

**AMENDMENT NO. 1 TO THE STATE OF WASHINGTON MPA
FOR MMCAP INFUSE AGREEMENT NO. MMS2200721**

THIS AMENDMENT NO. 1 (“**Amendment**”) is entered into on the date all required signatures are obtained for this document (“**Effective Date**”) by and between the Washington State Department of Enterprise Services on behalf of the State of Washington (“**Member**”) and Lifestyles US Opco dba SXWELL USA, LLC, a limited liability corporation, with a principal address of 111 Wood Avenue South, Suite 210, Iselin, New Jersey 08830 (“**Vendor**”) and MMCAP Infuse, an agency of the State of Minnesota (“**MMCAP Infuse**”) regarding the Member Addendum for MMS2200721 (“**MPA**”).

RECITALS

WHEREAS, Member and Vendor desire to modify the MPA for MMS2200721;

WHEREAS, Member, MMCAP Infuse, and Vendor do not intend to alter, amend, interfere, modify, or adjust the contractual relationship of MMCAP Infuse and Vendor;

THEREFORE, the parties agree as follows:

Modifications

In this Amendment, changes to pre-existing MPA language will use ~~strike through~~ for deletions and underlining for insertions.

Beginning as of the Effective Date of this Amendment, the pre-existing MPA will be revised as follows:

Revision 1: The following *Subparagraph C. WASHINGTON STATE PAY EQUALITY FOR ‘SIMILARLY EMPLOYED’ INDIVIDUALS* will be added to *Paragraph 6. VENDOR REPRESENTATIONS AND WARRANTIES* in Exhibit C of the MPA:

- C. WASHINGTON STATE PAY EQUALITY FOR ‘SIMILARLY EMPLOYED’ INDIVIDUALS. Vendor represents and warrants that, as required by Washington state law ([Laws of 2023, ch. 475, § 919](#)), during the term of this MPA, among Vendor’s employees, ‘similarly employed’ individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Vendor may allow differentials in compensation for its workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but is not limited to, education, training, or experience that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Vendor’s failure to provide satisfactory evidence of compliance within thirty (30) days, Member may suspend or terminate this MPA and any Approved Facilities hereunder similarly may suspend or terminate its use of the Agreement and/or any agreement entered into pursuant to this MPA.

Revision 2: The following *Paragraph 10. NONDISCRIMINATION* will be added to *ADDITIONAL TERMS* in Exhibit C of the MPA:

10. NONDISCRIMINATION.
a. Nondiscrimination Requirement. During the term of this MPA, beginning as of the effective date of this Amendment, Vendor, including any subvendor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Vendor, including any subvendor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Vendor, or subvendor, has a collective bargaining or other agreement.

b. Obligation to Cooperate. Vendor, including any subvendor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Vendor, including any subvendor, has engaged in discrimination prohibited by this MPA pursuant to RCW 49.60.530(3).

c. Default. Notwithstanding any provision to the contrary, Member may suspend Vendor, including any subvendor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this MPA, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Member receives notification that Vendor, including any subvendor, is cooperating with the investigating state agency. In the event Vendor, or subvendor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Member may terminate this MPA in whole or in part, and Vendor, subvendor, or both, may be referred for debarment as provided in RCW 39.26.200. Vendor or subvendor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

d. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of MPA termination or suspension for engaging in discrimination, Vendor, subvendor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original MPA and the replacement or cover contract which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Member and/or Approved Facilities shall have the right to deduct from any monies due to Vendor or subvendor, or that thereafter become due, an amount for damages Vendor or subvendor will owe Member and/or Approved Facilities for default under this provision.

[End of Amendment; Signature Page Follows]

BY AND BETWEEN:

FOR THE MEMBER:

STATE OF WASHINGTON
Department of Enterprise Services:

Signature: Nick Ioanna
Printed: Nicholas Ioanna
Title: Procurement Supervisc
Date: Jan 9, 2025

VENDOR: LIFESTYLES US OPCO dba SXWELL
USA, LLC.

Signature: Matt Goetz
Matt Goetz (Jan 9, 2025 09:16 EST)
Printed: Matt Goetz
Title: Senior Specialist, Sales
Date: Jan 9, 2025

IN AN APPROVAL CAPACITY ONLY:

State of Minnesota for MMCAP Infuse

In accordance with Minn. Stat. § 16C.03, subd. 3

Printed: NaLee Xiong
DocuSigned by:
Signature: NaLee Xiong **Date:** 1/9/2025
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Minnesota Commissioner of Administration

In accordance with Minn. Stat. § 16C.05, subd. 2

Printed: Christina Fox
DocuSigned by:
Signature: Christina Fox **Date:** 1/9/2025
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[Signature Page]

24323_Lifestyles_US_Opco_dba_SXWELL_US A_Amendment_No._1-Pay_Equality_and_Nondi scrimination

Final Audit Report

2025-01-09

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