

PREFERRED PROVIDER AGREEMENT

This PREFERRED PROVIDER AGREEMENT, (the “Agreement”) is entered into as of ____, 2022 (“Effective Date”), by and between Vincere Cancer Center/Vincere Physician’s Group/Vincere Surgery Center (“Vincere”), and the City of Maricopa (“City”). Vincere and the City may be separately referred to as “Party” or collectively as “Parties.”

RECITALS

- A. City has requested that Vincere provide to City cancer screening and treatment services (“Services”) identified on **Exhibit “A”** attached hereto.
- B. Vincere is qualified and certified to perform the Services.
- C. The members of City’s Fire Fighting group (“FF group”, with each individual identified as a “FF”) which are qualified to receive Services under this Agreement are limited to only those persons who will be identified by the City of Maricopa.
- D. Vincere agrees to provide Services on the terms and conditions set forth herein.

AGREEMENTS

In consideration of the mutual covenants and agreements contained herein, the Parties hereby agree as follows:

1. **Services.** Vincere shall provide City with Services. After receiving consent from the individual FF, City shall provide Vincere with a list with the necessary information, including, but not limited to the patient’s name, date of birth, years served as an active FF, and phone number of FF. Upon consultation with Vincere, Maricopa Fire-Medical Department Administration will schedule FF for services with Vincere. Services shall be performed at City of Maricopa Firestation location.
2. **Compensation.** The total purchase price for the supplies, goods, or Services as authorized in this Agreement is not to exceed the total price of purchase orders issued by the City under this Agreement. (**Exhibit “A”** attached hereto.)
3. **Billing.** For all Services, Vincere agrees that it will bill City directly based on the rates outlined in Exhibit “A”. Vincere will provide the City invoices by name of patient, date of service, service provided and charge. All Services will be billed by Vincere even if it was performed onsite or at a partner location. All partner locations or services provided at other associated partner sites will bill using the rates outlined in Exhibit “A”. Whenever possible the City shall send payment for Services within 45 days of receipt.
4. **Term and Termination.** The term of this Agreement shall be for a period of one (1) year commencing on the Effective Date. This Agreement is subject to termination for the City’s convenience, and the City may terminate this Agreement at any time for any reason upon thirty (30) days’ written notice to Vincere, without any further duty, obligation, or liability owed to Vincere. In the event of a default by either Party in the performance of its obligations hereunder, the non-defaulting Party may terminate this Agreement by giving thirty (30) days’ written notice to the defaulting Party, without any further duty, obligation or liability owed to the defaulting Party. Alternatively, should the Parties wish to continue with this Agreement but cure the default, the non-defaulting Party shall set forth in the notice required hereunder the facts underlying its claim that the defaulting Party is in default of this Agreement.

If such default is remedied within twenty (20) days of the receipt of such notice, this Agreement shall remain in effect for the remainder of its term, subject to future bases for termination, including subsequent defaults of this Agreement.

5. Ownership of Records. All financial records, corporate records, medical files, written procedures and other such items created by Vincere in connection with the Services provided hereunder shall be and remain the property of Vincere and the patient.

6. Confidentiality of Records and HIPAA. All patient records and data related to Services rendered will be kept in the strictest confidence by Vincere, except when disclosure of such information is required by any federal, state or local law, regulation or governmental order. Both Parties agree to comply with the applicable provisions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). The Parties agree not to use or further disclose any protected health information or individually identifiable health information, as these terms are defined in HIPAA, concerning a patient ("PHI") other than as permitted by HIPAA and applicable state law. The Parties further agree to implement appropriate safeguards to prevent the unauthorized use or disclosure PHI in accordance with HIPAA and state law. In addition, both Parties shall negotiate in good faith regarding any modifications to this Agreement that either Party believes may be required pursuant to HIPAA. To the extent required by law, each Party shall make its internal practices, books and records relative to the use and disclosure of a patient's PHI available to the Secretary of Health and Human Services to the extent required for determining compliance with HIPAA. Notwithstanding the foregoing, no attorney-client, accountant-client, or other legal privilege shall be deemed waived by either Party by virtue of this Section.

7. Proprietary Information. All proprietary information (in various media and forms), as reasonably determined by the Party disclosing such information, shall remain the property of the disclosing Party. To the extent permitted by law, each Party will hold such proprietary information of the other Party in the strictest confidence and will not, without the prior written consent of the disclosing Party disclose it or allow it to be disclosed, directly or indirectly, to any third party. This provision shall survive any termination or expiration of this Agreement.

8. Independent Contractors. In the performance of the duties and obligations imposed upon Vincere under this Agreement, it is mutually agreed that Vincere, acting through its own employees or subcontractors is, and at all times shall be, acting as an independent contractor engaged in the business of furnishing Services to City and the FF. City shall neither have nor exercise control or direction over the methods by which Vincere and its employees or subcontractors shall perform their duties and obligations arising hereunder. This Agreement is not, and shall not be considered, an employer-employee relationship, joint venture or partnership of any kind, and neither Party shall represent to any third persons that any such relationship exists.

9. Compliance With Laws; Governing Law. The Parties agree that each party will perform its obligations under this Agreement in accordance with applicable federal and state statutes as may be in effect from time to time. This Agreement shall in all respects be interpreted, enforced and governed by the laws of the State of Arizona. This Agreement shall be construed without regard to any presumption or any other rule requiring construction against the party causing this Agreement of any part thereof to be drafted.

10. Severability; Waiver. The provisions of this Agreement shall be severable, and if any provision shall be prohibited by law, or invalid, or unenforceable in whole or in part for any reason, the remaining provisions shall remain in full force and effect. The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a continuing waiver or a waiver of any subsequent breach of either the same or any other provision of this Agreement.

11. Insurance; Indemnification. During the term of this Agreement, Vincere shall maintain general and professional liability insurance with liability limits of not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate, insuring against liability of Vincere, and their employees, invitees and agents arising out of or in connection with Services provided to FF. Vincere shall cause the City to be named as an additional insured on Vincere's insurance policy, and Vincere shall provide the City with an appropriate Certificate of Insurance and Endorsement. Vincere's insurance policy must be primary and non-contributory and shall contain a waiver of subrogation endorsement. Vincere shall indemnify, defend and hold harmless the City, its Council, officers, agents, employees, and assigns in any and all claims and/or causes of action brought or relating to the City's entering into this Agreement with Vincere. Except as set forth herein, each Party hereto shall be liable for any loss or liability caused by such Party's own negligence or willful act or omission, or such Party's failure to comply with its obligations hereunder, and each Party hereto agrees to indemnify and hold harmless the other from and against any and all claims, expenses, losses, and obligations arising out of such Party's negligent acts or omissions.

12. Notices. Any notice required hereunder shall be in writing and shall be deemed effective (i) four (4) days after deposit in the U.S. mail, with proper postage prepaid, when sent by registered or certified mail, return receipt requested; or (ii) one (1) business day after deposit with a reputable overnight courier with all charges prepaid, to either Party at its address set forth below or at such other address as either Party may designate in writing.

Notices shall be sent to the following:

If to City:

If to Vincere:

7469 E Monte Cristo Ave.
Scottsdale, AZ 85260

13. Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, amendment or modification of this Agreement shall be binding unless executed in writing by the Parties.

14. Attorney's Fees. Should either Party employ an attorney for the purpose of enforcing the terms and conditions of this Agreement in court, the prevailing Party shall be entitled to receive its attorneys' fees and costs, whether taxable or not, pursuant to A.R.S. §§ 12-341.01 and 12-341.

15. Assignment; Binding. Neither Party may assign any of its rights or delegate any of its duties under this Agreement without the express prior written consent of the other Party. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties to it, their respective legal representatives, successors and assigns.

16. Disclosure of Terms of Agreement. The City is subject to Arizona public records laws set forth in Arizona Revised Statutes, Title 39. Accordingly, to the extent legally required or permissible, neither Party shall disclose to any other person or entity any information relating to the terms of this Agreement related to patient names, patient information, or pricing. Neither Party shall use any of the other party's logos, trade names, trademarks, service marks, copyrighted or other proprietary materials without the prior written consent of the other Party. This section shall survive the termination of this Agreement.

17. **Participation in Federal and State Programs.** Vincere represents that it is not debarred, suspended, excluded or otherwise ineligible to participate in any federal or state program. Vincere agrees to notify City in writing within five (5) days should Vincere become debarred, suspended, excluded or otherwise ineligible to participate in any federal or state program. Should City be notified of or determine that Vincere is, or becomes during the term of this Agreement, debarred, suspended, excluded or otherwise ineligible to participate in any federal or state program, City may terminate this Agreement immediately upon written notice to Vincere.

18. **Exhibits.** The Parties acknowledge and incorporate herein by reference Exhibits A, and B to this Agreement. The Parties agree that should there be any conflict between the terms of the Agreement and any of the Exhibits, the terms and conditions of the Exhibit shall control.

19. **Conflict of Interest.** This Agreement is subject to A.R.S. § 38-511.

20. **Subject to Appropriations.** The Parties acknowledge that this Agreement is subject to an appropriation of funds by the City of Maricopa. Should the City Council fail to fund any or all of this Agreement, the Agreement may be terminated by either Party without further duty, obligation, or liability to the other Party.

21. **Governing Law.** This Agreement shall be governed by the laws of the State of Arizona without regard to its conflict of law provisions. Any action to resolve any dispute regarding this Agreement shall be taken in a state court or federal district court of competent jurisdiction located in Pinal County, Arizona.

22. **Third Parties.** No term or provision of this Agreement is intended to, or shall be for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right to cause of action hereunder.

[Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date written below.

For the City:

Vincere Cancer Center:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Department Authorization

By: _____

Name: _____

Title: _____

Date: _____

Approved as to form:

By: _____

Name: _____

Title: _____

Date: _____

Agreement #: _____

Award Date: _____

Effective Date: _____

EXHIBIT A

GRAIL Cancer Screening Test - \$950 per test

EXHIBIT B

LIST OF Active Duty Fire Fighters in Program