

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE CITY OF NORTH MIAMI AND  
COGNOSANTE, LLC**

**THIS MEMORANDUM OF UNDERSTANDING** (“MOU”) is made and entered into this 1 day of November, 2016, by and between the **City of North Miami**, a Florida municipal corporation, having its principal office at 776 NE 125<sup>th</sup> Street, North Miami, FL 33161 (“City”), and **Cognosante, LLC**, a foreign limited liability company organized and registered to do business under the laws of the State of Florida, having its principal office at 8200 Greensboro Drive, Suite 1200, McLean VA 22102 (“Cognosante”). The City and Cognosante shall collectively be referred to as the “Parties”, and each may individually be referred to as a “Party”.

**RECITALS**

**WHEREAS**, Cognosante was established with the mission of transforming our country’s healthcare system, supporting mission-critical health programs in 48 states, the District of Columbia, and Puerto Rico, and has expertise in the areas of health insurance marketplaces, healthcare standards, and Medicaid enterprise systems; and

**WHEREAS**, Cognosante would like to institute a program in the City to provide federal and state customers with Medicaid program management, health insurance eligibility and enrollment support, contact center support, and health data standard services; and

**WHEREAS**, Cognosante desires to occupy a portion of the lobby on the first floor of City Hall to help members of the public seeking assistance, in obtaining the health-care services provided by the Affordable Care Act; and

**WHEREAS**, the City Manager desires to facilitate Cognosante’s commitment of providing assistance to federal, state, and local government healthcare agencies that administer Medicare, Medicaid, Children’s Health Insurance Program, and other healthcare programs, by providing the requested venue at no charge.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises and covenants contained herein, the Parties agree as follows:

**ARTICLE 1 – TERM**

1.1 The term of this MOU shall be the period commencing on November 1, 2016 and continue through January 31, 2017, unless earlier terminated earlier by either Party, with or without cause, with ten (10) days written notice.

**ARTICLE 2 – RESPONSIBILITIES OF THE PARTIES**

2.1 Cognosante shall assist members of the public entering City Hall, who are seeking assistance with the obtaining the services offered under the Affordable Care Act (“Services”).

2.1.1 Cognosante employees shall provide Services in an area of the front lobby, designated by the City Manager or his designee, Mondays through Friday, from 9am to 4:30pm;

2.1.2 Cognosante shall maintain all records relating to the provision of Services and be made available to the City upon request;

2.1.3 Cognosante shall maintain a log of all comments or complaints when received from the public, pertaining to the Services provided under this MOU;

2.1.4 Cognosante shall provide copies of all comments or complaints received in writing, relating in any way to the Services provided under this MOU;

2.1.5 Cognosante shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the provision of Services under this MOU, to prevent damage, injury or loss to any member of the public while on the designated premises at City Hall;

2.1.6 Services are to be provided by Cognosante without any compensation from the City, and at no cost to the City; and

2.1.7 Cognosante agrees that any news release or other type of publicity pertaining to the Services provided at City Hall must recognize the City as a partner in this endeavor.

2.2 To facilitate Cognosante in the provision of Services to interested members of the public entering City Hall, the City agrees to the following:

2.2.1 Provide access to the City Hall lobby (first floor, front lobby area) during the designated hours of 9 am to 4:30 pm;

2.2.2 Provide no more than two (2) tables and no more than six (6) chairs;

2.2.3 Clean and maintain the lobby area with related utility services at no cost to Cognosante; and

2.2.4 Provide Cognosante with monthly reviews of its compliance with the terms and conditions of this MOU.

### **ARTICLE 3 – INSURANCE**

3.1 Throughout the term of this MOU, Cognosante shall maintain in effect the following insurance policies:

3.1.1 Workmen's Compensation Insurance as required by Florida law with statutory limits, and Employer's Liability with a minimum limit of One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease.

3.1.2 Comprehensive General Liability Insurance in an amount not less than One Million Dollars and no cents (\$1,000,000.00) combined single limit for bodily injury and property damage. The policy shall be endorsed to include the City and its officers, agents and

employees as additional insured, with all necessary endorsements showing the City as a first party insured.

3.1.3 Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$500,000 combined single limit for bodily injury and property damage.

3.1.4 The Comprehensive General Liability Insurance coverage as required above shall include those classifications listed in Standard Liability Insurance Manuals, which are applicable to the operations of Cognosante in the performance of the MOU.

3.1.5 All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida and executed by duly licensed agents upon whom service of process may be made in Miami-Dade County, Florida. All policies shall have a general policy holders rating of "A" or better and a financial rating no less than "X" as reported by Best's Key Rating Guide, published by A. M. Best Company, latest edition. The City of North Miami shall also be included as additional insured for general and auto liability. A valid certificate of insurance shall be provided to the City's Risk Management Division during the course of this contract. The City of North Miami shall be notified within thirty (30) days of any notice of cancellation or non-renewal of insurance policies applicable to this contract. Cognosante will also ensure that adequate replacement coverage is secured to avoid any coverage gaps in the event of cancellation or non-renewal.

#### **ARTICLE 4 - DEFAULT**

4.1 If Cognosante fails to comply with any term or condition of this MOU, or fails to perform any of its obligations hereunder, then Cognosante shall be in default. The City shall have the right to terminate this MOU in the event Cognosante fails to cure a default within five (5) business days after receiving Notice of Default. Cognosante understands and agrees that termination of this MOU under this section shall not release Cognosante from any obligations accruing prior to the effective date of termination.

#### **ARTICLE 5 - INDEPENDENT CONTRACTOR**

5.1 Cognosante is engaged to the City as an independent contractor, and not as an agent or employee of the City. Accordingly, Cognosante shall not attain, nor be entitled to, any rights or benefits under the Civil Service or Pension Ordinances of the City, nor any rights generally afforded classified or unclassified employees of the City. Cognosante further understands that Florida workers' compensation benefits available to employees of the City, are not available to Cognosante. Therefore, Cognosante agrees to provide workers' compensation insurance, as required by Florida law, for any employee or agent of Cognosante rendering Services to pursuant to this MOU.

#### **ARTICLE 6 - CONFLICTS OF INTEREST**

6.1 Cognosante represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or secure this MOU and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with, the award of this MOU.



proceeding, except for damages specifically caused by or arising out of the negligence, strict liability, intentional torts or criminal acts of the City, its officer, agents, employees or contractors, which claims are lodged by any person, firm, or corporation.

8.2 Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Chapter 768, Florida Statutes (2016). Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

#### **ARTICLE 9 – CITY'S LIMITATION OF LIABILITY**

9.1 The City desires to enter into this MOU only if in so doing the City can place a limit on the City's liability for any cause of action arising out of the MOU, so that its liability will never exceed the agreed sum of One Thousand Dollars (\$1,000.00). Cognosante expresses its willingness to enter into this MOU with Cognosante's recovery from the City for any action or claim arising from this MOU to be limited to a maximum amount of One Thousand Dollars (\$1,000.00).

9.2 Accordingly, and notwithstanding any other term or condition of this MOU, Cognosante agrees that the City shall not be liable to Cognosante for damages in an amount in excess of One Thousand Dollars (\$1,000.00), for any action or claim for breach of contract or for any action or claim arising out of this MOU.

#### **ARTICLE 10 - FORCE MAJEURE**

10.1 A "Force Majeure Event" shall mean an act of God, act of governmental body or military authority, fire, explosion, power failure, flood, storm, hurricane, sink hole, other natural disasters, epidemic, riot or civil disturbance, war or terrorism, sabotage, insurrection, blockade, or embargo. In the event that either Party is delayed in the performance of any act or obligation pursuant to or required by the MOU by reason of a Force Majeure Event, the time for required completion of such act or obligation shall be extended by the number of days equal to the total number of days, if any, that such Party is actually delayed by such Force Majeure Event. The Party seeking delay in performance shall give notice to the other Party specifying the anticipated duration of the delay, and if such delay shall extend beyond the duration specified in such notice, additional notice shall be repeated no less than monthly so long as such delay due to a Force Majeure Event continues. Any Party seeking delay in performance due to a Force Majeure Event shall use its best efforts to rectify any condition causing such delay and shall cooperate with the other Party to overcome any delay that has resulted.

#### **ARTICLE 11 - MISCELLANEOUS PROVISIONS**

11.1 No waiver or breach of any provision of this MOU shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

11.2 The City reserves the right to inspect or audit the records of the Cognosante as they pertain to this MOU, at any time during the term of the MOU and for a period of three years after the MOU is terminated or completed.

11.3 All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this MOU, shall survive completion of the Services and termination or completion of the MOU.

11.4 Should any provision, paragraph, sentence, word or phrase contained in this MOU be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this MOU shall remain unmodified and in full force and effect or limitation of its use.

11.5 This MOU shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the Parties shall be in Miami-Dade County, Florida.

11.6 This MOU constitutes the sole and entire agreement between the Parties. No modification or amendments hereto shall be binding on either Party unless in writing and signed by both Parties.

11.7 Cognosante agrees to comply with and observe all applicable federal, state, and local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

11.8 Services shall not be subcontracted, transferred, conveyed, or assigned under this MOU in whole or in part to any other person, firm or corporation without the prior written consent of the City.

11.9 This MOU shall be binding upon the Parties herein, their heirs, executors, legal representatives, successors and assigns.

11.10 Cognosante agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance under this MOU.

11.11 The Cognosante understands that the City and the public shall have access, at all reasonable times, to all documents and information pertaining to City contracts, subject to the provisions of Chapter 119, Florida Statutes (2016), and agrees to allow access by the City and the public to all documents subject to disclosure under applicable law.

11.12 All other terms, conditions and requirements contained in the RFP, which have not been modified by this MOU, shall remain in full force and effect.

11.13 Cognosante shall assume full responsibility for any damage to any areas, land or property, whether public or private, resulting from the Cognosante's performance under this MOU.

11.14 In the event of any dispute arising under or related to this MOU, the prevailing Party shall be entitled to recover all actual attorney fees, costs and expenses incurred by it in connection with that dispute and/or the enforcement of this MOU, including all such actual attorney fees, costs and expenses at all judicial levels, including appeal, until such dispute is resolved with finality.

11.15 This MOU may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same MOU.

**IN WITNESS WHEREOF**, the Parties have executed this First Amendment by their respective proper officers duly authorized the day and year first written above.

ATTEST:  
Corporate Secretary or Witness:

Cognosante LLC, a Florida limited liability company  
"Cognosante":

By: \_\_\_\_\_

By: Lynette Brooks

Print Name: \_\_\_\_\_

Print Name: Lynette Brooks

Date: \_\_\_\_\_

Date: 11/17/2016

ATTEST:

City of North Miami, a Florida municipal corporation "City":

By: Michael A. Etienne, Esq.

Michael A. Etienne, Esq.  
City Clerk

*Deputy for the*

By: Larry M. Spring

Larry M. Spring  
City Manager

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: Jeff P. H. Cazeau, Esq.

Jeff P. H. Cazeau, Esq.  
City Attorney