilities (collectively “Personal Information”), Company shall take the following action with respect to such unauthorized use or disclosure: (a) promptly communicate the nature of the unauthorized use or disclosure to those persons and/or entities whose Personal Information was or likely was involved in an unauthorized use or disclosure (“Affected Individuals”) via written correspondence approved by Saint Luke’s legal counsel; (b) if the unauthorized use or disclosure of Personal Information could lead to identity theft or related financial risk to the individual subject(s) of such Personal Information, purchase identity theft monitoring services from a major credit reporting service for each Affected Individual offered such service by Saint Luke’s provided such Affected Individual agrees in writing to waive all claims against Saint Luke’s for such disclosure for a period of time mutually agreed to by Saint Luke’s and Company, but not less than three (3) years; (c) comply with any and all laws, regulations, governmental orders or other governmental requirements applicable to such unauthorized use or disclosure of Personal Information; and (d) take all action commercially reasonable to mitigate any damages of Saint Luke’s relating to the unauthorized use or disclosure of Personal Information.

8. Indemnification; Insurance.

8.1 General. Company shall indemnify, defend (with competent counsel reasonably acceptable to Saint Luke’s) and hold harmless Saint Luke’s, its Affiliates, the Client Entities and Saint Luke’s subsidiaries and each such entity’s respective directors, officers, medical staff, agents, and employees (each, an “Indemnitee”) from and against any third party claims, demands, investigations, suits, or causes of action (each, a “Claim”) asserted against any Indemnitee with respect to actual or alleged losses, liabilities, injuries, deaths, damages, fines, penalties, costs, and expenses (including attorneys’ and other professionals’ fees and expenses incurred by any Indemnitee and/or Company in connection with the defending against the subject Claim), relating to or arising out of: (i) breach by Company or its employees, agents, subcontractors, sub-manufacturers or assigns of the representations, warranties or other terms of this Agreement; (ii) Company’s or its employees, agents, subcontractors non-compliance with or violation of any federal, state or local law, rule, regulation or ordinance; (iii) acts or omissions of Company or its employees, agents, subcontractors, sub-manufacturers, assigns, or its or their employees that are negligent, willfully wrongful; (iv) any claims, actions, suits or governmental investigations or proceedings, brought against or involving any of them, which relate to or arise

out of the manufacture or lease of the Equipment by Company including product liability claims (including negligence and breach of warranty claims, as well as traditional product liability claims); and/or (v) any claim arising out of or relating to Company or its employees' or agents' release, use or transmittal of data in violation of this Agreement or any BAA then in effect.

8.2 Infringement. Company represents and warrants that no Equipment infringes upon any trademark, patent, copyright, or any similar property rights. Company shall indemnify, defend (with competent counsel reasonably acceptable to Saint Luke's) and hold harmless each Indemnitee from and against any Claims asserted against any Indemnitee based upon any assertion that (i) any Indemnitees' use of Equipment infringes on any patent, copyright, trade secret or other proprietary or contractual right of any third party; and/or (ii) the marketing, advertising, use or sale of any Product constitutes an infringement of any patent, trademark, copyright, or other proprietary right of any third party. Company at its own expense and option shall either (i) procure for Saint Luke's the right to continue using the Equipment; (ii) replace the infringing Equipment with non-infringing Equipment acceptable to Saint Luke's; or (iii) accept return of the enjoined Equipment and removal of such Equipment from this Agreement.

8.3 Procedure. Saint Luke's or the applicable Indemnitee will provide Company ("indemnitor") with timely notice of any Claim for which indemnification will be sought hereunder; provided, however, that failure to provide timely notice shall relieve the indemnitor of its duty to indemnify only to the extent such delay prejudices the indemnitor. Saint Luke's or the applicable Indemnitee will permit the indemnitor to assume full responsibility for the investigation of, preparation for, and defense of any Claim for which indemnification is sought, provided Saint Luke's or the applicable Indemnitee may, in its discretion, assist in such indemnity. The indemnitor may not compromise or settle any such Claim without Saint Luke's prior written consent. Saint Luke's and/or the applicable Indemnitee shall have the right in its sole discretion and at its sole expense to select and obtain representation by separate legal counsel.

8.4 Insurance. During the Term and for not less than five years thereafter, Company shall, as applicable, self-insure and/or maintain commercial general liability insurance written on an occurrence form, insuring against damages because of bodily injury, including death, property damage and personal and advertising injury and include without limitation, coverage for blanket contractual liability, broad form property and fire damage legal liability, premises and operations liability and product recall and cyber security insurance. The minimum limits of insurance shall be \$1,000,000 per occurrence, \$3,000,000 general annual aggregate and \$3,000,000 products and completed operations annual aggregate. Company shall maintain workers' compensation insurance as required by law. Company shall provide certificates of coverage and any necessary endorsements evidencing compliance with these obligations to the other party upon reasonable request. Except to the extent that Insured is self-insured, the insurance company(ies) providing the coverage described herein must have a rating of a least A- by A.M. Best Company, Inc., or a substantially equal rating (indicating excellent financial strength) by another nationally-recognized insurance rating organization. All self-insured retentions or deductibles shall be the sole responsibility of Company and are subject to approval by Saint Luke's in its reasonable judgment. Insurance effected or procured by Company shall not reduce or limits Company's obligation to indemnify and defend the Indemnitees as contemplated in this Section 8.

9. Miscellaneous.

9.1 Entire Agreement; Amendments. This Agreement contains the complete and full understanding of the parties with respect to the subject matter hereof. All amendments or additions hereto must be in writing and signed by both parties to the Agreement.

9.2 Non-Waiver. The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to that term or any other term of this Agreement.

9.3 Assignment. Neither this Agreement nor any of the rights or duties under this Agreement may be assigned or delegated by either party without the express written consent of the other party hereto.

9.4 Independent Contractors. The relationship of the parties hereunder shall at all times be that of independent contractors.

9.5 Notices. Any notice given pursuant to this Agreement shall be in writing and shall either be personally delivered or sent by certified mail, return receipt requested, postage prepaid, or by means of another regularly scheduled delivery service customarily utilized for business correspondence that provides equivalent proof of delivery and receipt, fees prepaid, addressed to the appropriate party as set forth in the preamble hereto, or to such other address as a party shall designate by notice to the other, given in accordance with this Section. Notice shall be deemed to have been given (i) when received if personally delivered, or (ii) on the delivery date indicated on the return receipt.

9.6 Severability. In the event any provision of this Agreement is held to be invalid, illegal or unenforceable, then the invalidity, illegality, or unenforceability of such specific provision herein shall not be held to invalidate any other provision herein, which other provision shall remain in full force and effect unless the removal of the invalid, illegal, or unenforceable provision destroys the legitimate purposes of this Agreement in which event this Agreement shall be null and void.

9.7 Counterparts. This Agreement may be executed in more than one counterpart, and each executed counterpart shall be considered as the original.

9.8 Further Actions. Each of the parties agrees that it shall hereafter execute and deliver such further instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the terms hereof.

9.9 Governing Law. The laws of the State of Missouri govern this Agreement and venue shall be in the state courts located in Jackson County, Missouri or, if applicable, the federal courts located in the Kansas City, Missouri.

Signature Page Follows



IN WITNESS WHEREOF, the parties have signed this Agreement on the date set forth above.

SAINT LUKE'S HEALTH SYSTEM, INC.

[COMPANY]

Signature

Signature

Name

Name

Title

Title

Date

Date

Exhibit A
EQUIPMENT

Facility (Name/Address)	Equipment (Description; Model No, etc...)	Monthly Lease Fee	Equipment FMV
A. [Facility]			
B. [Facility]			
C. [Facility]			
D. [Facility]			