



MOLINE CITY COUNCIL AGENDA

Tuesday, August 26, 2014

6:30 p.m.

(immediately following the Committee-of-the-Whole meeting)

City Hall

Council Chambers – 2nd Floor

619 16th Street

Moline, IL

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION– Alderman Bender

ROLL CALL

CONSENT AGENDA

All items under the consent agenda are considered to be routine in nature and will be enacted by one motion. There will be no separate discussions of these items unless a council member so requests, in which event the item will be removed from the consent agenda and considered as the first item after approval of the consent agenda.

COUNCIL MEMBER	PRESENT	ABSENT
Knaack		
Parker		
Bender		
Zelnio		
Turner		
Schoonmaker		
Liddell		
Acri		
Mayor Raes		

APPROVAL OF MINUTES

Committee-of-the-Whole and Council meeting minutes of August 12, 2014

SECOND READING ORDINANCES

1. Council Bill/General Ordinance 3015-2014

An Ordinance amending Chapter 20 “MOTOR VEHICLES AND TRAFFIC,” of the Moline Code of Ordinances, Appendix 10 thereof, “PARKING PROHIBITED AT ANY TIME,” by including 3rd Street, on the east side, from the entrance of 4602 3rd Street, south for a distance of 100 feet.

EXPLANATION: Traffic Committee reviewed request and recommends approval.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: N/A

2. Council Bill/Special Ordinance 4037-2014

A Special Ordinance closing certain streets more particularly described herein to vehicular traffic and authorizing the use of public right-of-way in conjunction with the Ericsson School Celebrate Education Parade scheduled for Friday, September 5, 2014.

EXPLANATION: This is a yearly event and has been approved by the Special Event Committee.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: N/A

3. Council Bill/Special Ordinance 4038-2014

A Special Ordinance closing certain streets more particularly described herein to vehicular traffic and authorizing the use of public right-of-way in conjunction with the QCA Heritage Tractor Parade and Show scheduled for Saturday, September 6, 2014.

EXPLANATION: This is a yearly event and has been approved by the Special Event Committee.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: N/A

RESOLUTIONS

4. Council Bill/Resolution 1119-2014

A Resolution authorizing the Mayor and City Clerk to extend the current agreement with Quality Construction Services, Inc. for property maintenance and management services for the City's Downtown parking garages for a three year period commencing on January 1, 2015.

EXPLANATION: The agreement with Quality Construction Services, Inc. is up for renewal at the end of the year. The current agreement fulfills all property management and maintenance needs for the City's parking garages. Per the agreement, Quality provides snow plowing, daily cleaning, construction services, as well as any other activity required to keep the parking garages functioning properly. Within the agreement there is language to allow an extension, and Quality has agreed to maintain their existing prices if the City renews for three years. Staff would like to see this agreement extended as staff has been very satisfied with Quality's work and their ability to respond quickly to maintenance issues.

FISCAL IMPACT: Maintenance of the three Downtown parking garages is a budgeted item in the 2014 budget.

PUBLIC NOTICE/RECORDING: N/A

5. Council Bill/Resolution 1120-2014

A Resolution authorizing the Mayor and City Clerk to execute an agreement with HealthCheck 360 to develop and administer a comprehensive wellness program for a period of three years commencing on September 1, 2014.

EXPLANATION: A Request for Proposal was published, and HealthCheck 360 provided the proposal that was most advantageous to the City and in the City's best interest. In conjunction with Human Resources, HealthCheck 360 will develop a comprehensive wellness program and conduct wellness screenings and health coaching for City employees, retirees under 65 and their spouses, in accordance with applicable laws and regulations.

FISCAL IMPACT: Funds budgeted in the Health Fund

PUBLIC NOTICE/RECORDING: N/A

OMNIBUS VOTE

ITEMS NOT ON CONSENT

FIRST READING ORDINANCES

6. Council Bill/Special Ordinance 4039-2014

A Special Ordinance closing certain streets more particularly described herein to vehicular traffic and authorizing the use of public right-of-way in conjunction with the Bier Stube Oktoberfest scheduled for Friday, September 19, 2014 and Saturday, September 26, 2014.

EXPLANATION: This is a yearly event and has been approved by the Special Event Committee.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: N/A

MISCELLANEOUS BUSINESS

PUBLIC COMMENT

Members of the public are permitted to speak after first stating their name and address.

EXECUTIVE SESSION

OMNIBUS VOTE		
Council Member	Aye	Nay
Bender		
Zelnio		
Turner		
Schoonmaker		
Liddell		
Acri		
Knaack		
Parker		
Mayor Raes		

Council Bill/General Ordinance No.: 3015-2014

Sponsor: _____

AN ORDINANCE

AMENDING Chapter 20 "MOTOR VEHICLES AND TRAFFIC," of the Moline Code of Ordinances, Appendix 10 thereof, "PARKING PROHIBITED AT ANY TIME," by including 3rd Street, on the east side, from the entrance of 4602 3rd Street, south for a distance of 100 feet.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – Chapter 20 "MOTOR VEHICLES AND TRAFFIC," of the Moline Code of Ordinances, Appendix 10 thereof, "PARKING PROHIBITED AT ANY TIME," by including 3rd Street, on the east side, from the entrance of 4602 3rd Street, south for a distance of 100 feet.

Section 2 – That pursuant to Section 1-1107 of the Moline Code of Ordinances, any person, firm or corporation violating any of the provisions of this Ordinance shall be fined not more than seven hundred fifty dollars (\$750.00) for each offense.

Section 3 – That this ordinance shall be in full force and effect from and after its passage and approval; and, if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____
City Clerk

Approved as to form:

City Attorney

Council Bill/Special Ordinance No. 4037-2014
Sponsor: _____

A SPECIAL ORDINANCE

CLOSING certain streets more particularly described herein to vehicular traffic; and

AUTHORIZING the use of public right-of-way in conjunction with the Ericsson School Celebrate Education Parade scheduled for Friday, September 5, 2014.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – That this Council hereby authorizes and directs the Mayor, Director of Public Works and Police Chief to erect barricades and post temporary signs, if necessary, for the purpose of closing the following designated roadways to vehicular traffic during the specified times mentioned herein:

Friday, September 5, 2014 from 9:00 a.m. to 10:00 a.m.

All lanes of 4th Avenue, the easternmost side of 3rd Street to the westernmost side of 12th Street;
All lanes of 4th Street from the northernmost side of 4th Avenue to the northernmost side of 5th Avenue.

It shall be an offense to use said roadways for vehicular purposes during the times herein specified.

Section 2 – That this Council declares the intent of this ordinance to be a temporary variance from other ordinances that may be in conflict herewith and shall authorize the activities described hereinabove only during such times specified for the street closings and shall not constitute a repeal of other ordinances of the City of Moline which are in conflict herewith.

Section 3 – That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____

City Clerk

Approved as to form:

City Attorney

Council Bill/Special Ordinance No. 4038-2014

Sponsor: _____

A SPECIAL ORDINANCE

CLOSING certain streets more particularly described herein to vehicular traffic; and

AUTHORIZING the use of public right-of-way in conjunction with the QCA Heritage Tractor Parade and Show scheduled for Saturday, September 6, 2014.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – That this Council hereby authorizes and directs the Mayor, Director of Public Works and Police Chief to erect barricades and post temporary signs, if necessary, for the purpose of closing the following designated roadways to vehicular traffic during the specified times mentioned herein:

Saturday, September 6, 2014, from 10:00 a.m. to 11:00 a.m.

All lanes of River Drive from the westernmost side of 12th Street to the easternmost side of 19th Street

All lanes of 19th Street from the northernmost side of River Drive to the southernmost side of 5th Avenue

All lanes of 5th Avenue from the easternmost side of 19th Street to the westernmost side of 12th Street

All lanes of 12th Street from the southernmost side of 5th Avenue to the northernmost side of River Drive

Saturday, September 6, 2014, from 7:00 a.m. to 6:00 p.m.

All lanes of 15th Street from the southernmost side of River Drive to the northernmost side of the entrance to the Historic Block Parking Lot

It shall be an offense to use said roadways for vehicular purposes during such times specified herein.

Section 2 – That this Council declares the intent of this ordinance to be a temporary variance from other ordinances that may be in conflict herewith and shall authorize the activities described hereinabove only during such times specified for the street closings and shall not constitute a repeal of other ordinances of the City of Moline which are in conflict herewith.

Section 3 – That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____
City Clerk

Approved as to form:

City Attorney

Council Bill/Resolution No. 1119-2014

Sponsor: _____

A RESOLUTION

AUTHORIZING the Mayor and City Clerk to extend the current agreement with Quality Construction Services, Inc. for property maintenance and management services for the City's Downtown parking garages for a three year period commencing on January 1, 2015.

WHEREAS, the City and Quality Construction Services, Inc. (hereinafter: "Quality") currently have an agreement with the City of Moline to provide all property management and maintenance services for the City's parking garages; and

WHEREAS, Quality has agreed to maintain the current labor and maintenance rates throughout the life of the proposed agreement extension; and

WHEREAS, the City and Quality have agreed to the conditions outlined in the agreement attached hereto and incorporated herein as Exhibit "A" to continue the proper maintenance of the City's parking garages.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

That the Mayor and City Clerk are hereby authorized to extend the current agreement with Quality Construction Services, Inc. for property maintenance and management services for the City's Downtown parking garages for a three year period commencing on January 1, 2015; provided, however, that said agreement is substantially similar in form and content to the addendum referenced by Exhibit "A," attached hereto and incorporated herein by this reference hereto and has been approved as to form by the City Attorney.

CITY OF MOLINE, ILLINOIS

Mayor

August 26, 2014

Date

Passed: August 26, 2014

Approved: September 2, 2014

Attest: _____

City Clerk

Approved as to form:

City Attorney

”

EXHIBIT “A”

**AGREEMENT FOR
PROPERTY MAINTENANCE AND MANAGEMENT SERVICES
PARKING GARAGES (3)
CITY OF MOLINE, ILLINOIS**

This Agreement is made and entered into this _____ day of _____, 2014, by and between the CITY OF MOLINE, ILLINOIS (hereinafter "City"), and QUALITY CONSTRUCTION SERVICES, INC., (hereinafter "Quality"), an Iowa corporation with its offices in Eldridge, Iowa.

WHEREAS, City is interested in entering into an Agreement for property maintenance and management services for the Centre Station, Heritage Place, and Midtown parking garages (hereinafter collectively referred to as "Garages"); and

WHEREAS, Quality desires to provide property maintenance and management services to City for said Garages under certain terms and conditions set forth below.

WITNESSETH, that Quality for and in consideration of the payments to be made to it by City, hereby covenants and agrees to and with City that it shall and will in a good and workmanlike manner furnish all labor, materials and services for the property maintenance and management of said Garages according to the terms and conditions as follows:

I. FACILITIES LOCATION AND DESCRIPTION

The Garages are located as follows;

A. Centre Station 1200 River Drive, Moline, Illinois. Services for the parking garage at Centre Station are limited to the second and third level decks (including ingress and egress ramps, to/from street level), and the following common areas of the property known as Centre Station: the Clock Tower, both common stairwells (East and West ends of the property), foyers at each level and the elevator. This garage contains approximately 321 parking spaces.

B. Heritage Place Parking Garage. This garage is located at the corner of 15th Street and 4th Avenue. It consists of 3-levels (decks) of parking (including ingress and egress ramps, to/from street level), approximately 306 parking spaces, two stairwells, an elevator and grounds.

C. Midtown Parking Garage. This garage is located on Sixth Avenue between 16th and 17th Streets. It consists of 4-levels (decks) of parking (including ingress and egress ramps, to/from street level), approximately 444 parking spaces, and enclosed pedestrian stair towers, a pedestrian bridge linking garage to Fifth Avenue building, an elevator and grounds surrounding the structure.

II. TERM OF AGREEMENT AND CANCELLATION

A. TERM

1. Services shall commence on January 1, 2015 and expire on December 31, 2017 (hereinafter "original term").
2. The City may elect to extend services under this Agreement, beyond the original term, in additional increments the length of which is to be determined by the Parties at the time of extension. Notice of extensions shall be served pursuant to Section VI.F, with (30) thirty days written notice prior to the end of the current term. Any election to extend the Agreement beyond the original term is at the sole discretion of City.
3. Throughout this Agreement "service start date" means the first day of the original term.

B. CANCELLATION

1. City reserves the right to cancel the Agreement at any time, upon (30) thirty days written notice to Quality, for failure of Quality to comply with any provision in the Agreement. Conduct, including but not limited to the following, shall constitute a default or breach of this Agreement:
 - (i) Failure to meet the minimum requirements set forth in Section III, Scope of Services.
 - (ii) Failure to meet any other provision of the Agreement.

III. SCOPE OF SERVICES

This section sets forth the minimum requirements of the proposed services. Quality shall perform property maintenance and management services for the Garages as follows:

A. Quality shall perform all property maintenance and management service for items listed in **Exhibit "A,"** attached hereto and incorporated herein by this reference. Items listed in **Exhibit "A"** are considered maintenance work and as such are not expected to fall under the provisions of the Prevailing Wage Act, found generally at 820 ILCS 13010.01 et. Seq. (the "Act"). From time to time, City may request work be preformed not listed in Exhibit "A" which may constitute construction work. In these circumstances, Quality shall be expected to work with City to comply with the requirements of the Act, including payment of prevailing wage. In any event, Quality will be required to independently determine items requiring payment of prevailing wage as City neither guarantees, warrants or otherwise represents which items are subject to prevailing wage.

B. Quality shall competitively bid, negotiate and supervise subcontracted work for specialized maintenance it is unable to perform, such as an elevator service contract.

C. Quality agrees to provide City monthly itemized billings for services provided at each facility, along with associated equipment, materials and labor costs. Cost for management of subcontracts should also be itemized. Such billing will be consistent with the sample billing format provided as **Exhibit "B,"** attached hereto and incorporated herein by this reference. Quality agrees that the items listed in **Exhibit "A"** with an asterisk (*) will be performed by a laborer. Any work to be performed, whether or not listed on **Exhibit "A,"** if not to be performed by a laborer, shall require prior written approval by City.

D. Prior to the execution of this Agreement by City, Quality shall provide a written cost itemization of the labor, equipment and material rates used to establish the **Four Hundred and 00/100^{ths} Dollars (\$400.00)** per week, per ramp charge for services identified in **Exhibit "C,"** attached hereto and incorporated herein.

E. Quality agrees it shall meet with City to establish a service schedule to be agreed upon between City and Quality for each facility addressing the items listed in **Exhibit "A."** The service schedule shall also address any incidental work necessary for each facility, such as the need to respond to trash pick-up after events at the i-Wireless Center. Meetings to establish the service schedule shall be at no cost to City. The parties further agree to make representatives, with the authority to establish a service schedule, available in a timely fashion, in order that services can commence by the service start date.

F. Quality agrees it shall meet with City quarterly to review the maintenance and management status of each facility and make recommendations with regard to changes, if any, necessary to the service schedule for each facility. These meetings shall be at no charge to the City.

G. In addition to providing City with a designated representative within its organization to serve as its service representative, Quality shall provide City staff with an afterhours contact person and a phone or pager number by which he/she can be reached.

H. Quality agrees to respond to any request for special or emergency service within two hours of a request by City. Special or emergency service shall include but not be limited to requests for additional pick-up of trash, cleaning of facilities, or snow removal.

IV. QUALIFICATIONS AND REQUIREMENTS

A. Prior to the signing of the Agreement Quality shall provide at least two references, where substantially similar services have been performed.

B. Quality shall at a minimum purchase and maintain at its own expense the following types and amounts of insurance:

1. Commercial General Liability Insurance at limits no less than \$1,000,000 per occurrence; \$2,000,000 general aggregate; and
2. Workers Compensation; and
3. Proof of insurance must be submitted prior to the signing of this Agreement and must name the City of Moline and its employees acting within the scope of their duties as an additional insured. Such policies shall not be cancelable without thirty (30) days advance written notice to the City of Moline.

C. Quality agrees to indemnify, hold harmless and defend City against any claim, action, suit, proceeding, cost or damage to the extent resulting from (a) Quality's material breach of any term of the contract; and (b) any negligent or recklessness conduct, whether intentional or unintentional on the part of Quality or its employee's in carrying out its duties under the Scope of Services herein described.

V. RATE STRUCTURE

Quality shall bill City for property maintenance and management services provided for said Garages pursuant to the rate structure established in **Exhibit "C,"** attached hereto and incorporated herein.

VI. ADDITIONAL TERMS

A. ASSIGNMENT

No assignment of this Agreement or any right accruing under this Agreement shall be made without the express written consent of City. Any purported assignment without the City's express written consent shall render this Agreement voidable at the City's option. In the event the City expressly consents to such a written assignment, the assignee shall assume the obligations and duties of Quality under the Agreement and the full liability of Quality.

B. CIRCUMSTANCES BEYOND CONTROL

Neither party hereto shall be liable for the failure to perform hereunder due to acts of God or other dire circumstances beyond its control. Specifically excepted from such circumstances for avoiding liability hereunder include strikes, lock -outs or other employee or labor disputes, or the cost of labor, materials and supplies needed to provide property maintenance and management services to City for said Garages (e.g. fuel or equipment costs).

C. APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Illinois, and the sale and exclusive venue for any disputes arising out of this Agreement shall be any state

court located within Rock Island County, Illinois, or federal court located within the appropriate venue. A waiver of any part of this Agreement shall be limited to that specific event and shall not be a waiver of the entire Agreement.

D. SEVERABILITY

Should any part of this Agreement be determined to be illegal, invalid or otherwise unenforceable, then all such remaining parts not so affected by such illegality, invalidity or unenforceability shall continue in full force and effect, fully binding all parties, their respective heirs and assigns, as to such remaining terms.

E. ENTIRE AGREEMENT

This Agreement and its Exhibits contain the entire agreement among the parties, and supersedes all prior agreements or other understandings, oral or written, not expressly retained herein. It shall inure to the benefit of, and shall be binding upon the parties hereto and their respective successors or assigns. This Agreement may be modified only by a written amendment signed by all of the parties.

F. NOTICE

All notices required under this Agreement shall be deemed to be properly served if delivered in writing personally or sent by certified mail as follows;

Scott Hinton
City Engineer
City of Moline
3635 4th Avenue,
Moline, IL 61265

Mark C. Powell
President
Quality Construction
Services, Inc.
3425 South 11th
Avenue
Eldridge, IA 52748

With a copy to:
City Attorney
City of Moline
619 16th Street,
Moline, IL 61265

EXHIBIT "A"

SERVICES				
TASK	DESCRIPTION	LOCATION	FREQUENCY	COMMENT
*TRASH REMOVAL	Inspection for and removal of trash.	Parking decks, stairwells, restrooms and grounds for Midtown and Heritage.	Inspect and remove daily and as needed.	Additional pick-up as required to meet i-Wireless events
*LIGHTING	Replace light bulbs.	Through-out ramp interior and exterior.	As needed.	
*SWEEPING	Sweeping of parking decks.	Decks.	Weekly and as needed.	
*SWEEPING/ CLEANING	Sweeping and cleaning of stairwells including washing stairwell floors, when necessary, cleaning stairwell doors and glass interior that people touch when using stairwell.	Stairwells.	Monthly and as needed.	Additional cleaning may be required if situation needing cleaning reported.
POWER WASH	Power washing of parking decks.	Decks	Spring and fall.	
*STRIPING	Stripping of parking decks.	Decks.	As needed.	
*PAINT	Painting of structure or related railings	Interior/Exterior Ramps.	As needed.	
WINDOW CLEANING	Interior/Exterior	All ramps with exterior windows.	Spring.	
ELEVATOR SUBCONTRACTS	Manage subcontract For service, inspections, and repairs.	Ramps.		Current service contracts will be made available.
*ELEVATORS/ TRASH	Remove trash and clean	Ramps.	Weekly.	If daily walk through for trash in ramp reveals

				additional cleaning of restrooms or elevators needed, additional cleaning should be performed.
*Restrooms	Trash removal and cleaning	Ramps	Daily and as needed.	
SNOW REMOVAL	Snow and ice removal decks and sidewalks	Exposed ramp decks and side walks.	As needed.	Some snow removal required based on amount of snow.
OTHER	Other items as may be requested by City from time to time.	All ramps.	As needed.	

EXHIBIT "C"

RATE STRUCTURE

Council Bill/Resolution No.: 1120-2014

Sponsor: _____

A RESOLUTION

AUTHORIZING authorizing the Mayor and City Clerk to execute an agreement with HealthCheck 360 to develop and administer a comprehensive wellness program for a period of three years commencing on September 1, 2014.

WHEREAS, a Request for Proposal was published, and HealthCheck 360 provided the proposal that was most advantageous to the City and in the City's best interest; and

WHEREAS, in conjunction with Human Resources, HealthCheck 360 will develop a comprehensive wellness program and conduct wellness screenings and health coaching for City employees, retirees under 65 and their spouses, in accordance with applicable laws and regulations; and

WHEREAS, the term of this agreement is from September 1, 2014 through August 31, 2017.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

That the Mayor and City Clerk are hereby authorized to execute an agreement with HealthCheck 360 to develop and administer a comprehensive wellness program for a period of three years commencing on September 1, 2014 through August 31, 2017 provided, however, that said agreement is substantially similar in form and content to the addendum referenced by Exhibit "A," attached hereto and incorporated herein by this reference hereto and has been approved as to form by the City Attorney.

CITY OF MOLINE, ILLINOIS

Mayor

August 26, 2014

Date

Passed: August 26, 2014

Approved: September 2, 2014

Attest: _____
City Clerk

Approved as to form:

City Attorney

HealthCheck360° Client Cover Sheet

HealthCheck360°
800 Main Street
P.O. Box 28
Dubuque, IA 52004-0028

Company Name: _____
Mailing Address: _____
City, State, Zip: _____

Billing Contact: _____
Billing Contact Phone Number: _____
Billing Contact Email Address: _____
Billing Address (if different): _____
Billing City, State, Zip (if different): _____

Primary Contact: _____
Primary Contact Phone Number: _____
Primary Contact Fax Number: _____
Primary Contact Email Address: _____

Alternate Contact: _____
Alternate Contact Phone Number: _____
Alternate Contact Fax Number: _____
Alternate Contact Email Address: _____

Desired Screening Start Date: _____
Estimated Number of Eligible Participants: _____

The undersigned acknowledge that the above information is correct and that HealthCheck360° may rely on this information until otherwise notified. This Cover Sheet shall remain in full force and effect until changed in a writing directed to HealthCheck360°.

Signing on behalf of Company

Print Name: _____

Title: _____

Date: _____

HealthCheck360° will not implement your group until the cover page, notice and authorization, and agreement are all complete, signed, and returned. A countersigned copy of the entire agreement will be returned to you.

NOTICE AND AUTHORIZATION

HealthCheck360°
800 Main Street
P.O. Box 28
Dubuque, IA 52004-0028

YOU ARE HEREBY AUTHORIZED to provide protected health information concerning participants in the biometric screening and health risk assessment program to the following individual(s) who will be known as “Privacy Officials”:

<u>Name & Title (include privacy officer)</u>	<u>Address/Phone #/Email</u>

The undersigned certifies that the above named individual(s) (Privacy Officials) have been advised of the restrictions relating to the release of protected health information.

The undersigned also acknowledge that the above information is correct and that HealthCheck360° may rely on this information until otherwise notified. This Authorization shall remain in full force and effect until changed in a writing directed to HealthCheck360°.

(Signature of Privacy Officer)

Print Name: _____

Company Name: _____

Date: _____



**HEALTHCHECK360°
BIOMETRIC SCREENING AND HEALTH RISK ASSESSMENT AGREEMENT**

THIS BIOMETRIC SCREENING AND HEALTH RISK ASSESSMENT AGREEMENT (the “Agreement”) is made and entered into as of the date executed by both parties (the “Effective Date”), by and between _____ with a business address at _____ (“Company”), for itself and on behalf of its group health plan(s) (“Plan”) sponsored by Company under the Employee Retirement Income Security Act of 1974 (“ERISA”) for the purpose of providing health related services to employees of Company and their dependents, and HealthCheck360° a division of HealthCorp (“HealthCheck360°”), with a principal place of business at 800 Main St., PO Box 1475, Dubuque, IA 52004-1475 (together, referred to as “Parties”).

I. DEFINITIONS

Unless otherwise specifically provided, the terms used in this Agreement shall have the meanings set forth in Exhibit A, attached hereto and incorporated herein.

II. COVENANTS OF HEALTHCHECK360°, COMPANY AND PLAN

- (a) HealthCheck360° agrees that it will provide, or arrange for the provision of, the HealthCheck360° Program (herein referred to as the “Program”) as described in Exhibit B for Participants, in accordance with the terms and conditions of this agreement.
- (b) Plan agrees that it will, directly or through employees of Company providing plan administrative services to Plan:
 - (i) Implement a financial incentive arrangement, mutually acceptable to both Parties, that encourages Eligible Persons participation in the Program;
 - (ii) Provide Eligible Persons with enrollment materials describing the Program and any financial incentive arrangement sponsored by Company or Plan related to participation in the HealthCheck360° Program;
 - (iii) Provide a final count or schedule of participants to HealthCheck360° at least fifteen (15) business days in advance of the Biometric Screening Event (“Lockdown Count”). Lockdown Count shall include the number of Eligible Persons and the date(s) and the beginning and end time for each Biometric Screening Event;
 - (iv) Provide HealthCheck360° and its agents and subcontractors with an appropriate, accessible and safe setting at each Work Site adequate for the purpose of conducting Biometric Screenings of Eligible Persons who desire to participate in the HealthCheck360° Program;
 - (v) Encourage each Participant to complete all actions necessary for HealthCheck360° to generate a HealthCheck360° individual report;
 - (vi) Designate one or more appropriate company representatives as a project coordinator to serve as a liaison to HealthCheck360° and to be available during normal business hours to respond to inquiries from HealthCheck360°. Designate one or more

BIOMETRIC SCREENING AND HEALTH RISK ASSESSMENT AGREEMENT

appropriate company representatives as site coordinators at each designated screening locations. Company will staff each screening event with an employee to sign in participants and assist phlebotomists;

- (vii) Allow HealthCheck360° to review and approve the accuracy of the content of any employee communication which references the HealthCheck360° Program; and
 - (viii) Communicate, implement, and run at least one company wellness challenge through the myHealthCheck360.com website to further employee engagement.
- (c) The Parties, as applicable, each further agree that:
- (i) Except as provided herein, Parties each reserve the right to, and control of, the use of its own name, symbols, trademarks and service marks presently existing or later established. In addition, except as provided herein, neither of the Parties shall use the other's name, symbols, trademarks or service marks, without the prior written consent of that party, and shall cease any such usage immediately upon written notice of the party or upon termination or expiration of this Agreement; provided, however, (A) Company shall have the right to use the name of HealthCheck360° for the purpose of communicating with Eligible Persons the identity and services of HealthCheck360°, and otherwise to carry out the terms of this Agreement, and (B) HealthCheck360° shall have the right to use Company's name, symbols, trademarks and service marks in communicating with Eligible Persons under this Agreement and for its general marketing purposes;
 - (ii) HealthCheck360° and its affiliates shall have the right to use the outcomes and results from the Program under this Agreement for their general marketing purposes in a manner that does not identify Company, Plan or any Eligible Person or Participant;
 - (iii) During the term of this Agreement, neither Company nor Plan shall, directly or indirectly, enter into any agreement or contract with any other vendor or company for the provision of the same or similar services provided by HealthCheck360° under this Agreement; and
 - (iv) The Program is designed to comply with the Wellness Program requirements of Section 54.9802-1(f) of the Treasury Regulations, Section 2590.702(f) of the EBSA Regulations and other relevant regulations (the "Wellness Program Exception"). Company acknowledges that changes to the structure or implementation of the Program may adversely affect Plan's ability to rely upon this exception. Therefore, neither Company nor Plan will make material changes to the structure or implementation of the Program without the prior written consent of HealthCheck360°.

III. PAYMENTS TO HEALTHCHECK360°

In consideration for the services rendered by HealthCheck360° under this Agreement, effective as of the Effective Date, Company or Plan, as applicable, shall pay HealthCheck360° fees based upon the number of Participants ("Participation Fee") and any additional program fees as set forth on Exhibit C. The fees shall be invoiced by HealthCheck360°. Fifty percent (50%) of the final proposal estimated cost is due thirty (30) days prior to the first Biometric Screening Event. The balance will be invoiced

BIOMETRIC SCREENING AND HEALTH RISK ASSESSMENT AGREEMENT

as screenings occur on a monthly basis and are due within fifteen (15) days of the invoice date. Health coaching fees, if applicable, will be invoiced monthly as Participant fees are incurred.

IV. INDEPENDENT RELATIONSHIP

Each party is at all times acting and performing as an independent contractor with respect to the other party, and no party shall have or exercise any control or direction over the method by which any other party shall perform such work or render or perform such services and functions.

V. COMMUNICATION WITH COMPANY AND PLAN

Certain information communicated by an Eligible Person or a Participant following the Program may constitute Protected Health Information. It is the parties' intent that all information exchanged following the Program be compliant with the privacy and security regulations implementing the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and other applicable law and be consistent with any representations to Eligible Persons or Participants concerning confidentiality of information.

Except as specified in Exhibit B of this Agreement with respect to reports related to Program participation, HealthCheck360° will not disclose to Company or Plan personal HealthCheck360° data except upon Company's or Plan's specific request, provided that compliance with such request is permitted by law and consistent with representations made by HealthCheck360°, Company and Plan.

HealthCheck360° will cooperate with Plan with regard to making selected personal HealthCheck360° data to other providers of healthcare related services and employee assistance programs designated by Plan, with which Plan contracts and with which Plan has in effect a Business Associate Agreement consistent with the requirements of the privacy and security regulations implementing HIPAA; provided that any disclosures are permitted by applicable law and consistent with representations made by HealthCheck360°, Company and Plan.

In the event either Party determines that a requested disclosure requires written consent of the Participant, the Company or Plan shall be responsible for all costs associated with obtaining such consent(s) as a program fee payable pursuant to Section III above.

VI. CONFIDENTIALITY

- (a) Business Confidentiality. The Parties acknowledge and agree that during the course of the performance of the parties' respective obligations under this Agreement, HealthCheck360° may make available to Company or Plan, and Company or Plan may make available to HealthCheck360°, Confidential Information that is of value to the party disclosing the information. Each party agrees to maintain the confidentiality of the Confidential Information of the other party and not to disclose or disseminate such Confidential Information to third parties. The party receiving Confidential Information agrees to use the same standard of care in maintaining the confidentiality of the Confidential Information as it uses to avoid disclosure of its most sensitive Confidential Information. Nothing in this Section shall preclude a party from disclosing Confidential Information to the extent that the disclosure thereof is required by law. Upon termination or expiration of this Agreement, the parties shall destroy or return all Confidential Information of the other and shall not use any Confidential Information of the other in its business. In the event that a party is required to disclose Confidential Information in response to legal process, the party against whom disclosure is sought shall immediately notify the other party and cooperate with the other

BIOMETRIC SCREENING AND HEALTH RISK ASSESSMENT AGREEMENT

party in connection with obtaining a protective order. In the event of a breach or threatened breach by either party of the provisions of this Section VI(a), the other party shall be entitled to seek an injunction restraining the breaching party from the conduct causing such a breach or threatened breach without the necessity of posting bond. Nothing herein shall be construed as prohibiting either party from pursuing any other remedies available to that party for such breach or threatened breach, including the recovery of damages from the breaching party. This Section shall survive termination or expiration of this Agreement.

- (b) **Protected Health Information.** Company and Plan represent and warrant that Plan's plan documents have been amended to include all items required by the privacy and security regulations implementing HIPAA and that Plan and Company maintain an "adequate separation" between Company and Plan as required by such regulations or that Plan complies with 45 C.F.R. § 164.530(k). Plan shall ensure that all necessary or required consents or authorizations not otherwise obtained by HealthCheck360° are obtained from, and all necessary or required notices are sent to, Eligible Persons or Participants regarding the use and disclosure of Protected Health Information as may be necessary, in light of applicable state and federal laws, for both parties to fulfill their obligations under this Agreement. The parties acknowledge that HealthCheck360° is a business associate of Plan for purposes of HIPAA, and not a health care provider as defined by HIPAA, and hereby agree to the terms of the Business Associate Addendum attached hereto as Exhibit D. Plan is responsible for assuring its own compliance with the privacy and security regulations implementing HIPAA and is not relying on HealthCheck360° for legal or other advice regarding its compliance with HIPAA, its implementing privacy and security regulations, other privacy laws or other applicable laws.

VII. EFFECTIVE DATE, TERM, RENEWAL AND TERMINATION

- (a) **Effective Date Terms.** This Agreement shall be effective as of the Effective Date and shall continue for one three (3) year term (the "Initial Term"), unless otherwise terminated pursuant to the terms hereof.
- (b) **Renewal Terms.** This Agreement shall automatically renew for additional one (1) year terms after the Initial Term (a "Renewal Term") at the renewal year new pricing. All other terms, conditions and provisions as contained herein, together with any authorized and approved amendments hereto, shall remain the same, unless either party gives written notice to the other party of its intent not to renew the Agreement at least sixty (60) days prior to the expiration of the initial term or any renewal term.
- (c) **General Termination Provisions.** This Agreement may be terminated as follows by mutual written consent of the parties; or upon thirty (30) days notice in the event that either party declares bankruptcy, becomes insolvent or makes an assignment for the benefit of its creditors.
- (d) **Termination for Material Breach.** Either HealthCheck360° or Company may terminate this Agreement by providing the other party with a minimum of Sixty (60) days prior written notice in the event the other party commits a Material Breach (as defined below). Said notice must specify the nature of such Material Breach. The breaching party shall have sixty (60) days from the date of receipt of the foregoing notice to cure said Material Breach. In the event the breaching party fails to cure the Material Breach within said sixty (60) day period, this Agreement shall automatically terminate. For purposes of this Agreement, the term

BIOMETRIC SCREENING AND HEALTH RISK ASSESSMENT AGREEMENT

“Material Breach” shall mean a breach of an essential term of this Agreement, not caused by or contributed to by the other party.

VIII. INDEMNIFICATION

- (a) Each parties hereby agrees to indemnify, defend and hold harmless the other party, their officers, directors, employees, agents and affiliates, from and against any loss, cost, damage, expense or other liability, including without limitation all reasonable costs and attorneys’ fees, actually incurred and finally determined and adjudicated by a court of competent jurisdiction, to have arisen out of, or in connection with, the tortious acts or omissions of the other party, its officers, directors, employees and agents, in the performance of its obligations under this Agreement.
- (b) An indemnitee entitled to indemnification under this Section VIII shall give notice to the indemnitor of a claim or other circumstances likely to give rise to a request for indemnification promptly after the indemnitee becomes aware of the same. No compromise or settlement of any such claim shall be made without the prior written consent of the indemnitee.
- (c) The Parties agree to make all reasonable efforts, consistent with the advice of counsel and the requirements of applicable insurance policies and carriers, to coordinate the defense of all claims in which both parties are either a named defendant or have a substantial possibility of being a named defendant interests are not in conflict. The parties shall promptly notify the other party of the receipt of any actual or threatened claim relating to this Agreement.

IX. GENERAL PROVISIONS

- (a) Amendment. This Agreement may be amended at any time during the term of the Agreement by mutual consent in writing of duly authorized representatives of the parties; provided, however, that any change (including any addition and/or deletion) to any provision of this Agreement that is required by duly enacted federal or state legislation, or by a regulation or rule finally issued by a regulatory agency pursuant to such legislation, rule or regulation (including, without limitation, any final regulations issued with regard to the Wellness Program Exception) will be deemed to be part of this Agreement without further action required to be taken by either party, for as long as such legislation, regulation or rule is in effect. Without limiting the effect of the foregoing, if such amendment adversely affects either party, the parties agree to renegotiate the affected portion of the Agreement in a good faith effort to remedy the adverse effect.
- (b) Assignment. Neither party may assign this Agreement to a third party without the express written approval of a duly authorized representative of the other party, and any such attempted assignment shall be void; provided, however, that either party expressly reserves the right to assign any and all of its rights hereunder to an affiliate or wholly-owned subsidiary, or successor to the business of a party, provided that such party shall notify the other party of any such assignment in writing at least thirty (30) days prior thereto.
- (c) Applicable Law. This Agreement shall be governed by the laws of the State of Iowa, without regard to its conflicts of law rules. The Company consents to the jurisdiction of the state or federal courts in the State of Iowa and any dispute arising under this Agreement shall be decided by a state or federal court in the State of Iowa.

BIOMETRIC SCREENING AND HEALTH RISK ASSESSMENT AGREEMENT

- (d) Agent or Broker Fees. Company and Plan acknowledge that the insurance agent or broker who assisted Company or Plan, as the case may be, in determining whether to engage HealthCheck360° to provide the Program services to Company and Plan will be paid a commission by HealthCheck360°. Such commission may be based on a percentage of fees to be paid by Company or Plan to HealthCheck360° hereunder provided, however, that any payment shall be fair and reasonable for the services rendered.
- (e) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and their permitted assigns.
- (f) Enforceability. In the event any provision of this Agreement is rendered invalid or unenforceable by a federal or state legislative action or judicial decision, the remainder of the provisions of this Agreement shall remain in full force and effect.
- (g) Entire Agreement. This Agreement, which shall be deemed to include all attachments, amendments, exhibits, addenda and schedules, contains the entire agreement between the parties. Any prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement and not expressly set forth in this Agreement are of no force or effect.
- (h) Limitations on Liability. Although this Agreement contemplates services for Eligible Persons, the parties reserve the right to amend or terminate this Agreement without notice to, or the consent of, any Eligible Person. No persons or entities other than Company, Plan and HealthCheck360° are intended to be, or are in fact, beneficiaries of this Agreement, and the existence of the Agreement shall not in any respect whatsoever increase the rights of any Eligible Person or other third party, or create any rights on behalf of any Eligible Person or other third party.
- (i) Corporate Authority. Company represents and warrants to HealthCheck360° that it has the corporate power and corporate authority to execute this Agreement, and that this Agreement, when executed, will be a valid and binding obligation of Company and Plan, enforceable in accordance with its terms and conditions. HealthCheck360° represents and warrants to Company and Plan that it has the corporate power and corporate authority to execute this Agreement and that this Agreement, when executed, will be a valid and binding obligation of HealthCheck360°, enforceable in accordance with its terms.
- (j) Liability Insurance Coverage. Each party agrees to maintain, at its own expense, liability insurance coverage in an amount of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate, as well as adequate comprehensive general liability and worker's compensation insurance.
- (k) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together comprise one and the same instrument.
- (l) Waiver of Breach. The waiver by a party of any breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision hereof by that party.
- (m) Force Majeure. Either party shall be excused from the performance of any of its obligations hereunder and such party's nonperformance shall not be a default or grounds for termination

BIOMETRIC SCREENING AND HEALTH RISK ASSESSMENT AGREEMENT

IN WITNESS WHEREOF, by placing their duly authorized signatures below, the parties hereby execute this Agreement as of the Effective Date and agree to be bound by its terms.

By: _____

Name: _____

Title: _____

Date: _____

HEALTHCHECK360°

By: _____

Name: Michael Kelly

Title: Director of HealthCheck360°

Date: _____

EXHIBIT A

DEFINITIONS

1. Biometric Screening means a Biometric Screening of an Eligible Person pursuant to the Program that is provided or arranged by HealthCheck360° and which involves the collection of a blood sample and a biometric examination that includes measurement of the Eligible Person's blood pressure, weight, height, and other vital statistics.
2. Biometric Screening Event means the designated place, date, and times arranged by HealthCheck360° and Company or Plan, as applicable, on which Biometric Screenings are provided to an Eligible Persons by the examiner(s) pursuant to the HealthCheck360° program.
3. Confidential Information shall mean any information, whether written or oral, that may be disclosed or made available by Company/Plan or HealthCheck360° to the other Party, including, but not limited to, all current and future information disclosed relating to (a) matters of a technical nature such as trade secret processes or devices, know-how, data, technology, formulas, proprietary software, inventions (whether or not patentable or copyrighted), specifications and characteristics of products or services planned or being developed, and research subjects, methods and results, (b) matters of a financial, commercial or business nature such as information about costs, profits, pricing, policies, markets, sales, suppliers, customers, product plans, investment prospects, and marketing plans or strategies, financial reports and projections, (c) matters of a human resources nature such as personnel and compensation of either Party, (d) the identities and other related information of the investors of either Party; (e) this Agreement and the fact that Confidential Information is being disclosed by the Parties pursuant to this Agreement, (f) other information of a similar nature that may be disclosed between the Parties whether in written, oral, electronic, web-based, or other form, and (g) all data, notes, summaries or other works derived from the information specified in (a)-(f).
4. Eligible Person means an employee or retiree of Company or, as applicable, the spouse or dependent over the age of 18 of such employee, and permitted by Company to participate in the HealthCheck360° Program. Individuals who are employees of company but who are not permitted by company to participate in the Program are not considered "Eligible Persons" as defined herein. Neither Company nor Plan shall restrict the eligibility of eligible employees to participate in the Program unless such eligibility restriction is based on an employment-based classification permitted under the Wellness Program Exception.
5. Health Risk Assessment Form (HRA) means HealthCheck360° proprietary questionnaire which is available to Eligible Persons through HealthCheck360° web portal, and available as a printed form provided by HealthCheck360° to Company and distributed to Eligible Persons by Plan, directly or through Company employees providing plan administrative services to Plan.
6. HealthCheck360°Program means the HealthCheck360° proprietary program for providing health risk management and population Biometric Screening and Health risk Assessment services for employer-sponsored group health plans as described in Exhibit B.
7. Lockdown Count is the written verification of the number of biometric screening participants for any Biometric Screening Event.
8. Participant means an Eligible Person who, prior to the participation deadline, either (a) undergoes a Biometric Screening, or (b) submits an HRA to HealthCheck360° with sufficient identifying data to permit HealthCheck360° to match accurately the HRA to an Eligible Person.

EXHIBIT B

HEALTHCHECK360° PROGRAM

1. HealthCheck360° Protocol for the Program

(a) Incentive Design

If requested, HealthCheck360° will assist Company/Plan in the development of an incentive program to encourage participation by Eligible Persons and reduce health risks.

(b) General Communication Information

Communication with Eligible Persons in the implementation of the HealthCheck360° Program shall be provided by HealthCheck360° or by Company, as applicable, using e-mail, and/or website communications. Written (both electronic and paper) communication is dependent upon HealthCheck360° having a valid residential address and email address for the Eligible Person. HealthCheck360° may contact Participants to inform them about other wellness programs and related resources that may be appropriate for and relevant to the Participants.

(c) Introduction to Eligible Persons

Introduction of the HealthCheck360° Program to eligible persons shall be provided by Company in a form mutually agreeable to Company or Plan, as applicable, and HealthCheck360°.

(d) Biometric Screening

HealthCheck360° shall provide, or arrange to provide, the examiners and blood collection kits necessary to conduct biometric screenings for eligible persons at a work site on such dates and times as shall be mutually acceptable to HealthCheck360° and Company, as applicable.

Once the location, date and time of each Biometric Screening Event has been determined, and notice of the location of the work site has been timely provided to HealthCheck360° by Company or Plan, as applicable, the scheduling of eligible persons for biometric screenings at such event shall be the sole responsibility of Company.

For efficiency, an average of six (6) eligible persons scheduled per examiner per hour. Company or Plan, as applicable, shall provide the Lockdown Count to HealthCheck360° at least fifteen (15) business days before the date of the Biometric Screening Event. Lockdown Count shall include the number of eligible persons and the date(s) and the beginning and end time for each Biometric Screening Event.

Each eligible person must sign and submit to HealthCheck360° a written consent, in form and content acceptable to HealthCheck360°, before the Biometric Screening Event can be performed.

(e) Health Risk Assessment (“HRA”)

Each eligible person will be provided with access to the HealthCheck360° HRA on an annual basis either in printed form (copies of which shall be provided by HealthCheck360° to

Company for distribution to eligible persons who do not wish to complete the HRA on-line) or in an electronic format through HealthCheck360° secure web portal.

(f) HealthCheck360° Report and HealthCheck360° Score for Participants

Following the completion by a participant of all of the requirements necessary for HealthCheck360° to prepare a HealthCheck360° individual report, HealthCheck360° will deliver a HealthCheck360° individual report to such participant, including his/her HealthCheck360° score, lab test results and risk-specific educational materials based on the participant's individual risk factors. HealthCheck360° may deliver these to participant by standard mail or through secure website access.

(g) Participant Web Tools

Participants will have access to a secure personalized web portal at myhealthcheck360.com to complete HRAs on-line, view their HealthCheck360° individual report, receive educational materials, track daily food and activity, join company challenges, and other features. Tracking tools and other resources are also available through a mobile application for Apple and Android device users.

(h) Hotline

A toll-free telephone number and e-mail communication through the HealthCheck360° website is available to eligible persons and participants to provide technical assistance in accessing the HealthCheck360° Program website and to provide general information regarding the program. The toll-free telephone service and e-mail account is monitored by HealthCheck360° during normal business hours (Monday through Friday from 8:00 AM to 5:00 PM Central time).

(i) Health Coaching

Incoming health coaching calls are included in the standard participation fees outlined in Exhibit B. Outbound health coaching options can be elected in Exhibit B. Health coaching activity reports will be provided under any model, but incentive eligibility reporting will only be provided with the selection of an outbound model.

(j) Cooperation with Third Parties

HealthCheck360° will cooperate with Company with regard to making selected personal HealthCheck360° data available to other providers of healthcare related services and employee assistance programs designated by Company as set forth in Section V of this Agreement. Nothing in this Exhibit B shall require HealthCheck360° to change its existing data fields.

(k) Account Manager Assignment

HealthCheck360° will designate one or more representatives of HealthCheck360° who will serve as an account manager to Company and who will be available during normal business hours to respond to inquiries from Company.

2. **Reporting**

Provided there are at least fifty (50) Participants in a reporting period, HealthCheck360° will provide Company with one (1) annual corporate aggregate and executive report. An incentive eligibility report of Plan's program data will be provided annually in a manner consistent with the requirements of Section VI (b) and Exhibit D of this Agreement regardless of participation. Location specific reporting may be available provided there are at least fifty (50) participants in reporting period in a manner consistent with the requirements of Section VI (b) and Exhibit D of this Agreement. Coaching engagement reporting will be provided only if a coaching model is selected in Exhibit B. Online and programming engagement is available upon request.

3. **Program Services Modification**

HealthCheck360° reserves the right to make modifications to the Program services outlined above for the express purpose of continuously improving the effectiveness and/or efficiency of the Program. HealthCheck360° will notify Plan in advance of any material modifications.

4. **Terms of Use**

The use of the web portal by Company or Plan or eligible persons is subject to the terms and conditions of use agreed to by participant when they first sign-in to the web portal, which are incorporated herein by this reference. The terms and conditions of use on the web portal shall control over any conflicting terms herein or made by any party, whether oral or written or referenced herein.

EXHIBIT C

PROGRAM FEES

Type	Description	Price	Fee per
Standard Fees			
Participation Fee	# of Participants at Biometric Screening Event		
	500+	\$115.00	Participant
	100-499	\$125.00	Participant
	20-99	\$129.00	Participant
	10-19	\$147.00	Participant
	6-9	\$157.00	Participant
	1-5 (remote screenings)	\$179.00	Participant (no screening fee applied)
	Off-line participant fee	\$29.00	Participant who completes Health Risk Assessment via paper.
	Program Only Participation Fee	\$75.00	Participant screened by third party vendor
Web Portal Only Participation Fee	\$39.00	Participant Per Year as provided to HealthCheck360° in eligible participant census	
Additional Testing Costs			
Initial here to elect _____	Thyroid-Stimulating Hormone (TSH)	\$19.25	Eligible Participant defined as: <input type="checkbox"/> All participants <input type="checkbox"/> Females only
Initial here to elect _____	Prostate-specific antigen (PSA)	\$19.25	Eligible Participant defined as all males aged: <input type="checkbox"/> ≥35 <input type="checkbox"/> ≥45 <input type="checkbox"/> ≥40 <input type="checkbox"/> ≥50
Initial here to elect _____	C Reactive Protein (hs-CrP)	\$19.25	Eligible Participant defined as all participants on screening date
Initial here to elect _____	Hemoglobin A1c (hA1c)	\$19.25	Eligible Participant defined as all participants with biometric values on the fasting plasma glucose test with results: <input type="checkbox"/> ≥100 <input type="checkbox"/> ≥115 <input type="checkbox"/> ≥126 This test requires an additional vile of blood to be taken from all participants (no additional cost).
Initial here to elect _____	Complete Blood Count (CBC)	\$24.75	Eligible Participant defined as all participants on screening date. This test requires an additional vile of blood to be taken from all participants (no additional cost).

Off hours and Weekend Fees are subject to a 20% surcharge on an event basis. Standard hours are considered to be Monday thru Friday 6:00 am to 7:00 pm.	
Extra Examiner Fees will be One Hundred and Twenty-Five dollars (\$125.00) per hour upon request.. Extra Examiner Fees may also be incurred for events that are outside of the following parameters:	
<ul style="list-style-type: none"> • 20+ participant events will be a minimum of 3 hours with screenings taking place every 10 minutes. • Events with 1-19 participants will have one examiner with screenings taking place every 10 minutes. • Any breaks in the schedule 	
Rush Delivery Fee: Surcharge applied to sum of Participation Fee and applicable Geographic Surcharges	
Requests <20 days	10%
Requests <15 days	30%
Requests <8 days	50%
Geographic Surcharges: The Participation Fee for each participant at locations in the geographic areas listed below are subject to an additional surcharge represented in the chart below	
Alaska/ Guam	50%
Puerto Rico/ Hawaii	35%
California	25%
New York City & surrounding cos.	25%
Washington D.C. & surrounding cos.	25%

HealthCheck360° shall be entitled to, at a minimum, the fifty percent (50%) down payment of the final proposal estimated cost, which is due at least thirty (30) days before the date of the first Screening Event. HealthCheck360° shall be entitled to payment of the Participation Fee for the greater of the number of participants listed on the Lockdown Count provided to HealthCheck360° at least fifteen (15) business days before the date of the biometric screening event or the number of actual participants at that location's screening.

The number of examiners attending a biometric screening event will be determined based on the Lockdown Count provided to HealthCheck360° for such biometric screening event. Company or Plan shall pay fifty per cent (50%) of the Participation Fees that would have been incurred per the Lockdown Count for any biometric screening event that is cancelled by Company or Plan less than fifteen (15) business days prior to the confirmed Biometric Screening Event. Company or Plan shall pay one hundred per cent (100%) of the Participation Fees that would have been incurred per the Lockdown Count for any Biometric Screening Event that is cancelled by Company or Plan less than two (2) business days prior to the confirmed Biometric Screening Event.

Information Services Fee - In the event of the use of external phlebotomists and lab vendors, all data must be received from the Company to HealthCheck360° in the format provided by HealthCheck360°. If data file requires re-formatting by HealthCheck360°, the Company will be obliged to pay an Information Services Fee at the rate of One Hundred and Fifty Dollars (\$150.00) per hour incurred by HealthCheck360°. For all requests pertaining to data analysis, programming, or reporting not covered in the scope of this agreement the Company will be obliged to pay an Information Services Fee at the rate of One Hundred and Fifty Dollars (\$150.00) per hour incurred by HealthCheck360°.

Custom Mailing Fee – A custom mailing fee of \$2.79 per item will be assessed for printing and/or mailing costs associated with any materials provided outside of the standard HealthCheck360° Program offering. This fee includes the mailing and printing of 2 pages printed in color or 10 pages printed in black and white. If items requested exceed standard mailing expenses, additional fees may apply.

Fee(s) Increases - In the event that HealthCheck360° suppliers significantly increase their charges to HealthCheck360° so that it becomes economically infeasible for HealthCheck360° to provide the Program for the amount of the fees herein, HealthCheck360° may propose new fees for the upcoming year to Company for its approval at least sixty (60) days prior to the anniversary of the Effective Date end of the Initial Term of this

Agreement. In the event Company does not agree to such fee increase, this Agreement shall automatically terminate at HealthCheck360°'s option as of the end of the current contract year.

HEALTH COACHING SERVICES

The following coaching services are offered in addition to the standard HealthCheck360° wellness offering:

Model/Description	Pricing	Initial to elect
<p>The Review of Findings model – HealthCheck360° will provide scheduling resources and availability for all participants to receive a call from a health coach. This call is designed to ensure a thorough understanding of the results and to set goals for the upcoming year. Follow-up is driven by the participant.</p>	<p>\$45.00 per health risk assessment participant</p>	
<p>The Targeted Intervention model – HealthCheck360° will target and provide outreach to all moderate to very high risk participants using the contact information provided at the time of the screening. If the participant engages, the health coach and participant will manage a follow-up schedule at a minimum of quarterly attempts. If the individual does not engage, the health coach will reach out to the participant quarterly to attempt to do so. If the participant declines contact, no further outreach will occur. This model does not provide outbound intervention for ideal or low risk participants. Unlimited inbound calls are participant-driven at all risk levels.</p>	<p>\$82.00 per health risk assessment participant</p>	
<p>The Comprehensive model combines the Review of Findings model and the Targeted model into an intensive intervention for all participants. HealthCheck360° will provide scheduling resources and availability for all participants to receive a Review of Findings call from a health coach. Participants with moderate to very high risk will then be proactively targeted on a quarterly basis or more based on participant engagement level. This model does not provide any additional outbound intervention following the Review of Findings outreach for ideal or low risk participants. Unlimited inbound calls are participant driven at all risk levels.</p>	<p>\$105.00 per health risk assessment participant</p>	
<p>The Opt-In model includes contacting moderate, high, and very high risk participants only to engage them in health coaching. The program does not provide outbound intervention for ideal or low risk participants. Follow-up interventions are based on participant interest and desire to continue the coaching relationship. Program includes unlimited incoming calls and electronic communications for all participants.</p>	<p>\$197.00 per engaged participant</p>	
<p>Reasonable alternative coaching model provides health coaching to all participants that request and enroll in a reasonable alternative standard to the Company's existing incentive structure. This is only applicable to Company if Targeted or Comprehensive models are not selected.</p>	<p>\$165.00 per enrolled participant in reasonable alternative standard.</p>	

OTHER SERVICES

Model/Description	Pricing	Initial to elect
<p>The Nicotine Cessation Program includes the enrollment and engagement with eligible participants as defined by the Company. The HealthCheck360° Nicotine Cessation Program includes a health coach who will reach out to enrolled participants on a weekly basis for six weeks (or on a timeframe mutually agreed upon by the health coach and the participant). The two parties will review weekly workbook tasks, and the participant will also receive weekly education pieces.</p> <p>For the next six weeks, the health coach will reach out to the participant on a biweekly basis, (or on a mutually agreed upon timeframe), and the participant will receive monthly education pieces.</p> <p>After the first twelve weeks, the health coach will reach out to the participant on a quarterly basis to aid in maintaining a nicotine-free lifestyle. In addition, the participant will receive quarterly communication to support this effort.</p>	<p>\$447.00 per enrolled Nicotine Cessation Program participant.</p> <p>If health coaching is elected above, that per participant amount will be deducted from the Nicotine Cessation Program charge.</p>	

EXHIBIT D

BUSINESS ASSOCIATE ADDENDUM FOR COMPLIANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

1. PREAMBLE

_____ (“Covered Entity”) and HealthCheck360° (“Business Associate”) (jointly “the Parties”) enter into this Business Associate Agreement to comply with the requirements of: (i) the implementing regulations at 45 C.F.R Parts 160, 162, and 164 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) (*i.e.*, the HIPAA Privacy, Security, Electronic Transaction, Breach Notification, and Enforcement Rules (“the Implementing Regulations”)), (ii) the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the “HITECH Act”) that are applicable to business associates, and (iii) the requirements of the final modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules as issued on January 25, 2013 and effective March 26, 2013 (75 Fed. Reg. 5566 (Jan. 25, 2013)) (“the Final Regulations”). The Implementing Regulations, the HITECH Act, and the Final Regulations are collectively referred to in this Business Associate Agreement as “the HIPAA Requirements.”

Covered Entity and Business Associate agree to incorporate into this Business Associate Agreement any regulations issued by the U.S. Department of Health and Human Services (“DHHS”) with respect to the HIPAA Requirements that relate to the obligations of business associates and that are required to be (or should be) reflected in a business associate agreement. Business Associate recognizes and agrees that it is obligated by law to meet the applicable provisions of the HIPAA Requirements and that it has direct liability for any violations of the HIPAA Requirements.

2. DEFINITIONS

- (a) “*Breach*” shall mean, as defined in 45 C.F.R. § 164.402, the acquisition, access, use or disclosure of Unsecured Protected Health Information in a manner not permitted by the HIPAA Requirements that compromises the security or privacy of that Protected Health Information.
- (b) “*Business Associate Subcontractor*” shall mean, as defined in 45 C.F.R. § 160.103, any entity (including an agent) that creates, receives, maintains or transmits Protected Health Information on behalf of Business Associate.
- (c) “*Electronic PHP*” shall mean, as defined in 45 C.F.R. § 160.103, Protected Health Information that is transmitted or maintained in any Electronic Media.
- (d) “*Limited Data Set*” shall mean, as defined in 45 C.F.R. § 164.514(e), Protected Health Information that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:
 - (i) Names;
 - (ii) Postal address information, other than town or city, State, and zip code;
 - (iii) Telephone numbers;
 - (iv) Fax numbers;
 - (v) Electronic mail addresses;
 - (vi) Social security numbers;
 - (vii) Medical record numbers;
 - (viii) Health plan beneficiary numbers;
 - (ix) Account numbers;

- (x) Certificate/license numbers;
 - (xi) Vehicle identifiers and serial numbers, including license plate numbers;
 - (xii) Device identifiers and serial numbers;
 - (xiii) Web Universal Resource Locators (URLs);
 - (xiv) Internet Protocol (IP) address numbers;
 - (xv) Biometric identifiers, including finger and voice prints; and
 - (xvi) Full face photographic images and any comparable images.
- (e) “*Protected Health Information*” or “*PHI*” shall mean, as defined in 45 C.F.R. § 160.103, information created or received by a Health Care Provider, Health Plan, employer, or Health Care Clearinghouse, that: (i) relates to the past, present, or future physical or mental health or condition of an individual, provision of health care to the individual, or the past, present, or future payment for provision of health care to the individual; (ii) identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; and (iii) is transmitted or maintained in an electronic medium, or in any other form or medium. The use of the term “Protected Health Information” or “PHI” in this Business Associate Agreement shall mean both Electronic PHI and non-Electronic PHI, unless another meaning is clearly specified.
- (f) “*Security Incident*” shall mean, as defined in 45 C.F.R. § 164.304, the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- (g) “*Unsecured Protected Health Information*” shall mean, as defined in 45 C.F.R. § 164.402, Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by DHHS.
- (h) “*Business Associate*” shall mean HealthCheck360°.
- (i) “*Covered Entity*” shall mean the Plan referred to in the Service Agreement.
- (j) “*Designated Record Set*” shall have the same meaning as the term “designated record set” in 45 C.F.R. 164.501.
- (k) “*Individual*” shall have the same meaning as the term “individual” in 45 C.F.R. § 164.502(g).
- (l) “*Privacy Rule*” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.
- (m) (k) “*Required By Law*” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.501.
- (n) “*Security Standards*” refers to the standards with respect to security of electronic protected health information referred to in 45 C.F.R. § 164.302 et seq.
- (o) “*Secretary*” shall mean the Secretary of the Department of Health and Human Services or his designee.
- (p) All other capitalized terms used in this Business Associate Agreement shall have the meanings set forth in the applicable definitions under the HIPAA Requirements.

3. **GENERAL TERMS**

- (a) In the event of an inconsistency between the provisions of this Business Associate Agreement and a mandatory term of the HIPAA Requirements (as these terms may be expressly amended from time to time by the DHHS or as a result of interpretations by DHHS, a court, or another regulatory agency with authority over the Parties), the interpretation of DHHS, such court or regulatory agency shall

prevail. In the event of a conflict among the interpretations of these entities, the conflict shall be resolved in accordance with rules of precedence.

- (b) Where provisions of this Business Associate Agreement are different from those mandated by the HIPAA Requirements, but are nonetheless permitted by the HIPAA Requirements, the provisions of this Business Associate Agreement shall control.
- (c) Except as expressly provided in the HIPAA Requirements or this Business Associate Agreement, this Business Associate Agreement does not create any rights in third parties.

4. SPECIFIC REQUIREMENTS

- (a) Flow-Down of Obligations to Business Associate Subcontractors. Business Associate agrees that as required by the HIPAA Requirements, Business Associate will enter into a written agreement with all Business Associate Subcontractors that: (i) requires them to comply with the Privacy and Security Rule provisions of this Business Associate Agreement in the same manner as required of Business Associate, and (ii) notifies such Business Associate Subcontractors that they will incur liability under the HIPAA Requirements for non-compliance with such provisions. Accordingly, Business Associate shall ensure that all Business Associate Subcontractors agree in writing to the same privacy and security restrictions, conditions and requirements that apply to Business Associate with respect to PHI.
- (b) Privacy of Protected Health Information
 - (i) *Permitted Uses and Disclosures of PHI.* Business Associate agrees to create, receive, use, disclose, maintain or transmit PHI only in a manner that is consistent with this Business Associate Agreement or the HIPAA Requirements and only in connection with providing the services to Covered Entity identified in the Agreement. Accordingly, in providing services to or for the Covered Entity, Business Associate, for example, will be permitted to use and disclose PHI for “Treatment, Payment, and Health Care Operations,” as those terms are defined in the HIPAA Requirements. Business Associate further agrees that to the extent it is carrying out one or more of the Covered Entity’s obligations under the Privacy Rule (Subpart E of 45 C.F.R. Part 164), it shall comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.
 - (1) Business Associate shall report to Covered Entity any use or disclosure of PHI that is not provided for in this Business Associate Agreement, including reporting Breaches of Unsecured Protected Health Information as required by 45 C.F.R. § 164.410 and required by Section 4(e)(ii) below.
 - (2) Business Associate shall establish, implement and maintain appropriate safeguards, and comply with the Security Standards (Subpart C of 45 C.F.R. Part 164) with respect to Electronic PHI, as necessary to prevent any use or disclosure of PHI other than as provided for by this Business Associate Agreement.
 - (ii) *Business Associate Obligations.* As permitted by the HIPAA Requirements, Business Associate also may use or disclose PHI received by the Business Associate in its capacity as a Business Associate to the Covered Entity for Business Associate’s own operations if:
 - (1) the *use* relates to: (1) the proper management and administration of the Business Associate or to carry out legal responsibilities of the Business Associate, or (2) data aggregation services relating to the health care operations of the Covered Entity; or

- (2) the *disclosure* of information received in such capacity will be made in connection with a function, responsibility, or services to be performed by the Business Associate, and such disclosure is required by law or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidential and the person agrees to notify the Business Associate of any breaches of confidentiality.
- (iii) *Minimum Necessary Standard and Creation of Limited Data Set.* Business Associate's use, disclosure, or request of PHI shall utilize a Limited Data Set if practicable. Otherwise, in performing the functions and activities as specified in the Agreement and this Business Associate Agreement, Business Associate agrees to use, disclose, or request only the minimum necessary PHI to accomplish the intended purpose of the use, disclosure, or request.
- (iv) *Access.* In accordance with 45 C.F.R. § 164.524 of the HIPAA Requirements, Business Associate will make available to the Covered Entity (or as directed by the Covered Entity, to those individuals who are the subject of the PHI (or their designees)), their PHI in the Designated Record Set. Business Associate shall make such information available in an electronic format where directed by the Covered Entity.
- (v) *Disclosure Accounting.* Business Associate shall make available the information necessary to provide an accounting of disclosures of PHI as provided for in 45 C.F.R. § 164.528 of the HIPAA Requirements by making such information available to the Covered Entity or (at the direction of the Covered Entity) making such information available directly to the individual.
- (vi) *Amendment.* Business Associate shall make PHI in a Designated Record Set available for amendment and, as directed by the Covered Entity, incorporate any amendment to PHI in accordance with 45 C.F.R. § 164.526 of the HIPAA Requirements.
- (vii) *Right to Request Restrictions on the Disclosure of PHI and Confidential Communications.* If an individual submits a Request for Restriction or Request for Confidential Communications to the Business Associate, Business Associate and Covered Entity agree that Business Associate, on behalf of Covered Entity, will evaluate and respond to these requests according to Business Associate's own procedures for such requests.
- (viii) *Return or Destruction of PHI.* Upon the termination or expiration of the Agreement or this Business Associate Agreement, Business Associate agrees to return the PHI to Covered Entity, destroy the PHI (and retain no copies), or if Business Associate determines that return or destruction of the PHI is not feasible;
- (1) continue to extend the protections of this Business Associate Agreement and of the HIPAA Requirements to the PHI, and
- (2) limit any further uses and disclosures of the PHI to the purpose making return or destruction infeasible.
- (ix) *Availability of Books and Records.* Business Associate shall make available to DHHS or its agents the Business Associate's internal practices, books, and records relating to the use and disclosure of PHI in connection with this Business Associate Agreement.
- (x) *Termination for Breach.*

- (1) Business Associate agrees that Covered Entity shall have the right to terminate this Business Associate Agreement or seek other remedies if Business Associate violates a material term of this Business Associate Agreement.
- (2) Covered Entity agrees that Business Associate shall have the right to terminate this Business Associate Agreement or seek other remedies if Covered Entity violates a material term of this Business Associate Agreement.

(c) Information and Security Standards

- (i) Business Associate will develop, document, implement, maintain, and use appropriate Administrative, Technical, and Physical Safeguards to preserve the Integrity, Confidentiality, and Availability of, and to prevent non-permitted use or disclosure of, Electronic PHI created or received for or from the Covered Entity.
- (ii) Business Associate agrees that with respect to Electronic PHI, these Safeguards, at a minimum, shall meet the requirements of the HIPAA Security Standards applicable to Business Associate.
- (iii) More specifically, to comply with the HIPAA Security Standards for Electronic PHI, Business Associate agrees that it shall:
 - (1) Implement Administrative, Physical, and Technical Safeguards consistent with (and as required by) the HIPAA Security Standards that reasonably protect the Confidentiality, Integrity, and Availability of Electronic PHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity. Business Associate shall develop and implement policies and procedures that meet the documentation requirements as required by the HIPAA Requirements;
 - (2) As also provided for in Section 4(a) above, ensure that any Business Associate Subcontractor agrees to implement reasonable and appropriate safeguards to protect the Electronic PHI;
 - (3) Report to Covered Entity any unauthorized access, use, disclosure, modification, or destruction of PHI (including Electronic PHI) not permitted by this Business Associate Agreement, applicable law, or permitted by Covered Entity in writing (“Successful Security Incidents” or Breaches) of which Business Associate becomes aware. Business Associate shall report such Successful Security Incidents or Breaches to Covered Entity as specified in Section 4(e)(iii)(1);
 - (4) For Security Incidents that do not result in unauthorized access, use, disclosure, modification, or destruction of PHI (including, for purposes of example and not for purposes of limitation, pings on Business Associate’s firewall, port scans, attempts to log onto a system or enter a database with an invalid password or username, denial-of-service attacks that do not result in the system being taken off-line, or malware such as worms or viruses) (hereinafter “Unsuccessful Security Incidents”), aggregate the data and, upon the Covered Entity’s written request, report to the Covered Entity in accordance with the reporting requirements identified in Section 4(e)(iii)(2);
 - (5) Take all commercially reasonable steps to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from any unauthorized access, use, disclosure, modification, or destruction of PHI;

- (6) Permit termination of this Business Associate Agreement if the Covered Entity determines that Business Associate has violated a material term of this Business Associate Agreement with respect to Business Associate's security obligations and Business Associate is unable to cure the violation; and
- (7) Upon Covered Entity's request, provide Covered Entity with access to and copies of documentation regarding Business Associate's safeguards for PHI and Electronic PHI.

(d) Compliance with HIPAA Transaction Standards

- (i) *Application of HIPAA Transaction Standards.* Business Associate will conduct Standard Transactions consistent with 45 C.F.R. Part 162 for or on behalf of the Covered Entity to the extent such Standard Transactions are required in the course of Business Associate's performing services under the Agreement and this Business Associate Agreement for the Covered Entity. As provided for in Section 4(a) above, Business Associate will require any Business Associate Subcontractor involved with the conduct of such Standard Transactions to comply with each applicable requirement of 45 C.F.R. Part 162. Further, Business Associate will not enter into, or permit its Subcontractors to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of the Covered Entity that:
 - (1) Changes the definition, data condition, or use of a data element or segment in a Standard Transaction;
 - (2) Adds any data element or segment to the maximum defined data set;
 - (3) Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or
 - (4) Changes the meaning or intent of the Standard Transaction's implementation specification.
- (ii) *Specific Communications.* Business Associate, Plan Sponsor and Covered Entity recognize and agree that communications between the parties that are required to meet the Standards for Electronic Transactions will meet the Standards set by that regulation. Communications between Plan Sponsor and Business Associate, or between Plan Sponsor and the Covered Entity, do not need to comply with the HIPAA Standards for Electronic Transactions. Accordingly, unless agreed otherwise by the Parties in writing, all communications (if any) for purposes of "Enrollment" as that term is defined in 45 C.F.R. Part 162, Subpart O or for "Health Covered Entity Premium Payment Data," as that term is defined in 45 C.F.R. Part 162, Subpart Q, shall be conducted between the Plan Sponsor and either Business Associate or the Covered Entity. For all such communications (and any other communications between Plan Sponsor and the Business Associate), Plan Sponsor shall use such forms, tape formats, or electronic formats as Business Associate may approve. Plan Sponsor will include all information reasonably required by Business Associate to affect such data exchanges or notifications.
- (iii) *Communications Between the Business Associate and the Covered Entity.* All communications between the Business Associate and the Covered Entity that are required to meet the HIPAA Standards for Electronic Transactions shall do so. For any other communications between the Business Associate and the Covered Entity, the Covered Entity shall use such forms, tape formats, or electronic formats as Business Associate

may approve. The Covered Entity will include all information reasonably required by Business Associate to affect such data exchanges or notifications.

(e) Notice and Reporting Obligations of Business Associate

(i) *Notice of Non-Compliance with the Business Associate Agreement.* Business Associate will notify Covered Entity within 10 calendar days after discovery, any unauthorized access, use, disclosure, modification, or destruction of PHI (including any successful Security Incident) that is not permitted by this Business Associate Agreement, by applicable law, or permitted in writing by Covered Entity, whether such non-compliance is by (or at) Business Associate or by (or at) a Business Associate Subcontractor.

(ii) *Notice of Breach.* Business Associate will notify Covered Entity following discovery and without unreasonable delay but in no event later than 10 calendar days following discovery, any Breach of Unsecured Protected Health Information, whether such Breach is by Business Associate or by Business Associate Subcontractor.

(1) As provided for in 45 C.F.R. § 164.402, Business Associate recognizes and agrees that any acquisition, access, use or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule (Subpart E of 45 C.F.R. Part 164) is presumed to be a Breach. As such, Business Associate shall (i) notify Covered Entity of any non-permitted acquisition, access, use or disclosure of PHI, and (ii) assist Covered Entity in performing (or at Covered Entity's direction, perform) a risk assessment to determine if there is a low probability that the PHI has been compromised.

(2) Business Associate shall cooperate with Covered Entity in meeting the Covered Entity's obligations under the HIPAA Requirements and any other security breach notification laws. Business Associate shall follow its notification to the Covered Entity with a report that meets the requirements outlined immediately below.

(iii) *Reporting Obligations.*

(1) For Successful Security Incidents and Breaches, Business Associate – without unreasonable delay and in no event later than 30 calendar days after Business Associate learns of such non-permitted use or disclosure (whether at Business Associate or at Business Associate Subcontractor) – shall provide Covered Entity a report that will:

(a) Identify (if known) each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired, or disclosed;

(b) Identify the nature of the non-permitted access, use, or disclosure including the date of the incident and the date of discovery;

(c) Identify the PHI accessed, used, or disclosed (*e.g.*, name; social security number; date of birth);

(d) Identify what corrective action Business Associate (or Business Associate Subcontractor) took or will take to prevent further non-permitted accesses, uses, or disclosures;

(e) Identify what Business Associate (or Business Associate Subcontractor) did or will do to mitigate any deleterious effect of the non-permitted access, use, or disclosure; and

(f) Provide such other information, including a written report, as the Covered Entity may reasonably request.

- (2) For Unsuccessful Security Incidents, Business Associate shall provide Covered Entity, upon its written request, a report that:
 - (a) identifies the categories of Unsuccessful Security Incidents as described in Section 4(c)(iii)(4);
 - (b) indicates whether Business Associate believes its (or its Business Associate Subcontractor's) current defensive security measures are adequate to address all Unsuccessful Security Incidents, given the scope and nature of such attempts; and
 - (c) if the security measures are not adequate, the measures Business Associate (or Business Associate Subcontractor) will implement to address the security inadequacies.

(iv) *Termination.*

- (1) Covered Entity and Business Associate each will have the right to terminate this Business Associate Agreement if the other party has a material breach or violation of Business Associate's or the Covered Entity's respective obligations regarding PHI under this Business Associate Agreement and, on notice of such material breach or violation from the Covered Entity or Business Associate, fails to take reasonable steps to cure the material breach or end the violation.
- (2) If Business Associate or the Covered Entity fail to cure the material breach or end the violation after the Covered Entity or Business Associate (as applicable) may terminate this Business Associate Agreement by providing Business Associate or the Covered Entity written notice of termination, stating the uncured material breach or violation that provides the basis for the termination and specifying the effective date of the termination. Such termination shall be effective 60 days from this termination notice.

(v) *Continuing Privacy and Security Obligations.* Business Associate's and the Covered Entity's obligation to protect the privacy and security of the PHI it created, received, maintained, or transmitted in connection with services to be provided under the Agreement and this Business Associate Agreement will be continuous and survive termination, cancellation, expiration, or other conclusion of this Business Associate Agreement or the Agreement. Business Associate's other obligations and rights, and the Covered Entity's obligations and rights upon termination, cancellation, expiration, or other conclusion of this Business Associate Agreement, are those set forth in this Business Associate Agreement and/or the Agreement.

5. **TERM**

The Term of this Addendum shall be effective as of the effective date of the Agreement and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the provisions of this Addendum.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date(s) set forth below.

Employer, as Plan Administrator of the Plan

HealthCheck360°

By: Signature of Officer

By: Michael Kelly

Name: _____

Director, HealthCheck360°

Title: _____

Date: _____

Date: _____

Council Bill/Resolution No.: 4039-2014

Sponsor: _____

A SPECIAL ORDINANCE

CLOSING certain streets more particularly described herein to vehicular traffic; and

AUTHORIZING the use of public right-of-way in conjunction with the Bier Stube Oktoberfest scheduled for Friday, September 19, 2014 through Sunday, September 21, 2014 and Friday, September 26, 2014 through Saturday, September 27, 2014.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – That this Council hereby authorizes and directs the Mayor, Director of Public Works and Police Chief to erect barricades and post temporary signs, if necessary, for the purpose of closing the following designated roadways to vehicular traffic during the specified times mentioned herein:

Friday, September 19, 2014, 8:00 a.m. to Sunday, September 21, 2014, 2:00 p.m., and
Friday, September 26, 2014, 8:00 a.m. to Sunday, September 28, 2014, 2:00 a.m.

Alley in the 400 block between 14th and 15th Streets,
the closure is to be from the westernmost side of 15th Street to
the west end of Bier Stube Biergarten.

It shall be an offense to use said roadways for vehicular purposes during times herein specified.

Section 2 – That this Council declares the intent of this ordinance to be a temporary variance from other ordinances that may be in conflict herewith and shall authorize the activities described hereinabove only during such times specified for the street closings and shall not constitute a repeal of other ordinances of the City of Moline which are in conflict herewith.

Section 3 – That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____
City Clerk

Approved as to form:

City Attorney