

**CONTRACT BETWEEN  
THE DEPARTMENT OF ATTORNEY GENERAL  
AND  
PLANTE & MORAN, PLLC**

The Michigan Department of Attorney General (“Department”) and Plante & Moran, PLLC (“Contractor” or “Expert”), agree that Contractor's designated employee(s) will provide expert services, and other related matters as assigned by the Attorney General or his designee under the terms and conditions set forth below in this Contract (“Contract” or “Expert Contract”), to assist the Department in its review of the sale of the assets of St. Joseph Mercy Port Huron by Trinity Health-Michigan (“Seller”) to Prime Healthcare Services (“Buyer”).

The terms of the Transaction specifically make the Department’s review and approval a condition of the Transaction.

The primary purpose of this Contract is to facilitate the Department in completing a thorough but expeditious review of the respective definitive agreements and other matters related to the Transactions.

It is anticipated that this Contract will facilitate the Department’s review in a manner that:

- Reasonably limits the costs and expenses of the Expert’s services under this Contract;
- Minimizes disruption and inconvenience to Trinity Health and St. Joseph Mercy Port Huron personnel;
- Avoids unnecessary delay in completing the Department’s review.

**1. Issuing Office**

This Contract is issued by the Department, which is the only State office authorized to change the terms and conditions of this Contract.

**2. Description of Services**

Contractor shall perform the services set forth in Exhibit A, Statement of Expert Services, and as reasonably requested by the Department (collectively, the “Expert Services”). In particular, Contractor shall assist the Department in reviewing the terms of the Transaction. Exhibit A, Statement of Expert Services, is incorporated in this Contract and summarizes the scope of the anticipated services by Contractor.

Services will be provided by the following Contractor employees or other qualified employees of the Contractor:

Matthew J. Wescott	Partner
Anthony Colarossi	Partner
Bryan Hughes	Director

Matt Weekley	Partner
Jerry Luebbbers	Senior Manager
Paul Weis	Manager

### **3. Term of Contract**

This Contract covers services rendered from the date of the Contract until the time that the Contractor delivers its final Opinions (as defined below) or the Contract is terminated.

### **4. Compensation for Services Provided**

- A. Contractor will be compensated *exclusively* by Buyer for delivery of Expert's written report and opinion for the Transaction (the "Opinion"). Department's contract with Buyer shall require Buyer to pay Contractor \$65,000 (the "Opinion Fee") for all Expert Services related to the Transaction specified in Exhibit A, Paragraph 1 upon delivery of the Opinion. The cost of overhead, including secretarial and clerical employees utilized by Contractor, is part of Contractor's Opinion Fee and such services will not be separately billed to the Department for payment by Buyer. The Opinion Fee shall further include compensation for necessary travel time expended in the performance of the services covered by this Agreement. Contractor's Expert Services will be provided in accordance with this Agreement and Exhibit A attached hereto. If requested, the other potential services identified in Exhibit A, Paragraph 2 will be billed at the Expert's standard hourly rates.
  
- B. Contractor also shall be reimbursed for the out-of-pocket expenses described in Section 5. Contractor must provide receipts for all out-of-pocket expenses for which reimbursement is requested.

Contractor will not be compensated for travel time expended in the performance of the services covered by this Contract.

The cost of secretarial and clerical employees utilized by Contractor is part of Contractor's agreed upon fee and such services will not be separately billed to the Department. No other additional charges shall be allowed except by prior written permission from the Department, which shall not be unreasonably withheld.

### **5. Travel Expenses**

Contractor will be reimbursed by Buyer for reasonable and necessary meals, lodging, telephone and travel expenses.

Contractor must provide receipts to Buyer for all permissible reimbursement requests.

## **6. Billings and Payment**

The Department shall enter into a written agreement (“Payment Agreement”) with Buyer for providing payment to Contractor for services and expenses. Under the Payment Agreement, once Contractor’s billing statements have been reviewed and approved by the Department, the Department will send a summary invoice to Buyer, and Buyer shall pay all invoices within 14 days after receipt. Contractor acknowledges and agrees that the Department shall have no obligation to Contractor for payments for services or expenses. All disputes regarding compensation must be resolved directly with Buyer.

Contractor shall have no obligation to provide services until it has reviewed and approved terms of the Payment Agreement between the Department and Buyer. Upon written notice to Buyer and the Department, Contractor may stop providing services under this Agreement, if any payment payable to Contractor pursuant to the Payment Agreement is not received within five business days after its due date under the Payment Agreement; provided that Contractor shall recommence its services under this Agreement immediately upon receipt of all payments then due and payable.

Contractor will invoice the Department the Opinion Fee upon issuance of Expert’s written reports and the Opinion. Expenses shall be specifically and individually identified at the end of the invoice, together with attached receipts and a total cumulative statement. Additional information shall be provided upon request by the Department. Contractor also shall transmit to the Department a summary invoice containing only the Opinion Fee, expenses incurred pursuant to this Agreement, and instructions for payment. The Department will send such summary invoice to Buyer, and Buyer shall pay such invoice within 14 days after receipt.

If the Transactions are terminated and/or Contractor’s work is stopped by the Department, for any reason other than Contractor’s material breach of its obligations under this Agreement, prior to the issuance of Contractor’s written reports and Opinions, Contractor shall be reimbursed for (1) out of pocket expenses incurred to date and (2) fees for services already rendered. The Department shall promptly (and in no event more than 7 days from receipt) review Contractor’s billing statement and, upon approval, shall transmit a request to Buyer for payment.

All invoices and summary invoices and all supporting documents, together with all of Contractor’s work papers relating to this Agreement and its services hereunder shall be maintained by the Contractor for three (3) years after the termination or expiration of the Agreement for audit purposes.

Contractor shall make available to Buyer, on request, copies of itemized billing statements, receipts and any additional information after the Department concludes its review and has issued its report.

## **7. Notices**

All communications, notices, and invoices concerning this Contract must be addressed to:

For the Department: William R. Bloomfield, Assistant Attorney General AND  
Joseph J. Kylman, Charitable Trust Auditor  
Department of Attorney General  
Corporate Oversight Division - Charitable Trusts  
Williams Bldg.  
525 W. Ottawa – 6<sup>th</sup> Floor  
Lansing, MI 48933  
517-335-0855  
517-335-1935 (fax)  
BloomfieldW@michigan.gov  
KylmanJ@michigan.gov

For the Contractor: Matthew J. Wescott, Partner  
Plante & Moran, PLLC  
1111 Michigan Avenue, Suite 100  
East Lansing, MI 48823  
517-336-7525  
Matt.wescott@plantemoran.com

## **8. Time of the Essence**

Contractor understands that the Department anticipates completing its review and issuing a report on the Transactions by May 31, 2015.

Contractor agrees to use best efforts to provide all requested services, including but not limited to the preparation of written material, public appearances, meetings with the Department staff, etc., as expeditiously as possible and to conclude its services involving acquisition and review of information from Buyer, Seller, and other third parties and preparation of the report described on Exhibit A hereto, by February 28, 2015. Contractor's draft written report shall be submitted to the Department by February 14, 2015. This delivery date assumes that Expert will have timely access to requested information and the Seller's team involved in the Transaction. Delays in the receipt of information or access to the Seller's team involved in the Transaction could result in a delayed delivery of the draft written report.

## **9. Termination**

Contractor may terminate this contract for good cause shown upon 30 days written notice to the Department, Seller, and Buyer; for these purposes, "good cause" is defined as only a material breach by the Department of its obligations under this Contract, or a material breach by Buyer of its obligations under the Payment Agreement, which, in either case, is not cured within the thirty-day notice period.

Contractor acknowledges that the Department may at any time request Contractor to discontinue work in progress, and may do so without consequence to the Department. The Department shall review and approve for payment, in accordance with this Contract, reimbursement of (1) expenses already incurred and (2) fees for services already rendered.

#### **10. Property and Publication Rights**

All property rights, including publication rights of interim, draft, and final reports, documents and machine-readable media produced by Contractor in connection with the work under this Contract, shall vest in the State. Contractor shall not publish, whether verbally or in writing, any of the results of the work, nor shall it disclose in any other manner any information it has received from the Department, Buyer, Seller that has not previously been made publicly available, without the written permission of the Department. The Department may publish the Opinions only in their entirety and shall not publish any summary or excerpt of the Opinions without the written permission of the Contractor. Notwithstanding the foregoing, following the delivery of the Opinions and termination of this Contract, Expert shall have the right, at its own expense, to place advertisements in financial and other newspapers and journals and to utilize within any marketing materials produced by Expert information describing its services to the Department hereunder and, in that regard, shall have the right to include the name and corporate logo of Buyer and Seller as well as the name and seal of the Department.

#### **11. Disclosure of Information**

Contractor further acknowledges that all services it provides and all writings, notes, and other communications it produces are specifically authorized under this Contract in anticipation of litigation under the Supervision of Trustees for Charitable Purposes Act, MCL 14.251 *et seq.*, and other applicable Michigan law. Contractor agrees that its reports and conclusions are confidential information of the State and that it will not disclose these conclusions, in whole or in part, to any unauthorized person without the prior written consent of the Department, except to the extent necessary to comply with applicable laws, rules or regulations.

As a material precondition to the obligations of Buyer and the Department under this Agreement and the Payment Agreement, Contractor shall execute the Confidentiality and Non-Duplication Agreement in the form attached hereto as Exhibit B.

#### **12. Non-Discrimination**

In the performance of this Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position. This covenant is required pursuant to the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and any breach thereof may be regarded as a material breach of the Contract. In

connection with the performance of services under this Contract, the Contractor agrees to comply with the Federal Civil Rights Act of 1964, 42 USC §2000d.

### **13. Unfair Labor Practices**

The State shall not award a contract or subcontract to any employer or any subcontractor, manufacturer or supplier of the employer, whose name appears in the current register compiled by the Michigan Department of Energy, Labor, and Economic Growth. The State may void this Contract, if after the award of the Contract, the name of the Contractor appears in the register. 1980 PA 278, MCL 423.321 *et seq.*

### **14. Independent Contractor**

The relationship of Contractor to the Department in this Contract is that of an independent contractor. No liability or benefits, such as workers compensation rights or liabilities, insurance rights or liabilities, or any other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise, accrue or be implied to either party or either party's agent, subcontractor or employee as a result of the performance of this Contract. Contractor will be solely and entirely responsible for its acts and the acts of its agents and employees during the performance of this Contract.

Notwithstanding the above, Contractor acknowledges that while compensation will be received from Buyer, not the Department, Contractor's services are provided solely for and on behalf of the Department. Contractor and its employees shall at all times act in the best interest of the Department and shall promptly disclose any material facts that may impair their ability to perform services under this Contract free of actual or apparent conflicts between their business or personal interests and those of the Department.

All communications between Contractor and the Department are subject to applicable privileges, including specifically the attorney work-product privilege.

### **15. Governing Law and Jurisdiction**

This Contract shall be subject to, applied, and interpreted according to the laws of the State of Michigan. No action shall be commenced against the Department or the Attorney General, his designee, agents or employees for any matter whatsoever arising out of the Contract, in any courts other than a court of competent jurisdiction of the State of Michigan.

### **16. Entire Agreement**

This Contract, including Exhibits A and B attached hereto and the Payment Agreement, represents the entire agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the Contractor and the Department relating to the Department retaining the Contractor's services.

*Signatures appear on next page.*

**17. Authorized Signatures**

Contractor agrees that Matthew J. Wescott is authorized to sign on its behalf.

Dated: \_\_\_\_\_  
For Contractor/Expert: Matthew J. Wescott, Partner

The Department agrees that Joseph E. Potchen is authorized to sign on its behalf.

Dated: \_\_\_\_\_  
Corporate Oversight Division Chief, Joseph E. Potchen

Incorporated Exhibits

Exhibit A – Expert Services

Exhibit B – Seller Confidentiality and Non-Duplication Agreement

EXHIBIT A  
to  
CONTRACT BETWEEN  
THE DEPARTMENT OF ATTORNEY GENERAL  
AND  
PLANTE & MORAN, PLLC

STATEMENT OF EXPERT SERVICES

1. Fairness Opinions – For the Transaction, Expert will provide a fairness opinion—including a written report substantiating its conclusions—that addresses the relationship between the consideration to be received relative to the value of the assets given up in exchange. As part of the fairness opinion, Expert will perform the following:
  - a. an independent Fair Market Value valuation analysis and report of Trinity Health assets being acquired by Buyer;
  - b. an examination of the quality and depth of the transaction process that resulted in the proposed transaction;
  - c. an examination of all aspects of the proposed offer to determine the true level of consideration;
  - d. an examination of the amount proceeding to any local charitable foundation and the fairness of this amount; if there are no proceeds to a local charitable foundation, an examination of the fairness of this result;
  - e. a presentation of Expert’s results to the Department.
2. Other potential services – If and to the extent requested, other services related to the Department’s review as requested by the Department, including meeting with third parties, attending public forums related to the Transaction, discussing and reporting on findings (after the initial presentation of Expert’s results to the Department), providing expert testimony, and examining the Buyer’s ability to meet its long-term financial obligations.