

**JANI-KING®**  
**HEALTHCARE SERVICES MAINTENANCE AGREEMENT**

THIS HEALTHCARE SERVICES MAINTENANCE AGREEMENT (this “*Agreement*”), made effective this \_\_\_\_\_, 20\_\_ by and between Jani-King of \_\_\_\_\_, Inc., a Texas corporation (“*Jani-King*”), and \_\_\_\_\_ (“*Client*”). Jani-King and Client are each referred to herein as, a “*Party*” and collectively as, the “*Parties*.”

**RECITALS**

- Jani-King supplies maintenance services in the healthcare industry through Jani-King’s authorized franchise owners (each, a “*Franchisee*” and collectively, the “*Franchisees*”);
- Client is a \_\_\_\_\_ facility, licensed by the state of \_\_\_\_\_, functioning in the capacity of a healthcare facility caring for patients;
- Client desires the services of Jani-King for the purpose of keeping Client’s premises properly cleaned and disinfected (the “*Services*”); and
- Jani-King agrees to supply the Services to Client through the Franchisees and in accordance with the terms and conditions more fully set forth below.

THEREFORE, in consideration of the mutual covenants and obligations set out in the Agreement, the Parties hereby agree as follows:

**1. PERFORMANCE OF SERVICES**

1.1. Performance of the Services contemplated under this Agreement will begin on \_\_\_\_\_, 20\_\_.

1.2. The term of this Agreement will be for three (3) years from the date the Services are scheduled to begin (the “*Initial Term*”) and will be automatically renewed for additional three (3) year terms (the “*Additional Terms*”) unless either Party provides written notice to the other Party of such Party’s intention to not renew this Agreement not less than ninety (90) days from the end of the such Initial Term or Additional Term, as applicable. The Initial Term together with any and all Additional Terms is the “*Term*.”

1.3. The Services will be performed at the following location(s) (the “*Named Facilities*”), which are further described in the Maintenance Schedule attached hereto as Exhibit A:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1.4. Jani-King agrees to furnish all trained personnel necessary for the performance of the Services. The Services will be performed in a manner that will fulfill the requirements of the Client, the standards of the Joint Commission on Accreditation of Healthcare Organizations (the “*Joint Commission*”), the Center for Medicare & Medicaid Services (“*CMS*”) and, applicable local, state, and federal regulations. Client represents and warrants that the Named Facilities are free of asbestos and other hazardous materials outside the scope of this Agreement. Client agrees to hold Jani-King and Franchisees harmless from any and all liability resulting from any exposure of Jani-King personnel, Franchisee, or such Franchisee’s personnel to such hazardous materials.

1.6. Client agrees to supply all consumables (including, without limitation, paper goods, hand soaps and lotions, and trash and biohazard receptacle liners) necessary for the Services to be appropriately provided by Jani-King. Jani-King will care for all equipment and supplies owned and provided by Client in an appropriate and professional manner. Jani-King agrees to reimburse Client for replacement, at a cost level appropriate at the time of the loss, for any damages caused to Client’s equipment or supplies by the knowing or willful acts or omissions of any Jani-King representative.

1.7. All personnel assigned to provide the Services will be trained to clean and disinfect healthcare facilities, and in the proper use of equipment, chemicals, and supplies for such purpose. Client may be asked to facilitate training opportunities with the Client’s healthcare facility staff. Jani-King will supply Client with documentation of appropriate training for healthcare environments as well as annual competency evaluations appropriate to their job function. Jani-King agrees to undertake any reasonable additional training requested by Client.

1.8. All personnel assigned to provide the Services will be screened at Jani-King’s expense in accordance with the policies and procedures consistent with Client’s policies and practices, including, without limitation, to health evaluations for a physical exam with negative PPD, valid test results/titers within the past twelve months, criminal background checks, Hepatitis B series and 10 panel drug screening with negative results upon hire.

1.9. Client will have the option, at Client’s sole discretion, to review a complete and current personnel file, including résumé or job application, a minimum of two professional references, and Office of Inspector General and General Services Administration search for any sanctions prior to the assignment of any personnel to a Named Facility. Client will also have the option to interview any Jani-King personnel prior to such personnel’s assignment to a Named Facility.

1.10. When reasonably required by Jani-King, the Client agrees to cover the full cost for up to eight hours of facility and safety orientation for all Jani-King personnel prior to such personnel’s assignment to a Named Facility.

1.11. Jani-King personnel will adhere to all appropriate Jani-King and Client job descriptions and job function requirements, including Client’s environmental services and/or housekeeping policies and procedures, and will wear hospital-appropriate uniforms, to be supplied by Jani-King and color(s) and style(s) coordinated with Client’s specifications.

## **2. PAYMENT OF SERVICES**

2.1. Client agrees to pay to Jani-King each month the total minimum sum stated in the Pricing Schedule attached hereto as Exhibit B on or before the last day of each month in which the Services are rendered. Client also agrees to pay any charges relating to an Initial Clean, as set forth in Exhibit B, any requested additional Services as stated in Exhibit C, and any sales or use tax levied by a taxing authority on the value of the Services provided or supplies purchased. Client agrees that all payments due and owing Jani-King, for any reason, will be properly credited only when delivered to the address set forth on the monthly invoice delivered by Jani-King to Client.

2.2. Credits for holidays were pre-determined and given as part of the monthly charge herein, and no other adjustments will be made for those holidays.

2.3. From time to time, as the Parties may agree, the amount to be paid by Client for the Services may be increased or decreased to reflect an increase or decrease in the area of space serviced and the type, amount, and/or frequency of the Services. Such modifications or amendments will be binding only if they are in writing and signed by both Parties. In the event the Parties cannot reach an agreement relating to type, amount, and/or frequency of the Services, the type, amount, and/or frequency of Services will remain unchanged.

2.4. It is expressly agreed that the total minimum sum stated in the Pricing Schedule may be increased (i) annually by Jani-King by a percentage amount not to exceed the annual increase of the Consumer Price Index as most recently published in the Wall Street Journal, or (ii) by Jani-King at any time in the event of an increase in any applicable federal, state, or local minimum wage, living wage, or other wage required by law, in an amount necessary to comply with such an increase.

2.5. In the event that any payment for the Services is not received within thirty (30) days from the date such payment is due, Jani-King may suspend the Services until such payment is received. Suspension of the Services by Jani-King under this Section 2.5 will not deprive Jani-King of any other remedies or actions against Client for past or future payments due under this Agreement, nor will the bringing of any action for payment for services or other rights contained herein be construed as a waiver of any of Jani-King's rights.

## **3. BUSINESS RELATIONSHIP**

3.1. The Parties expressly agree that Jani-King will select and designate all personnel to perform the Services under this Agreement. The Parties agree that each is at all times acting and performing as an independent contractor. Nothing in this Agreement will be construed as creating a partnership, joint venture, or employment arrangement.

3.2. Neither Jani-King nor any of Jani-King's personnel are employees of Client, but rather are independent contractors; and as such, none of Jani-King's employees, Franchisees, or Franchisees' employees will be within the protection or coverage of Client's Workers' Compensation Insurance and no withholding of Social Security, Federal or State Income Tax or other deductions will be made from the sums agreed to be paid to Jani-King herein, the same being contract payments and not wages.

3.3. Client agrees that during the Term, and within one hundred eighty (180) days after termination, that Client will not employ any employees, agents, representatives, or Franchisees of Jani-King without the express written consent of Jani-King. Jani-King agrees that during the Term and within one hundred eighty (180) days after termination, that Jani-King will not employ any employees, agents, or representatives of Client without the express written consent of Client.

#### 4. RENEWAL AND TERMINATION

4.1. At the end of each contract term or renewal term, this Agreement shall be automatically extended and renewed for an additional three (3) year term on the same terms and conditions, unless either party shall give written notice, as described herein, of termination at least ninety (90) days prior to the scheduled expiration date. If timely notice is given for termination, this Agreement shall expire at midnight of the expiration date. Otherwise, this Agreement may only be terminated for non-performance as set out below.

4.2. Non-performance is defined as the failure to perform any act stipulated under this Agreement. Before any termination for non-performance is effective, the terminating party must give the other party written notice, as described herein, specifying in detail the nature of any defect or failure in performance. Upon the effective date of the receipt of notice of non-performance, the non-terminating party shall have thirty (30) days in which to cure the defect in performance (the “*Cure Period*”) to the reasonable satisfaction of the terminating party. In the event the defect is not satisfactorily cured within the Cure Period, the terminating party shall provide written notification to the non-terminating party of the failure to satisfactorily cure the defect. In the event the second notice is not received within five (5) days from the end of the Cure Period, all deficiencies will be deemed cured. In the event the second notice is received within the required time period, this Agreement shall then terminate thirty (30) days from the date of the second written notice.

4.3. All notices, consents or other communications which either Party is required or may desire to give to the other under this Agreement will be deemed received if such notice is in writing and delivered by personal delivery or by deposit, postage prepaid, in the United States mail, certified or registered mail, return receipt requested, addressed to the Parties at their respective addresses set forth below. All other notices will be deemed ineffective under this Agreement.

If to Jani-King: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

If to Client: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Time is of the essence for all notices required under the terms of this Agreement.

## **5. GENERAL PROVISIONS**

5.1. In the event it becomes necessary for either Party to institute suit against the other to secure or protect its rights under this Agreement, the prevailing Party will be entitled to all associated costs of the suit, including reasonable attorney's fees, administrative fees, court costs and damages as part of any judgment entered in its favor.

5.2. The terms of this Agreement will be binding upon and inure to the benefit of Jani-King and Jani-King's representatives, successors and assigns, except as otherwise herein provided. This Agreement will be binding on the Parties at the time of execution by authorized agents or representatives of the Parties.

5.3. Any waiver by either Party to this Agreement of a breach of any term or condition of this Agreement will not constitute a waiver of any subsequent breach of the same or any other term or condition of this Agreement.

5.4. Jurisdiction and venue for any suit brought on this Agreement will be in the governmental division of the county where the Jani-King regional office is located.

5.5. Both Parties agree that they have fully reviewed and discussed the terms of this Agreement, and Exhibits A, B, C, and D, which are hereby made a part of this Agreement and acknowledge that the terms reflect the entire Agreement of the Parties and that this Agreement and the Exhibits supersedes all prior agreements, representations and understandings of the Parties.

5.6. Any revision or modification to this Agreement will not be effective unless such revision or modification is in writing, signed by both Parties.

5.7. In the event any section, subsection, provision or clause of this Agreement or any combination thereof is found to be unenforceable at law, in equity or under any presently existing or hereafter enacted legislation, regulation, or order of the United States, any state or subdivision thereof or any municipality, those findings will not, in any way, affect any other part of this Agreement which will continue in full force and effect, and the unenforceable provision will be interpreted in a manner that imposes the maximum restriction or obligation permitted by law.

5.8. This Agreement constitutes the entire agreement of the Parties hereto and supersedes all prior or contemporaneous agreements, writings, undertakings, and understanding of the Parties in connection with the subject matter hereof.

5.9. Jani-King certifies, by executing this Agreement, that neither Jani-King nor Jani-King's principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Agreement by any federal department or agency or by the State.

5.10. Neither Party may assign such Party's rights or obligations with respect to this Agreement without the prior written approval of the other Party; provided, however, that such an assignment may be made to an entity which is related by virtue of a common parent corporation or which is directly or indirectly, wholly owned or controlled by the same entity as the assigning Party; provided, further, however, the assigned party agrees to be bound by all terms and conditions of this Agreement and any amendments hereto.

5.11. Each Party agrees to indemnify the other, their affiliates and their respective officers, directors, employees, Franchisees (in the case of Jani-King), and agents against, and hold the same harmless from, all liability, losses, damages, obligations, judgments, claims, causes of action and expenses associated therewith (including settlements, judgments court costs and attorney's fees) resulting from or arising out of, directly or indirectly, and, any negligent or intentional act or omission or any failure to perform any obligation undertaken in or any covenant made under this Agreement. Upon notice, each Party will resist and defend at such Party's own expense, and by counsel reasonably satisfactory to the other, any such claim or action.

5.12. Each Party will operate at all times in compliance with federal, state, and local laws, rules and regulations, the standards of the Joint Commission or CMS (if applicable, respectively), and all currently accepted methods and practices related to the provision of healthcare environmental services contemplated hereunder.

5.13. This Agreement will be construed under, and governed in accordance with, the laws of the state of Texas. The exclusive venue for any dispute arising under this Agreement will be in the courts located in Dallas County, Texas.

5.14. Jani-King will maintain general liability insurance with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, and will supply the Hospital with a certificate of insurance evidencing such coverage and will provide thirty (30) days' written notice prior to the cancellation of any such policies.

5.15 Confidential Information.

- (a) All information or documentation received by a party hereto (the "**Receiving Party**") pertaining to or arising from the Services or the business affairs or trade secrets of the other party (the "**Disclosing Party**") will be deemed to be the Disclosing Party's proprietary and confidential information ("**Confidential Information**"). The terms and conditions of this Agreement will be considered the Confidential Information of both parties. Confidential Information will not include material, data or information which is known by the Receiving Party prior to the disclosure by the Disclosing Party, which is generally available to the public or in the industry, or which has been obtained from a third party (which, to the Receiving Party's knowledge, has a right to disclose the same). The provisions of this Section 5.15 will survive the termination of this Agreement.
- (b) Except as contemplated by, or required to perform its obligations under, this Agreement, the Receiving Party will not, either directly or indirectly, use or disclose to any third party any Confidential Information without the prior written consent of the Disclosing Party. The

Receiving Party may disclose Confidential Information: (i) as required by any court or other governmental body (provided it will give the Disclosing Party prompt notice so that the Disclosing Party may take steps to oppose such disclosure); (ii) as otherwise required by law; (iii) to legal counsel of the parties; (iv) in connection with the requirements of an initial public offering or securities filing; (v) in confidence, to accountants, banks, and financing sources and their advisors; (vi) in confidence, in connection with the enforcement of this Agreement or rights under this Agreement; or (vii) in confidence, in connection with a merger or acquisition or proposed merger or acquisition.

- (c) The Receiving Party will comply with this Section 5.15 using at least the same degree of care as used to protect its own important confidential or proprietary information, but in any case using no less than a reasonable degree of care. The Receiving Party may disclose the Disclosing Party's Confidential Information to its and its affiliates' employees and independent contractors who have a need to know such information and who agree to protect the Confidential Information in the same manner as set forth herein. Notwithstanding any other provision of this Agreement to the contrary, and without relieving Jani-King of its obligations hereunder, Client authorizes and agrees that Jani-King will engage the Franchisees to provide or perform any portion of the Services as Jani-King deems appropriate.

5.16. Any provisions of this Agreement creating obligations extending beyond the Term will survive the expiration or termination of this Agreement, regardless of the reason of such termination.

5.17. The Parties agree that the original of the Agreement, including the signature pages, may be scanned and stored in a computer database or similar device, and that any printout or other output which is readable, and which is shown to be an accurate reproduction of the original of this document, may be used for any purpose just as if it were the original Agreement, including the proof of the content of the original writing and the signing of the original writing.

*[Signatures appear on the following page.]*

IN WITNESS WHEREOF, the Parties have set their hands this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**JANI-KING:**

JANI-KING OF \_\_\_\_\_, INC., a  
Texas corporation

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

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

Title: \_\_\_\_\_

**CLIENT:**

\_\_\_\_\_

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

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

Title: \_\_\_\_\_



**EXHIBIT A**  
**MAINTENANCE SCHEDULE**

1. See Attached Maintenance Schedule

**EXHIBIT B  
PRICING SCHEDULE**

**EXHIBIT C**  
**ADDITIONAL MAINTENANCE SERVICES**

1. As agreed upon by both Parties

## EXHIBIT D

### SERVICE GUIDELINES

Franchisees and their employees will follow the following guidelines when performing the Services under the Agreement.

#### 1. Policies and Procedures:

- A. Follow all healthcare procedures in the Jani-King Healthcare Procedures Manual.
- B. Follow all operations procedures in the Jani-King Healthcare Operations Manual.
- C. Follow all policies and procedures Jani-King Healthcare Manuals now existing or as they become available.

#### 2. Electrical, Non-Electrical Equipment and Supplies:

- A. Maintain equipment in good safe working condition. Replace non-working electrical equipment immediately.
- B. Purchase all required non-electrical equipment (Rubbermaid) through Jani-King Leasing or through a national vendor authorized by Jani-King that is listed in the Jani-King's Healthcare Analysis Sheet. Maintain non-electrical equipment in good safe working condition. Replace non-working equipment immediately.

#### 3. 3M Chemicals and Floor Pads:

- A. Only 3M chemicals approved by the Jani-King Healthcare Division may be used in a healthcare facility. The list of approved chemicals may be found in the Jani-King's Healthcare Analysis Sheet.
- B. All chemicals in the hospital environment must be approved by Client.

#### 4. Franchisee Employee Requirements: The following items, when applicable, have been budgeted in the Jani-King Healthcare Analysis Sheet and will be the expense of the Franchisee.

- A. All personnel must be employees of the Franchisee. Franchisee must follow all federal, state and local laws relating to employers. Franchisee may not retain independent contractors to perform the Services.
- B. All representatives of Franchisee must pass a background check to the satisfaction of Client.
- C. Hepatitis B series vaccination unless waived by Franchisee representative
- D. Annual TB skin testing
- E. Representatives of Franchisee must wear the approved Jani-King Healthcare Division identification badge.

- F. All Franchisee employees must wear the approved Jani-King Healthcare Division uniform. Franchisee employees must be provided with 3 sets of the approved Jani-King Healthcare Division uniform.
- G. Franchisee must maintain payroll records upon the premises of the Named Facilities of all of Franchisee's employees performing the Services under the Agreement and such records must be made available for audit within 72 hours of any such request by Jani-King, Client, the Joint Commission, CMS, and/or any state agency with the authority to request such an audit.
- H. All Franchisee employees must sign a Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**") form. (HIPAA), which must be placed into the 6 part employee file.

## **5. Occupational Health and Safety:**

- A. All injuries and accidents will be documented and reported to the nearest Jani-King Regional Office within 24 hours of occurrence.
- B. Franchisee may use the Jani-King Incident form located in the Jani-King Healthcare Operations Manual.
- C. Franchisee will adhere to and train Franchisee's employees to adhere to Occupational Safety and Health Administration and National Institute for Occupational Safety and Health NIOSH standards in protecting employees that work in the healthcare facility.
- D. Franchisee will enforce the use of Personal Protective Equipment and Standard Precautions for all employees working in the healthcare environment.
- E. Franchisee will follow the protocols in the Jani-King Healthcare Operations Manual for all needle sticks that occur to employees.
- F. No medical information should be kept in the employee file. All medical information may be maintained by the Client's Occupational Medicine Clinic.

## **6. Staffing and Scheduling**

- A. Franchisee will follow all staffing and scheduling guidelines as reasonably required by Client and set forth in the Agreement.
- B. Schedules will not be altered without approval of the Client.

## **7. Training**

- A. All employees of the Franchisee must pass the Healthcare Certification Environmental Services Program in order to work in a healthcare facility.
- B. Franchisee is responsible for ensuring that employees wear the certificate badge.
- C. All training documents should be placed into the 6 part employee file.
- D. Franchisee employees will be provided monthly training per the in-service calendar.
- E. Franchisee will use the Jani-King/3M SMART and Jani-King /Rubbermaid Program for in-service training.

## **8. Quality and Customer Service**

- A. Franchisee will complete quality surveys as required by Client.
- B. Franchisee should use Jani-King customer survey forms.

- C. Franchisee will complete customer surveys once per month.
- D. Franchisee will complete employee surveys once per month.
- F. Franchisee will complete patient surveys once per month.
- G. All surveys will be completed and turn-in on the 5<sup>th</sup> of each month.
- H. Franchisee will conduct customer service training to all employees every quarter.

## **9. Inspections**

- A. Franchisee will ensure that daily, weekly, and monthly inspections are completed.
- B. Franchisee will follow the inspection criteria set by Client and Jani-King.
- C. Franchisee will cooperate and adhere to all Client inspections.
- D. Franchisee will use the Jani-King Inspection program.
- E. Franchisee will submit any and all inspection reports to the applicable Jani-King Regional Office.