

PATHWAY MEDICAL LABORATORIES
SERVICES AGREEMENT

THIS SERVICES AGREEMENT (“Agreement”) is effective the 23rd of June, 2020 (the “Effective Date”) by and between the City of Saint Paul, through its St. Paul Fire Department with its principal place of business (“Facility”), located at the address(es) in Exhibit A, and Park Nicollet Methodist Hospital d/b/a PathWay Medical Laboratories ("PathWay"), a Minnesota nonprofit corporation with its principal place of business at 6500 Excelsior Blvd, St. Louis Park MN 55426. PathWay and Facility are sometimes collectively referred to as the “Parties” and individually referred to as a “Party.”

WHEREAS, Facility requires laboratory Services (as defined below) from a certified laboratory;

WHEREAS, PathWay provides laboratory Services through Park Nicollet Methodist Hospital's laboratory; and

WHEREAS, Facility desires to engage PathWay to provide the Services and PathWay desires to provide the services to Facility.

NOW, THEREFORE, in consideration of the mutual covenants and premises contained herein, the parties agree as follows:

ARTICLE 1
PathWay Responsibilities

- 1.1 SERVICES TO BE PROVIDED BY PATHWAY. PathWay agrees to provide or arrange for the provision of the following services to Facility:
- a. Arrange for the provision of general diagnostic services for the Facility as requested.
 - b. See Exhibit B for services provided (“Services”). All exhibits are incorporated into this Agreement by reference.
- 1.2 RESPONSIBILITIES OF PATHWAY. PathWay, during the term of this Agreement, shall be responsible for assuring that all requested laboratory, clinical and diagnostic services are provided by qualified, professional personnel, and that all appropriate specimens, data and patient reports are handled and submitted to Facility in a prompt, conscientious and confidential manner.

ARTICLE 2
Facility Responsibilities

- 2.1 RESPONSIBILITIES OF FACILITY. Facility, during the term of this Agreement, shall have the following responsibilities:
- a. Upon receipt of reports from PathWay as to results of Services, promptly notify each patient's attending physician of said results, and file the report and associated data in each patient's medical record.
 - b. Assist patient, if necessary, in arranging for laboratory services.

- c. Facility is responsible for maintaining laboratory orders signed by a credentialed provider.
- d. Facility is responsible for providing laboratory orders when requested by PathWay.
- e. Laboratory orders must contain the following information to be Considered a valid order for PathWay to act on:
 - Patient first name and last name
 - Patient date of birth
 - Order signed by a credentialed provider
 - Payable diagnosis code (ICD-10)
- f. Facility represents and warrants that it will obtain all necessary consents and authorizations under applicable law for PathWay to share the Lab Services results of any Facility patients or employees with Facility.

ARTICLE 3 Compensation and Billing

- 3.1 FINANCIAL ARRANGEMENTS. Pathway will be responsible for directly billing resident/third party payors for Services rendered. Any residents in a current Medicare Part A status will be billed back to the facility at the current Medicare reimbursement rates. Billing procedures are further defined in the attached Exhibit C. Any amounts to be paid to PathWay hereunder have been determined by the parties through good faith and arm's length bargaining to be the fair market value of the services to be rendered hereunder. No amount paid or to be paid hereunder is intended to be, nor shall it be construed as, an offer, inducement or payment, whether directly or indirectly, overtly or covertly, for the referral of patients by PathWay to Facility, or by Facility to PathWay, or for the recommending or arranging of the purchase, lease or order of any item or service. In addition, no amount paid or advanced hereunder includes any discount, rebate, kickback or other reduction in charge. For purposes of this section, Facility and PathWay shall include each such entity and any affiliate thereof.

ARTICLE 4 Term and Termination

- 4.1 TERM OF AGREEMENT. Unless earlier terminated as provided in this Agreement, the term of this Agreement will commence on the Effective Date and will continue for an initial term of 1 year ("Initial Term"). At the end of the Initial Term, this Agreement will automatically renew for additional subsequent 1 year terms (each a "Renewal Term").
- 4.2 TERMINATION. This Agreement may be terminated by either Party for any reason or no reason at all upon providing at least thirty (30) days (or lesser amount if mutually agreed to by the Parties) advance written notice to the other Party.

ARTICLE 5 Insurance

5.1 INSURANCE REQUIREMENTS. Each Party covenants to maintain at its sole cost and expense, comprehensive liability with respect to its operations and its business against such casualties, contingencies and risks and in amounts not less than is customary in the case of prudent persons engaged in the same or similar activities and as is adequate to protect itself against damages legally obligated to pay to others as a result of the Party's negligence. Such coverage shall include, at a minimum, general and professional liability insurance in the amount of \$1,000,000 per occurrence with a per annum aggregate of at least \$3,000,000. This coverage may include appropriate self-insurance provisions as may be reasonable for similarly situated parties. Pathway recognizes that Facility is a self-insured entity for any insurance requirements under the laws of Minnesota. Each party shall furnish to the other party certificates or other satisfactory evidence that such insurance is in effect upon request.

ARTICLE 6 Indemnification

6.1 LIABILITY. Each party agrees that it will be responsible for its own acts and/or omissions and those of its employees, representatives and agents in carrying out the terms of this Agreement and the results thereof to the extent authorized by law and shall not be responsible for the acts and/or omissions of the other party and the results thereof. The liability of the Facility, its employees, representatives and agents shall be governed by provisions of Minnesota Statutes Chapter 466, et. seq. and other applicable law.

ARTICLE 7 Confidentiality

7.1 CONFIDENTIALITY OF PATIENT RECORDS. Facility will own all patient medical records, including all inpatient and outpatient records and information developed in the normal course of providing the Services. All records, medical information, and/or other information that relates to or identifies individuals derived from or obtained during the course of the performance of the Services under this Agreement will be treated by the Parties as

confidential so as to comply with all applicable state and federal laws and regulations regarding confidentiality of patient records, and will not be used, released, disclosed, or published to any party other than as required or permitted under applicable laws. PathWay and Facility will not use or disclose other than the minimum necessary protected health information required to accomplish the Services, in compliance with applicable state and federal laws and regulations, including but not limited to the Standards for Privacy and Security of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164, promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). Each Party acknowledges that it is a “covered entity” under HIPAA if required.

- 72 OTHER CONFIDENTIAL INFORMATION. During this Agreement, the Parties may have access to or become acquainted with confidential information relating to each other's business, including, without limitation, patient lists, proprietary information, trade secrets and other intellectual property, non-public information, clinical, marketing, personnel and administrative policies, procedures, manuals and reports, and written agreements, including this Agreement. The Parties acknowledge and understand the importance of keeping such information confidential and agree never to use, or to disclose such information to any third party except in performing under this Agreement, or as may be required by a court or administrative order or, or as required under Minnesota Law with respect to PathWay, to an entity that controls, is controlled by or is under common control with, directly or indirectly, PathWay. If disclosure is ordered by a court or administrative order, the Party subject to the order will immediately notify the other Party. Upon termination of this Agreement, each Party will immediately return to the other Party all records or other tangible documents which contain, embody or disclose, in whole or in part any confidential information.
- 73 CONSENT. If Facility employee testing is requested, Facility represents and warrants that it will obtain all necessary consents and authorizations under applicable law for PathWay to share the Lab Services results of any Facility employee with the Facility.

ARTICLE 8

Miscellaneous

- 81 INDEPENDENT CONTRACTORS. The Parties are at all times independent contractors. Nothing in this Agreement (or in the relationship between the Parties) will be construed to make either Party or any of their officers, agents, or employees an employee of, or joint venturer with the other for any purpose whatsoever, including without limitation, participation in any benefits or privileges given or extended by a Party to its employees.
- 82 PATHWAY EMPLOYEES. Anyone providing Services possesses the credentials required to provide Services. Those providing Services are at all times employees or agents of PathWay, Park Nicollet, or HealthPartners and not employees or agents of Facility or the Facility.
- 83 NON-EXCLUSIVITY. PathWay may provide and enter into agreements to provide Services to or on behalf of other organizations; provided, however, that such arrangements do not interfere or conflict with PathWay's performance, duties and obligations under this Agreement.

84 ASSIGNMENT. A Party may not assign this Agreement or any right or obligation under this Agreement, including by a change in ownership or control of one Party, without the prior written consent of the other party. PathWay may, however, assign this Agreement to one of its affiliates or related entities without notice and/or consent from Facility. If this Agreement is appropriately assigned, this Agreement will bind the Parties and their successors and assigns.

85 NOTICES. Unless otherwise specified in this Agreement, any notice or other communication must be in writing and sent electronically via e-mail or through First Class United States mail to:

If to Facility:
St. Paul Fire Department
645 Randolph Ave
St. Paul, MN 55102

If to PathWay:
PathWay Medical Laboratories
Attn: Support Services Supervisor
Meadowbrook Suite # E206
6500 Excelsior Blvd
St. Louis Park, MN 55426

With a copy to:
HealthPartners General Counsel
P.O. Box 1309
Minneapolis, MN 55440-1309

86 REQUIRED PERMIT. If any governmental permit, certificate or license (“Permit”) is required for the proper and lawful provision of Services, or if a failure to procure such a Permit might, or would in any way affect the operations of the Facility, then PathWay, at its expense, will duly procure and thereafter maintain such a Permit. Facility, at its sole cost and expense, will at all times comply with the requirements of Permit. PathWay will comply with all requirements of any legally-constituted public authority.

87 COMPLIANCE WITH LAW. The parties will comply with all applicable federal, state, or local laws and ordinances and all lawful orders, rules, regulations and guidelines of any duly constituted authority, including but not limited to, social security and income tax withholding laws, unemployment compensation laws, environment, nondiscrimination, safety and health laws.

88 SEVERABILITY AND NON-WAIVER. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions remain valid and binding. The rights and remedies of the Parties are cumulative and not alternative. Neither the failure nor any delay by any Party in exercising any right under this Agreement or the documents referred to in this Agreement will operate as a waiver of such right, and no single or partial exercise of any such right will preclude any other or further exercise of such right or the exercise of any other right.

89 TRADEMARK USAGE. Neither Party may, without the prior written consent of the other Party, use in advertising, publicity nor otherwise, the names, trade names, trademarks, service marks or logos of the other Party or refer to the existence of this Agreement in any press releases, advertising, or materials distributed to parties who are not beneficiaries of this Agreement.

- 8.10 MEDICARE ACCESS TO RECORDS. As and to the extent required by law, including 42 C.F.R. § 420.302, upon the written request of the Secretary of Health and Human Services, the Comptroller General or any of their duly authorized representatives, each Party shall make available those contracts, books, documents and records necessary to verify the nature and extent of the costs of providing services under this Agreement. In the event either Party uses a subcontractor to provide services the value or cost of which is \$10,000 or more over a twelve-month period, the Party shall assure that its agreement with such sub-contractor obligates the sub-contractor to make available those contracts, books, documents and records necessary to verify the nature and extent of the costs of providing services under such sub-contract. Due to the various activities of the organizations within the HealthPartners family, such obligations extend for 4 years from the expiration or termination of this Agreement..
- 8.11 SIGNATURES AND COUNTERPARTS. This Agreement may be executed and delivered in any number of counterparts, in the original or by facsimile or electronic transmission, each of which so executed and delivered will be considered an original and all of which will constitute one and the same instrument. The parties agree that the electronic signature of a party to this Agreement be valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties further agree that any document (including this Agreement and any attachments or exhibits to this Agreement) containing, or to which there is affixed, an electronic signature shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written when printed from electronic files. For purposes hereof, “electronic signature” also means a manually signed original signature that is then transmitted by any electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g. via PDF) of an original signature. Any party’s failure to produce the original signature of any electronically transmitted signature shall not affect the enforceability of this Agreement.
- 8.12 INTEGRATION. This Agreement, its attachments and schedules, as may be amended from time to time, contain the entire understanding between the Parties relative to the subject matter of this Agreement, and replaces and supersedes any and all prior and contemporaneous oral or written agreements, representations and discussions relating to such subject matter, including any existing agreement at any Facility included in Exhibit A.
- 8.13 AMENDMENT. This Agreement may only be amended by a writing signed by the Parties.
- 8.14 FORCE MAJEURE. No Party will be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, including making any payment required when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following events: (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (regardless whether war is declared), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (i) shortage of adequate power or transportation facilities; (j) or any other events or circumstances not within the reasonable control of the party affected whether similar or dissimilar to any of the foregoing (“Force Majeure Events”).

NOTICE OF FORCE MAJEURE EVENT AND PERFORMANCE TEMPORARILY

EXCUSED. If a Force Majeure Event occurs, the Impacted Party is temporarily excused from performance for as long as performance remains impossible, but only if that Party: (1) immediately notifies the other Party of the facts that constitute a Force Majeure Event; and (2) provides the other Party with frequent, timely estimates of when performance will be resumed; and (3) takes all additional steps reasonably possible to promptly resume performance.

- 8.15 NO THIRD PARTY BENEFICIARIES. This Agreement confers no enforceable legal rights or remedies on any individuals or entities other than the Parties unless otherwise provided.
- 8.16 GOVERNING LAW, JURISDICTION AND VENUE. This Agreement will be governed by and interpreted under Minnesota law, without regard to conflict-of-laws principles. Any lawsuit arising directly or indirectly out of this Agreement will be brought in a court of competent jurisdiction located in Ramsey County Minnesota.

Signatures on the following page

IN WITNESS WHEREOF, the parties have executed this Agreement as follows:

The City of Saint Paul
St. Paul Fire Department
645 Randolph Ave
Saint Paul, MN 55102

Park Nicollet Methodist Hospital
6500 Excelsior Blvd
St. Louis Park MN 55426

Signature

Signature

Fire Chief

Its

Its

Date

Date

Signature

Signature

Director, Department of Financial Services

Its

Its

Date

Date

Signature

Signature

Assistant City Attorney

Its

Its

Date

Date

Park Nicollet Methodist Hospital Laboratory Provider Numbers

Medicare.....24-0053
Minnesota DPW020051X
HEW License No.6950
CLIA24D0687292

AEC.....22-01519-02
FDA.....2173110
CAP.....18044-01
JCAHO.....6610840

EXHIBIT A

Saint Paul Fire Department
645 Randolph Ave
Saint Paul, MN 55102

EXHIBIT B
Services

Regular Lab Service* (Except Holidays):

- Testing of COVID-19 specimens via PCR assay at our accredited laboratory or our affiliated reference laboratory.
- Results will be faxed to the Client's provided fax number.
- As needed COVID-19 testing for any number of patients or employees can be negotiated into contract.
- PathWay to provide collection kits for COVID-19.
- Facility (St. Paul Fire Department) to deliver collected specimens to Methodist Hospital, PathWay Lab, Meadowbrook Suite, #E206.
- PathWay does not collect the COVID-19 specimen.
- Additional services in blood collection and other testing can be negotiated if needed.

STAT Lab and Courier Pickup Service:

- STAT Lab Service and courier pickup, will incur a service fee of \$50 per trip. The STAT Lab service fee will be billed directly to Facility on a monthly basis.
- The STAT Lab Service fee is billed on a per-trip basis.
- STAT Lab Service fee is for as needed, or ad hoc services if the Facility (St. Paul Fire Department) is unable to deliver specimens to Methodist PathWay Lab.

EXHIBIT C
Billing

Facility Billed Services

- Pathway will bill Facility for any testing for COVID-19 samples at a rate of \$79 per test. This is testing on employees for COVID-19, which is not billed to insurance.
- PathWay will bill Facility for lab charges that are not medically necessary due to lack of payable diagnosis coding provided to PathWay on the lab order.
 - PathWay will notify Facility within 45 days of the date of service that all, or part, of a claim does not meet medical necessity requirements for a patient's insurance provider. Facility must respond to PathWay within 15 days of such notification. If a remedy is not reached by 60 days after the date of service, the unpayable lab charges will become the responsibility of Facility

Courier Pickup

- Stat courier pickups require additional fee noted in Exhibit B.

Other Billing

PathWay also offers lab testing other than COVID-19 for employees in some circumstances. This testing will be billed directly to the facility on a separate statement from the Medicare Part A patients, and not subject to the same pricing.