



Contract Number

24-653

SAP Number

## Arrowhead Regional Medical Center

<b>Department Contract Representative</b>	Andrew Goldfrach
<b>Telephone Number</b>	(909) 580-6150
<b>Contractor</b>	Jubilant DraxImage, Inc. dba Jubilant Radiopharma
<b>Contractor Representative</b>	Mark Trenholm, Nuclear Sales Mgr.
<b>Telephone Number</b>	970-644-2139
<b>Contract Term</b>	July 23, 2024 through June 22, 2029
<b>Original Contract Amount</b>	Not to exceed \$1,212,000
<b>Amendment Amount</b>	
<b>Total Contract Amount</b>	Not to exceed \$1,212,000
<b>Cost Center</b>	

**Briefly describe the general nature of the contract:** Agreement with Jubilant DraxImage, Inc. dba Jubilant Radiopharma for the preparation and delivery of radioactive pharmaceutical agents, in the not-to-exceed amount of \$1,212,000, for the contract period of July 23, 2024 through July 22, 2029.

**FOR COUNTY USE ONLY**

Approved as to Legal Form

Charles Phan, Supervising Deputy County Counsel

Date 6/27/2024

Reviewed for Contract Compliance

▶

Date

Reviewed/Approved by Department

▶ Andrew Goldfrach, ARMC Chief Executive Officer

Date 7/11/2024

## JUBILANT RADIOPHARMA PROVIDER AGREEMENT

**THIS JUBILANT RADIOPHARMA PROVIDER AGREEMENT** (herein, the "Agreement") shall be effective as of July 23, 2024 (the "Effective Date") between Jubilant DraxImage, Inc. d/b/a Jubilant Radiopharma, a Canadian corporation with its principal place of business located at 790 Township Line Road, Suite 325, Yardley, Pennsylvania 19067 (herein, "Jubilant") and San Bernardino County, a political subdivision of the State of California, on behalf of Arrowhead Regional Medical Center, located at 400 North Pepper Avenue, Colton, California 92324 (herein, "Client").

WHEREAS, Client operates a licensed acute general hospital and several outpatient clinics that includes an medical imaging center (Client ID 5749) that uses radioactive pharmaceutical agents to perform diagnostic and therapeutic imaging procedures on a day-to-day basis; and,

WHEREAS, Jubilant is a licensed, nuclear pharmacy provider that prepares and delivers radioactive pharmaceutical agents to medical imaging centers that perform diagnostic and therapeutic imaging procedures; and,

WHEREAS, Client wishes to engage Jubilant to exclusively provide Client with the radioactive pharmaceutical agents described herein; and,

WHEREAS, Jubilant has agreed to provide Client with radioactive pharmaceutical agents pursuant to the terms and conditions contained in this Agreement; and,

NOW THEREFORE, in consideration of the mutual agreements and covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1) Jubilant Agrees to:

- a) Deliver the radioactive pharmaceutical agents and services described on **Exhibit "A"**, which is attached hereto, in accordance with all applicable laws, rules and regulations, Jubilant's standard operating procedures and the terms and conditions of this Agreement.
- b) Provide access to Jubilant's clinical education professionals for Client educational programs at mutually agreed upon times and locations, during the initial and any renewal term(s) of this Agreement.
- c) Continue providing Client with the use of one (1) NMIS Nuclear Medicine Information System software application, to be operated on Client's hardware, including the NMIS Software License, the license key (NMIS Software License Dongle) and a barcode scanner, (collectively, the "NMIS System") during the initial and any renewal term of this Agreement, contingent upon Client's agreement to at all times comply with all the terms and conditions of the NMIS System License Agreement that is attached hereto as **Exhibit "B"**. Jubilant is continuing Client's use of this NMIS System to cause Client to electronically document the ordering, receipt, testing, administration and return of the radioactive pharmaceutical agents described herein.

2) Client Agrees to:

- a) Engage Jubilant as Client's exclusive provider of the radioactive pharmaceutical agents described on **Exhibit "A"**, during the term of this Agreement. Notwithstanding the foregoing, Client shall be

authorized to purchase certain radioactive pharmaceutical agents described on **Exhibit "A"** from a nuclear pharmacy provider other than Jubilant, for a limited period of time;

- i) Commencing on the date that Jubilant notifies Client that it cannot supply one or more of the radioactive pharmaceutical agents described on **Exhibit "A"**, ordered by Client, (a "Shortage Notice") and,
  - ii) Ending on the date upon which Jubilant notifies Client that it can resume supplying the radioactive pharmaceutical agents described on **Exhibit "A"** that were previously described in a Shortage Notice.
- b) Comply with all of the terms and conditions of the NMIS System License Agreement that is attached hereto as **Exhibit "B"**, at all times during the initial and any renewal term(s) of this Agreement.
  - c) Assume responsibility for any lost, stolen or abused equipment provided to Client, by Jubilant under this Agreement.
  - d) Remit payment to Jubilant in compliance with the pricing and payment terms described on **Exhibit "A"**, which is attached hereto.

3) Term and Termination:

- a) The term of this Agreement shall be for five (5) years, commencing on the Effective Date listed above.
- b) In the event of breach of any provision of this Agreement, the non-breaching party shall notify the breaching party in writing of the specific nature of the breach and shall request that it be cured. If the breaching party does not cure the breach within thirty (30) days of such notice, the non-breaching party may immediately terminate this Agreement on written notice to the breaching party, and such termination shall not preclude the non-breaching party from pursuing any and all remedies available to it at law or in equity.
- c) The Indemnification obligations described in this Agreement shall survive the termination of this Agreement. These ongoing obligations shall be binding upon both parties, regardless of the reason for termination of this Agreement.
- d) Client and Jubilant each reserve the right to terminate this Agreement, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein.

4) Confidentiality:

- a) This Agreement is subject to the San Bernardino County Sunshine Ordinance, County Code of Ordinances Section 19.0101, California Government Code 54950, and California Public Records Act (Government Code Section 6250) (collectively, "Regulations"). All information, including detailed price and cost information, is public information. If Jubilant believes that any portion of this Agreement (including any attachments, amendments, SOWs, and SLAs), materials, or work product provided to Client is exempt from public disclosure, Jubilant must clearly mark that portion "Confidential" or "Proprietary". Jubilant also must include a brief description that sets out the reasons for exemption from disclosure. Client will use reasonable means to ensure that such

information is safeguarded, but will not be held liable for inadvertent disclosure of the information. Information marked "Confidential" or "Proprietary" in its entirety will not be honored, and Client will not deny public disclosure of any information so marked. Jubilant represents that it has a good faith belief that such portions are exempt from disclosure under the Regulations and agrees to reimburse Client for, and to indemnify, defend, and hold harmless Client, its officers, employees, and agents, from and against any and all claims, damages, losses, liabilities, suits, judgments, fines, penalties, costs, and expenses, including without limitation, attorneys' fees, expenses, and court costs of any nature arising from or relating to Client's non-disclosure of any such information. If the receiving Party receives a subpoena, other validly issued administrative or judicial process, or public records request requesting Confidential Information of the other Party, it will, to the extent legally permissible, promptly notify the other Party and if requested by the other Party, tender to the other Party the defense of the subpoena or process. Unless the subpoena or process is timely limited, quashed or extended, the receiving Party will then be entitled to comply with the request to the extent permitted by law.

5) Informal Dispute Resolution:

- a) In the event of any dispute, claim, question or disagreement that arises between the parties regarding the activities described in this Agreement, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

6) Indemnification:

- a) Jubilant (the "Indemnifying Party") shall indemnify, defend and hold harmless Client, and its officers, directors, employees and agents (collectively, the "Indemnitees"), from any and all claims, losses, lawsuits, demands, actions, and judgments ("Claims") asserted by any third party individuals or organizations, for any negligent act, failure to act, willful misconduct, or breach of this Agreement by the Indemnifying Party, its employees or agents, including, but not limited to, any fines, awards, damages, expenses, and reasonable legal fees that may be incurred in connection with such Claims. In addition, Indemnifying Party shall indemnify, defend, and hold harmless Indemnitees from any and all Claims asserted by any third party individuals or organizations that the radioactive pharmaceutical agents provided pursuant to this Agreement infringe any United States patent, copyright, trademark or trade secret, or are defective.
- b) If a credible claim is made or threatened, including without limitation the filing of a lawsuit against Client, or Client receives a demand or notice claiming actual or potential infringement or misappropriation of any intellectual property rights, Client will use reasonable efforts to notify Jubilant promptly of such lawsuit or claim. However, Client's failure to provide or delay in providing such notice will relieve Jubilant of its obligations only if and to the extent that such delay or failure materially prejudices Jubilant's ability to defend such lawsuit or claim.

7) Insurance:

- a) Client is an authorized self-insured public entity for purposes of General Liability and warrants that through its program of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.

- b) Without in anyway affecting the indemnity herein provided and in addition thereto, Jubilant shall secure and maintain throughout the contract term the following types of insurance with limits as shown and under the following terms and conditions:

1. Jubilant shall maintain a commercial general liability insurance policy in the amount of not less than \$2,000,000 per claim and \$8,000,000 in the aggregate per year during the original and any renewal term of this Agreement. This policy shall cover any loss, claims or damages caused by the insured party while performing the activities described in this Agreement. The policy coverage shall include:

- i Premises operations and mobile equipment.
- ii Products and completed operations.
- iii Broad form property damage (including completed operations).
- iv Personal injury.
- v Contractual liability.

2. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence. If Jubilant is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence. If Jubilant owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3. Workers' Compensation/Employer's Liability - A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons providing services on behalf of Jubilant and all risks to such persons under this contract.

4. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

5. Additional Insured – All policies shall contain additional endorsements naming Client and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for Client to vicarious liability but shall allow coverage for Client to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

6. Waiver of Subrogation Rights – Jubilant shall require the carriers of required coverages to waive all rights of subrogation against Client, its officers, employees, agents, volunteers, contractors and subcontractors. All general insurance coverage provided shall not prohibit Jubilant and Jubilant's employees or agents from waiving the right of subrogation prior to a loss or claim. Jubilant hereby waives all rights of subrogation against Client.
7. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by Client.
8. Severability of Interests – Jubilant agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between Jubilant and Client or between Client and any other insured or additional insured under the policy.
9. Proof of Coverage – Jubilant shall furnish Certificates of Insurance to the Client Department administering the Agreement evidencing the insurance coverage at the time the Agreement is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Client Department, and Jubilant shall maintain such insurance from the for the Term. Within fifteen (15) days of the commencement of this Agreement, Jubilant shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
10. Acceptability of Insurance Carrier – Unless otherwise approved by Client's Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".
11. Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Client's Risk Management.
12. Failure to Procure Coverage – In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, Client has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by Client will be promptly reimbursed by Jubilant or Client payments to Jubilant will be reduced to pay for Client purchased insurance.
13. Insurance Review – Insurance requirements are subject to periodic review by Client. Client's Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Client's Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of Client. In addition, if Client's Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, Client's Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against Client, inflation, or any other item reasonably related to Client's risk.

14. Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Jubilant agrees to execute any such amendment within thirty (30) days of receipt.

15. Any failure, actual or alleged, on the part of Client to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of Client.

8) Force Majeure:

- a) The obligations of either Party to perform under this Agreement will be excused during each period of delay caused by acts of God, war, war on terrorism, terrorism, pandemic, or by shortages of power or materials or government orders, in each case which is beyond the reasonable control of the Party obligated to perform and prevents the Party from being able to perform (each, a "Force Majeure Event"). In the event that either Party ceases to perform its obligations under this Agreement due to the occurrence of a Force Majeure Event, such Party shall: (a) immediately notify the other Party in writing of such Force Majeure Event and its expected duration; and (b) take all reasonable steps to recommence performance of its obligations under this Agreement as soon as possible. In the event that any Force Majeure Event delays a Party's performance for more than (30) thirty days following notice by such Party pursuant to this Agreement, either Party may terminate this Agreement immediately upon written notice to such Party.

9) General Terms:

- a) In the event that either party commences any action or proceeding under this Agreement to enforce any right or remedy hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.
- b) Client is hereby advised that Client may be obligated by federal or state law to fully disclose, accurately reflect and, to the extent necessary, properly allocate the net value of any discounts, rebates or other reductions in price received pursuant to this Agreement on any claims, charges or reports made to any federal, state or other health care programs or plans requiring such disclosure including, but not limited to, Medicare and Medicaid. Client agrees to comply with any such disclosure obligations and to make available, upon request by the Secretary of the U.S. Department of Health and Human Services or a state agency, this Agreement and any invoices or other documentation provided to Client by Jubilant concerning any discounts, rebates or other reductions in price provided pursuant to this Agreement. If Client requires additional information in order to comply with any disclosure or reporting obligations it may have to a federal or state health care program, Client may contact Jubilant to request such additional information.
- c) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF PERFORMANCE UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUES, PROFITS OR DATA, WHETHER IN CONTRACT OR TORT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; PROVIDED THAT SUCH DISCLAIMER SHALL NOT APPLY TO THE EXTENT THAT ANY SUCH DAMAGES ARE THE SUBJECT OF CLAIMS OF THIRD PARTIES FOR WHICH ONE OF THE PARTIES HERETO IS ANSWERABLE TO THE OTHER PARTY IN INDEMNITY PURSUANT TO THIS AGREEMENT.

- d) EXCEPT AS NECESSARY TO SATISFY A THIRD PARTY CLAIM INDEMNIFIED UNDER SECTION 6 OF THIS AGREEMENT AND EXCEPT FOR JUBILANT'S POTENTIAL GROSS NEGLIGENCE, WILLFUL MISCONDUCT, FRAUD, OR VIOLATIONS OF LAW, CLIENT'S SOLE AND EXCLUSIVE REMEDY AND JUBILANT'S SOLE AND EXCLUSIVE LIABILITY AND OBLIGATION, FOR ANY BREACH OF A REPRESENTATION OR WARRANTY SET FORTH IN THIS AGREEMENT SHALL BE, FOR JUBILANT, AT ITS OPTION, EITHER TO (A) PROCESS A REPLACEMENT PRODUCT AT NO COST TO CLIENT OR (B) CREDIT OR REFUND OF THE PRICE TO CLIENT FOR THE PRODUCT IN QUESTION.
- e) Client and Jubilant hereby agree to remain in compliance with all local, state and federal laws, rules and regulations that are applicable to their respective activities as anticipated by this Agreement and as may be in effect from time to time during the term of this Agreement. If any change(s) in the local state and federal laws, rules and regulations that apply to the activities described in this Agreement materially adversely impacts the parties or makes this Agreement or the activities in this Agreement illegal, the parties hereby agree to mutually renegotiate this Agreement to conform with such changes in a commercially practical way. If the parties cannot mutually renegotiate this Agreement in such situation, the Agreement shall automatically terminate sixty (60) days after the date the parties terminate their attempts to renegotiate this Agreement due to such changed laws, rules or regulations.
- f) This Agreement, including the Exhibits attached hereto, makes up the entire understanding between Jubilant and Client concerning the subject matter hereof. This Agreement supersedes all prior and contemporaneous documents, presentations, proposals, discussions, understandings and all other agreements and representations, whether oral or written, made by Jubilant or Client relating to the subject matter hereof.
- g) All notices required or permitted to be given hereunder by any party hereto shall be in writing, and shall be effective upon receipt, when delivered by fax, Federal Express, or United States Mail, certified, return receipt requested, to either parties address as listed above or as changed by either party by delivering a written notice of a change of address to the other party from time to time. All notices to Client shall be directed to the attention of its "Hospital Director".
- h) If any provision of this Agreement is declared invalid, illegal or unenforceable, such provision shall be stricken from the Agreement and all other provisions of the Agreement shall remain in full force and effect.
- i) Neither party may assign or transfer its interests in this Agreement without the prior, written consent of the other party, which shall not be unreasonably withheld. The rights and obligations described in this Agreement shall inure to the benefit and be binding upon all permitted assignees of Jubilant and Client.
- j) No waiver of any term of this Agreement shall be valid unless waived in writing and signed by an authorized representative of the party against whom the waiver is sought. The failure of either party to require performance by the other party of any provision hereof shall not affect in anyway the right to require such performance at any time thereafter.
- k) Signatures to this Agreement may be delivered by facsimile, by electronic mail (i.e. a "PDF" file) or by any other electronic means that is intended to preserve the original appearance and content of the executed Agreement and such delivery will have same effect as the delivery of the paper document bearing the original, handwritten signature.





## **EXHIBIT “A”**

### **Description, Pricing and payment Terms of the Radioactive Pharmaceutical Agents**

<b>Product ID</b>		<b>Product Description</b>	<b>Jubilant Billable Unit</b>	<b>QTY per Billable Unit</b>	<b>Client Price</b>
<b>SCHEDULED PRODUCTS</b>					
R003A0	*	Albumin Aggregated (Reduced) Tc-99m NHEU	Unit (Each)	7 mCi	\$392.80
R007A0	*	Bicisate (Neurolite) Tc-99m Non-HEU	Unit (Each)	30 mCi	\$1,891.44
R078A0	*	Medronate (MDP) Tc-99m Non-HEU	Unit (Each)	25 mCi	\$45.64
R005PC	*	Sodium Pertechnetate Tc-99m – Pre-Cal Over Time Limit	UOM	1 mCi	\$0.89
R034A0	*	Sodium Pertechnetate Tc-99m Non-HEU – Multi-Dose Quantity	UOM	1 mCi	\$0.89
R034A1	*	Sodium Pertechnetate Tc-99m Non-HEU	Unit (Each)	25 mCi	\$25.06
R034A2	*	Sodium Pertechnetate Tc-99m Non-HEU	Unit (Each)	26-50 mCi	\$45.04
R039A0	*	Exametazime (Ceretek) Tc99m NonHEU Brain	Unit (Each)	30 mCi	\$1,787.62
R077A0	*	Mebrofenin (Generic) Tc-99m Non-HEU	Unit (Each)	10 mCi	\$40.70
R080A0	*	Mertiatide (MAG-3) Tc-99m Non-HEU	Unit (Each)	10 mCi	\$379.14
R182A0	*	Mertiatide Generic Tc-99m Non-HEU	Unit (Each)	10 mCi	\$361.09
R095A0	*	Sestamibi Tc-99m Non-HEU	Unit (Each)	30 mCi	\$37.52
R103A0	*	Sulfur Colloid Filtered Tc-99m Non-HEU	Unit (Each)	8 mCi	\$211.03
R105A0	*	Sulfur Colloid Tc-99m Non-HEU	Unit (Each)	8 mCi	\$133.49
R105A2	*	Sulfur Colloid Tc-99m Non-HEU – Egg	Unit (Each)	8 mCi	\$155.59
<b>CYCLOTRON PRODUCTS</b>					
R049A0	*	I-123 Capsule (200uCi)	Unit (Each)	200 uCi	\$86.92
R072A0	*	In-111 Pentetate (DTPA)	Unit (Each)	0-1 mCi	\$2,654.12
R186A0	*	In-111 White Blood Cells	Unit (Each)	1 each	\$2,754.06
<b>REACTOR PRODUCTS</b>					
R057A0	*	I-131 Sodium Iodide Compounded Capsule – 1 <sup>st</sup> mCi	UOM	1 mCi	\$98.34
R057A1	*	I-131 Sodium Iodide Compounded Capsule – each Addt'l mCi	UOM	1 mCi	\$16.17
R110A0	*	Xe-133 Xenon Gas 10 mCi Vial	Unit (Each)	10 mCi	\$164.16
<b>COLD PREP &amp; PHARMACY KIT</b>					
N048A0	*	Heparin Sodium 1000units/1mL vial	Unit (Each)	1 each	\$12.02
N101A0	*	Ultratag RBC Vial Kit	Unit (Each)	1 each	\$177.05
N110A0	*	WBC Blood Kit	Unit (Each)	1 each	\$72.80
<b>CLIENT SYSTEMS</b>					
AS4099	*	Ancillary Service – Software Charge Rental	Unit (Each)	Monthly	\$258.60
AS4099	*	Ancillary Service – Software Charge Credit	Unit (Each)	Monthly	(\$258.60)
AS4100	*	Ancillary Service – System Maintenance	Unit (Each)	Monthly	\$97.31

#### **Notes:**

1. All items marked with \* are Proprietary Products whose prices are subject to change, as described below.

2. Product Calibration and Labeled Activity: All pricing represents Product i) compounded within their stated activity ranges at the time the Product is to be administered (the, "Calibration Time") requested by Client and, ii) delivered within the time frame prior to the Calibration Time described below. If the Client requests earlier times or customized activity ranges, they will be subject to additional charges that will be determined at the time such orders are placed with Jubilant.

- a. Bulk Products will be delivered to Client at the Calibration Time.
- b. Unit Dose Products will be delivered to the Client no more than six (6) hours prior to the Calibration Time.

1) **Delivery Fees**

- a) Jubilant's normal operating hours (the, "Normal Business Hours") are as follows;
  - i) Monday through Friday, excluding holidays, 7:00 A.M. through 4:00 P.M.
  - ii) Saturday and Sundays, excluding holidays, only open for deliveries scheduled as of each Friday afternoon.
- b) Delivery fees shall be adjusted annually by Jubilant.
- c) Jubilant reserves the right to impose a fuel surcharge when the average U.S. price of regular unleaded gasoline, as published by the United States Department of Energy (<https://www.eia.gov/petroleum/gasdiesel/>), increases more than fifty cents (\$0.50) per gallon year over year, determined at the end of each fiscal quarter, i.e. March 31, June 30, September 31 and December 31. In such case Jubilant shall have the right, at its own discretion, to impose a fuel surcharge of up to fifteen dollars (\$15.00) per delivery. Should the price of fuel decrease, using the same metrics as above, Jubilant shall have the right, but not the obligation, to remove part or all of the fuel surcharge.

**Delivery Fees**

Product ID	Delivery Description	Number	Timing	Client Price
D002A3	Delivery Charge – Weekday Scheduled	First 3	Per Day	\$0.00
D002A3	Delivery Charge – Weekday Scheduled	4+	Each	\$24.36
D002A4	Delivery Charge – Delivery Charge (Saturday)	First 1	Per Day	\$0.00
D002A4	Delivery Charge – Delivery Charge (Saturday)	2+	Each	\$24.36
D002A5	Delivery Charge – Delivery Charge (Sunday)	First 1	Per Day	\$0.00
D002A5	Delivery Charge – Delivery Charge (Sunday)	2+	Each	\$24.36
D002B4	Delivery Charge – Holiday Scheduled	First 1	Per Day	\$0.00
D002B4	Delivery Charge – Holiday Scheduled	2+	Each	\$24.36
D002A6	Delivery Charge – STAT	Unit (Each)	1 each	\$62.54
D002A7	Delivery Charge – Unscheduled/After Hours	Unit (Each)	1 each	\$70.98
AS1005	Ancillary Service – Pharmacist Call Out Fee	Unit (Each)	1 each	\$194.24

2) **Returns and Credits**

- a) Client will receive full credit for all unit dose Tc99m labeled Sestamibi doses that are ordered by Client, up to a collective maximum of ten percent (10%) of all such doses ordered by each Client medical imaging center, during each Jubilant billing cycle, when such doses are returned to Jubilant unopened, due to cancelled appointments, camera problems or changes in Client's patients' clinical needs.

3) **Price Adjustments**

- a) The above referenced prices will not change during the first calendar year of this Agreement and will be adjusted thereafter on an annual basis by Jubilant, on the first day of each calendar year, upon delivery of a written notice of price changes to Client (the, "Annual Jubilant Price Increase").
- b) Notwithstanding the foregoing, Client hereby agrees that Jubilant is authorized to increase Client's price of any item(s) listed on **Exhibit "A"** if Jubilant experiences i) an increase in Tc99m costs, and/or, ii) increases in the costs of any item marked as a Proprietary Product above, at any time during the initial or any renewal term of this Agreement. In the event that any manufacturer and/or Jubilant's supplier of any such Proprietary Product(s) or Tc99m notifies Jubilant of price increase(s) for such Proprietary Products(s) or Tc99m, Jubilant shall deliver a corresponding written notice of price increase(s) to Client, which will be effective immediately.

4) **Payment Terms**

- a) All Jubilant invoices and claims shall be due and payable no later than the forty-fifth (45<sup>th</sup>) calendar day after the date of each Jubilant invoice.

## **EXHIBIT "B"**

### **NMIS SYSTEM LICENSE AGREEMENT**

1) **JUBILANT agrees to;**

- a) Grant Client the continued use of one (1) previously-provided NMIS Nuclear Medicine Information System software application, to be operated on Client's hardware, including the NMIS Software License, the license key (NMIS Software License Dongle) and a barcode scanner, to electronically document the ordering, receipt, testing administration and return of the radioactive pharmaceutical agents described in this Agreement, that are ordered by Client's medical imaging center, during the initial and any renewal term of this Agreement.
- b) Client shall work directly with Jubilant for all ongoing maintenance for the barcode scanner. Payment for all ongoing scanner maintenance shall be Client's responsibility and Jubilant will invoice Client for all repairs and replacements.
- c) Perform or cause ec2 Software Solutions, the developer of the NMIS Nuclear Isotope Tracking Software, to perform all of the necessary maintenance, update and support service for the NMIS Software License described in this Agreement, during the initial and any renewal term of this Agreement.
- d) Invoice Client the monthly fair market rental value of the NMIS Software License throughout the term of this Agreement. In addition, Jubilant will issue a monthly credit that is equivalent to the monthly fair market rental value of the NMIS Software License throughout the initial and any renewal term of this Agreement (the, "Discount"). Client shall retain any invoices it receives from Jubilant hereunder as those invoices will fully disclose the discounted value of the NMIS Software License and, thus assist Client with fulfilling its discount and price reporting obligations, as specified herein.
- e) Invoice Client ninety-seven dollars and thirty-one cents per month per NMIS System (\$97.31/month/NMIS System) to perform all of the necessary maintenance, update and support services for the NMIS Software License, at all times during the initial and any renewal term of this Agreement.

2) **CLIENT agrees to;**

- a) Acknowledge that Jubilant owns and/or has licensed the NMIS Software License described in this Agreement and agrees that the NMIS Software License shall remain the exclusive property of Jubilant, at all times. Beyond the restricted license rights granted herein, this NMIS License Agreement does not convey to Client any ownership, intellectual property, copyright, trademark or other such interest(s) in the NMIS Software License. Client is hereby granted a read-only license to use the NMIS Nuclear Isotope Tracking Software and may not license, sublicense, timeshare, disclose, share with third parties, participate in a service bureau, rent, reverse engineer, copy, transfer, or sell the NMIS Nuclear Isotope Tracking Software or the NMIS Software License described in this Agreement, at any time. Client shall not change or remove the ec2 Software Solutions copyright notice(s) and any third party vendors' copyright notices that appear on such software when it is installed at Client's medical imaging center.
- b) Use the NMIS System described in this Agreement to electronically document the ordering,

receipt, testing, administration and return of the radioactive pharmaceutical agents described in this Agreement that are ordered by Client's medical imaging center and for no other purpose(s).

- c) Locate the NMIS System described in this Agreement in a clean, temperature controlled office or clinic environment at all times. The NMIS System shall be powered using surge protectors at all times.
- d) Immediately report any theft, loss, damage(s) and/or malfunction(s) of the NMIS Software License described in this Agreement to Jubilant or ec2 Software Solutions, as directed.
- e) Maintain commercial fire, casualty and property insurance at adequate levels to cover any damages or losses of the NMIS System described in this Agreement at any time while they are in Client's possession.
- f) Pay Jubilant ninety-seven dollars and thirty-one cents per month per NMIS System (\$97.31/month/NMIS System) to perform all of the necessary maintenance, update and support services for the NMIS Software License, at all times during the initial and any renewal term of this Agreement.
- g) Return the one (1) NMIS Software License Dongle described in this Agreement, in good condition, excluding normal wear and tear, to Jubilant within three (3) business days after the termination of this Agreement for any reason. Jubilant reserves the right to charge Client a fee of seven thousand seven hundred dollars (\$7,700.00) for each NMIS Software License Dongle that is lost, damaged or not returned to Jubilant after reasonable request upon termination of this Agreement. Jubilant reserves the right to change this fee if Jubilant receives a price increase or decrease from the manufacturer, on a pass-through basis, with thirty (30) day prior notice to Client at any time during the term of this Agreement.
- h) Provide mutually acceptable access to the NMIS System described herein, pursuant to all applicable confidentiality laws, rules and regulations.
- i) Comply with the Client's Discount and purchase price reporting obligations that are required by applicable laws, rules and regulations, as referred to in this Agreement.