This Services Agreement is made effective as of \_\_\_\_\_(Date)\_\_\_\_\_, by and between the Service Recipient, \_\_\_\_\_(Healthcare System)\_\_\_\_\_, of \_\_\_\_\_(Business Address)\_\_\_\_\_, and the Service Provider, Transfusion Antibody Exchange Inc., of 81 Orchard Rd, Woodbridge, Connecticut 06525.

Whereas Service Recipient is the legal entity seeking access to the Alloantibody Exchange for which Service Recipient desires Service Provider to perform certain Services (hereinafter defined); and Whereas Service Provider desires to perform such Services on the terms and conditions set forth in this Agreement.

Now, therefore, in consideration of the mutual promises set forth herein, the parties agree as follows:

**DEFINITIONS.** For purposes of this Agreement, the following definitions shall

apply:

1. “Service Provider” shall be interchangeable with Transfusion Antibody Exchange Inc.
2. “Service Recipient” shall be interchangeable with the customer listed in the first paragraph.
3. "Alloantibody Exchange" shall mean the cloud-hosted data repository and web portal collectively.
4. "Services" shall mean the Operation and Maintenance of the Alloantibody Exchange.
5. "Operation" shall mean the operation of the Antibody Exchange, including, but not limited to manipulation and computation of data by the Alloantibody Exchange, the outputting of such manipulated and computed data by the Antibody Exchange, and communication between elements of the Antibody Exchange.
6. "Maintenance" shall mean remedial maintenance and preventive maintenance of the Alloantibody Exchange
7. "Up-Time" shall mean total time, during any calendar week, that the Alloantibody Exchange is available for Operation during the time scheduled for Operation divided by the total time scheduled for Operation during such calendar week.

**DESCRIPTION OF SERVICES.** Beginning on the effective date above, Transfusion Antibody Exchange, Inc will provide to Service Recipient the following services (collectively, the "Services"):

1. During the term hereof, Service Provider shall perform Services**,** which shall be subject to Service Recipients written acceptance, and shall be performed by Service Providers employees, acceptable to the Service Recipient, who are skilled in the Operation and Maintenance of the Alloantibody Exchange.
2. The preventive maintenance and, when possible, the remedial maintenance portions of the Maintenance shall be performed Sundays between 5:00 am and 8:00 am ET. Longer downtime will be scheduled periodically for installation of major updates.
3. Data from the blood bank information system shall be transmitted from Service Recipient to the Service Provider. This data is made available for retrieval via a web portal accessed by authenticated login.
4. The Service Recipient is responsible for ensuring its employees are trained in data retrieval through the web portal and ensuring the security of login credentials.

**SERVICE LEVEL AGREEMENT.** Vendor agrees to provide the following support service, including technical support, prerequisites, procedures for categories of problems, and appropriate contacts for problem reporting. Vendor shall provide a list of contact names and phone numbers that may be updated upon prior written notice, as necessary, with Client approval.

**Vendor Help Desk** - End-user technical telephone support is available at 734-645-0310 or by email at support@alloantibody.org from Monday - Friday from 8 am to 8 pm CST, excluding federal holidays. If support is required by Client outside of normal operating hours, an on-call help desk representative may be contacted 24 hours a day 7 days a week.

**Problem Severity Level Definitions**- Unscheduled downtime and any other failure to meet performance or service standards shall be assigned a problem severity level based upon the following definitions:

1.       **Critical**- All end users have lost connectivity and all or most of the system functionality is lost, the system is not operational, there has been a material security problem detected within the system, or if the ability of authorized users to search, retrieve, and display information is totally absent, and there is no work around.

2.       **High**- More than one end user has lost connectivity and much of the system operation is lost, but some functions are active. A critical problem with a reasonable work around may be dropped to high, if mutually agreed to by Client. Although a work around solution may exist, it is unacceptable for a long-term circumvention.

3.       **Medium**- Some functionality on the system is lost, system response time is in excess of two (2) minutes per query over a one-hour period, or there is a problem which affects a non-critical part of the system functionality. A high problem can be dropped to medium if an acceptable work around is found, if mutually agreed to by Client. Although a work around solution may exist, it is unacceptable for a long-term circumvention.

4.       **Low**- No outage of service is experienced. A medium problem can be dropped to low if an acceptable work around is found, if mutually agreed to by Client.

5.       **Information**- A request for information about products or services by Client.

**Problem Resolution Process and Time Frame**- Unscheduled downtime (problems) and any other failure to meet performance or service standards shall be resolved based upon the following:

1.       **Critical**- Response from help desk representative within fifteen (15) minutes. Problem escalated if service level is not restored or problem corrected within thirty (30) minutes.

2.       **High**- Response from help desk representative within fifteen (15) minutes.  Vendor leadership notified within one (1) hour.

Within three (3) hours of the initial service call, a mutually satisfactory date and time will be agreed upon in which the builder shall have fixed the problem or provided a temporary, acceptable work around.

3.       **Medium**- Response from help desk representative within thirty (30) minutes. Vendor leadership notified within twenty-four (24) hours if solution or acceptable work around has not been found.

4.       **Low**- Response from help desk representative within same business day. Vendor leadership notified after three (3) business days if solution or acceptable work around has not been found.

5.       **Information**- A request for information about products or services shall be satisfied within three (3) business days.

**Service Level Warranties**

🡪No warranty or service credit is provided for clients who do not pay for the Alloantibody Exchange.

In the event the Client experiences any of the service performance issues as a result of vendor failure to provide bandwidth or facility services, vendor will, upon Client’s request in accordance with the following information, credit the Client’s account as described below (the “Service Level Warranty”). The Service Level Warranty shall not apply to any services other than bandwidth and facility services, and, shall not apply to performance issues caused by factors outside of vendor’s reasonable control, resulting from any action or inaction of the Client or any third parties, or resulting from the Client’s equipment and/or third party equipment (not within the sole control of vendor).

1.       **Downtime** – Inability to connect to the hosting server due to failure between the hosting server and the internet for ten (10) consecutive minutes due to the failure of vendor to provide Service(s) for such period. Downtime shall not include any packet loss or network unavailability during scheduled maintenance. Downtime does not mean an inability to connect to the hosting server due to a failure between the user’s PC and the Internet.

2.       **Excess Latency** – The sustained round-trip packet time greater than one-hundred and fifty milliseconds (150 ms) for traffic within the vendor Network and/or its network provider.

3.       **Performance Problem** – Excess Latency or the failure of vendor software to perform its intended purpose or inability to connect to the hosting server provided by vendor or its service provider.

4.       **Service Credit** – For customer that have paid for the service, an amount equal to the pro-rata recurring subscription charges (i.e., all recurring charges paid by Client to vendor for use of software) for one (1) day of Service.

**Downtime Periods**– In the event the Client experiences Downtime, Client shall be eligible to receive from vendor a Service Credit for each Downtime period. Examples: If the Client experiences one Downtime period, it shall be eligible to receive one Service Credit. If the Client experiences two Downtime periods, either from a single event or multiple events, it shall be eligible to receive two Service Credits.

**Client Must Request Service Credit**– In order to receive any of the Service Credits described, the Client must notify vendor in writing within fourteen (14) calendar days from the time the Client becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit the Client’s right to receive a Service Credit.

**Remedies Shall Not Be Cumulative; Maximum Service Credit**– The aggregate maximum number of Service Credits to be issued by vendor to the Client for any and all Downtime periods and Performance Problems that occur in a single calendar month shall not exceed the number of days within that month. A Service Credit shall be issued on the invoice in the month following the Downtime or Performance Problem, unless the Service Credit is due in a month where no invoice is issued. In such case, a refund for the dollar value of the Service Credit will be mailed to the Client.

**HIPAA PRIVACY AND SECURITY RULES**

The requirements for Business Associate Contracts, under 164.508 are covered in a separate Business Associate Contract between the Service Provider and the Service Recipient.

The Service Recipient agrees to comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. &1320d (“HIPAA”) and any current and future regulations promulgated thereunder including, without limitation, the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 (the “Federal Privacy Regulations”), the federal security standards contained in 45 C.F.R. Part 142 (the “Federal Security Regulations”, and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162, all collectively referred to herein as “HIPAA Requirements,” to the extent applicable. The Service Recipient agrees not to use or further disclose any Protected Health Information (as defined in 45 C.F.R. &164.501) or Individually Identifiable Health Information (as defined in 42 U.S.C. &1320d), other than as permitted by HIPAA Requirements and the terms of this Agreement. To the extent applicable under HIPAA, the Service Recipient shall make their internal practices, books and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the Federal Privacy Regulations.

The Service Recipient further acknowledges and states that they, in the Service Recipient’s regular course and business, obtains a Patient consent that Patient’s medical records may be obtained from, or disclosed to, other medical providers who have rendered, or will render, medical treatment or services to the Patient.

As the signed in user, the Service Recipient solely verifies that any/all information gathered through access to the Alloantibody Exchange will be used for the purposes of patient antibody/antigen verification for a patient currently within the Service Recipient’s hospital system or facility. The Service Recipient is not permitted to use data from the Alloantibody Exchange for any other purpose including, but not limited to; academic research, marketing, or any other use case not directly relating to the care of a patient. Additionally, any information gathered or viewed of a patient not within the Service Recipient’s facility will not be shared and will comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. &1320d (“HIPAA”).

**LIMITATION OF LIABILITY:**

The Service Provider and Service Recipient agree that the Alloantibody Exchange is a supplement, and not a replacement, to taking a thorough and accurate transfusion history. Furthermore, because not every blood bank participates in the Alloantibody Exchange, it is impossible for the Alloantibody Exchange to contain a comprehensive transfusion history for any given patient. The Service Recipient bears sole responsibility for ensuring the accuracy of information used in patient care and shall, in all cases of, hold the Service Provider blameless. The service provider is not subject to any liability arising from any injury to person or property or as a result of any claim of medical malpractice or similar circumstance.

By agreeing to share transfusion data with Transfusion Antibody Exchange, Inc, the Service Recipient affirms and assumes sole responsibility for ensuring the accuracy of the data transmitted including the correctness of the laboratory results and the accuracy of the data entered.

**MUTUAL INDEMNIFICATION.** Excluding any limitations set forth in this Agreement, each party agrees to indemnify and hold harmless the other from and against any and all claims, costs, actions, suits, judgments, damages, liabilities, losses, or expenses including, without, reasonable attorneys’ fees and reasonable fees of expert witnesses and other consultants, which arise out of any alleged negligent act or omission as the result of the services providing under this agreement. This provision shall survive the termination of this Agreement.

**PAYMENT.** Services are provided free of charge. This may be revisited at a later date. In this event, a new agreement shall be executed between parties.

**TERM.** This Agreement will renew automatically unless notice of cancellation is given by either party within 30 days of the agreement anniversary.

In the event of any termination/cancellation of this Agreement, Service Provider may cease performance of all Services hereunder without liability to the Service Recipient.

**WORK PRODUCT OWNERSHIP.** Any copyrightable works, ideas, discoveries, inventions, patents, products, or other information (collectively the "Work Product") developed in whole or in part by Transfusion Antibody Exchange, Inc in connection with the Services will be the exclusive property of Transfusion Antibody Exchange, Inc. Upon request, the Service Recipient will execute all documents necessary to confirm or perfect the exclusive ownership of Transfusion Antibody Exchange, Inc to the Work Product.

**CONFIDENTIALITY.** Transfusion Antibody Exchange, Inc, and its employees, agents, or representatives will not at any time or in any manner, either directly or indirectly, use for the personal benefit of Transfusion Antibody Exchange, Inc, or divulge, disclose, or communicate in any manner, any information that is proprietary to the Service Recipient. Transfusion Antibody Exchange, Inc and its employees, agents, and representatives will protect such information and treat it as strictly confidential. This provision will continue to be effective after the termination of this Agreement.

The Service Recipient, and its employees, agents, or representatives will not at any time or in any manner, either directly or indirectly, use for the personal benefit of the Service Recipient, or divulge, disclose, or communicate in any manner, any information that is proprietary to Transfusion Antibody Exchange, Inc. The Service Recipient and its employees, agents, and representatives will protect such information and treat it as strictly confidential. This provision will continue to be effective after the termination of this Agreement.

**FORCE MAJEURE.** If performance of this Agreement or any obligation under this Agreement is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages, or other labor disputes, or supplier failures. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

**ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Agreement. This Agreement supersedes any prior written or oral agreements between the parties.

**SEVERABILITY.** If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

**AMENDMENT.** This Agreement may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

**NOTICE.** Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.

**WAIVER OF CONTRACTUAL RIGHT.** The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

**SIGNATURES.** This Agreement shall be signed on behalf of the Service Recipient, and on behalf of Transfusion Antibody Exchange Inc. by Ronald George Hauser, MD, President.

Service Recipient

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

Service Provider:

Transfusion Antibody Exchange Inc.

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

Ronald George Hauser, MD

President