**MASTER SERVICES AGREEMENT**

**THIS MASTER SERVICES AGREEMENT** (the “Agreement”)is made and entered intoby and betweenVentura County Medi-Cal Managed Care Commission doing business as Gold Coast Health Plan, a California public entity established under the laws of the State of California (“GCHP”), and **,** a      , (“Contractor”), is effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”).

1. **SERVICES**
   1. Description of Services. Contractor shall perform the services and provide all of the items to be delivered to GCHP (“Deliverables”) described in statements of work (each, a “Statement of Work” or “SOW”) in a form substantially similar to that in Exhibit A attached hereto as well as any Change Order (defined below) (collectively, the “Services”). The Services described in any SOW may be referred to herein as a “Project.” If executed by both parties, Exhibit A shall constitute the first SOW. Each SOW and Change Order executed by both parties is incorporated into this Agreement. The SOW shall become effective upon the issuance of a GCHP purchase order, which is a written authorization to provide specified Services to GCHP at a specified price (the “Purchase Order”) by an authorized member of GCHP’s Procurement Services organization (the “Authorized Procurement Representative”).
   2. Order of Precedence. Any inconsistency in this Agreement shall be resolved by giving precedence in the following order: (1) the Business Associate Agreement; (2) this Agreement; (3) the Scope of Work, unless a single separate and distinct section within the SOW or Change Order (a) is labeled as the "MSA Override" section, and (b) expressly identifies both the provision within this Agreement that is being overridden by the SOW or Change Order, in which case the provision within the SOW or Change Order shall prevail over this Agreement; (4) the Request for Proposals to which Contractor responded (“RFP”); and (5) Contractor’s response to such RFP Proposal. Each document identified in this Section is a part of this Agreement and is incorporated herein by this reference. Any requirement or obligation of Contractor set forth in the RFP shall be deemed a part of the general terms and conditions of this Agreement unless the Parties expressly agree to exclude any such requirement from this Agreement. Each document identified in this Section is a part of this Agreement and is incorporated herein by this reference.
   3. Transition Services. Upon GCHP's request during the Term (defined below) and at any time during the first six (6) months following the expiration or termination of this Agreement (“Transition Period”), Contractor shall make available to GCHP all services necessary for an orderly migration to GCHP or a replacement contractor designated by GCHP including providing at no cost or expense to GCHP all GCHP files in HTML format (or such other mutually agreed format) and all data and other property of GCHP that are in the possession of Contractor, its employees, agents and subcontractors. Contractor shall provide transition assistance utilizing Contractor personnel then being regularly used to perform the Services. For transition assistance (excluding the return of GCHP files, data and other property) for which there is a predetermined Charge (defined below) in a SOW, such pre-determined Charge shall apply. For transition assistance for which there is no predetermined Charge in an SOW, Contractor shall charge its then-current hourly rates, less a twenty-five percent (25%) discount. In the event GCHP terminates this Agreement or any SOW due to Contractor’s breach of this Agreement or an applicable SOW, Contractor shall not be entitled to any compensation or remuneration for transition services provided by Contractor during the Transition Period.
   4. Non-Exclusivity. GCHP retains the right at all times to negotiate terms and enter contracts with any other person or entity for services that are the same or similar to the Services without notice to Contractor and without incurring any liability by virtue thereof.
   5. Place of Performance. Except as expressly described in an SOW, Contractor shall not perform the Services or any portion thereof, nor send or make available any Confidential Information (defined below) of GCHP or individually identifiable health information outside the United States. If during the term of this Agreement, or at any time after the Effective Date of this Agreement, it is determined that Contractor is in breach of this Section, GCHP shall have, in its sole discretion, the right to immediately terminate this Agreement.
2. **PAYMENT**
   1. Charges. In full consideration for Contractor’s performance of the Services described in an SOW or Change Order, GCHP shall pay the charges and expenses expressly described in the Compensation section in such SOW in accordance with its terms and this Agreement (“Charges”). Contractor is not entitled to any compensation or remuneration other than the Charges. All payments by GCHP to Contractor pursuant to this Agreement are due and payable within forty-five (45) calendar days of receipt by GCHP of an undisputed invoice after Acceptance (defined below) of a Service, or Deliverable or Milestone (as defined in the SOW).
   2. Invoice Detail. Each invoice shall show: (i) the SOW number to which the invoice relates; (ii) the Purchase Order Number of the GCHP Purchase Order relating to the SOW; (iii) the GCHP billing information identified on the applicable SOW; and (iv) the specific items billed, including hours billed for each Contractor Personnel performing under each SOW. GCHP, in its sole discretion, may refuse to pay any invoice that does not contain the required information and, instead, may return the invoice to Contractor within thirty (30) days of receipt. In such event, GCHP shall not be obligated to pay any sums billed by such returned invoice until thirty (30) days after GCHP receives a properly corrected invoice therefor.
   3. Mailing of Invoices. Each invoice shall be mailed, in duplicate, to GCHP at the following address:

GOLD COAST HEALTH PLAN

711 E DAILY DRIVE

SUITE 106

CAMARILLO, CA 93010  
Attention: Accounts Payable

E-mail Invoices. Invoices may also be submitted to GCHP using the following e-mail address: Accountspayable@goldchp.org.

* 1. Additional Charges. Contractor may not charge GCHP any additional amounts for Services or Deliverables for which an invoice has been rendered, except where a particular invoice (i) indicates that certain Charges are incapable of being determined as of the date of such invoice and (ii) Contractor provides an estimate of such Charges so that GCHP can make appropriate accruals, in which event Contractor may include such Charges on a later invoice. However, under no circumstances shall GCHP be liable for any Charges presented to GCHP more than ninety (90) days after the date the underlying Services/Deliverables or expenses were provided or incurred, as the case may be. GCHP may deduct from an invoice any credits or other amounts Contractor owes GCHP hereunder. In the event of a dispute regarding an invoice, the parties shall negotiate in good faith to resolve such dispute as soon as practicable. If the dispute is not resolved informally, it shall be subject to the dispute resolution procedures set forth in Section 14.
  2. Overpayment and Recovery.
     1. In the event that Contractor identifies an overpayment, duplicate payment or other excess payment (“Overpayment”) Contractor shall report within sixty (60) calendar days of the date of identification of the Overpayment to GCHP’s Compliance Officer at Gold Coast Health Plan, 711 E. Daily Drive, Suite #106 Camarillo, CA 93010-6082, Fax: (805) 437-5132, compliance@goldchp.org. The report shall include the amount of Overpayment identified and the reason for the Overpayment. Contractor also shall make repayment to GCHP within sixty (60) calendar days of the date of identification of the Overpayment.
     2. In the event that GCHP determines that Contractor has received an Overpayment, GCHP shall notify Contractor of the amount of Overpayment identified and the reason for the Overpayment. Such written notice shall identify the funds claimed to be overpaid or paid in duplicate, the reason GCHP maintains such paid funds were not provided for under this Agreement or overpaid. Contractor shall make repayment of any undisputed Overpayment to GCHP within sixty (60) calendar days of written notification by GCHP.
     3. If Contractor fails to make repayment of the Overpayment in accordance with subsection a. and b. above, then in addition to any other contractual or legal remedy, GCHP may recover the amounts owed by way of offset or recoupment from current or future amounts due Contractor by giving Contractor not less than thirty (30) calendar days’ notice.
     4. As a material condition to GCHP’s obligations under this Agreement, Contractor agrees that the offset and recoupment rights set forth herein shall be deemed to be and to constitute rights of offset and recoupment authorized to the maximum extent legally permissible in law or in equity. Such rights shall not be subject to any prior requirement or approval from any court or governmental authority that may now or hereafter have jurisdiction over GCHP and/or Contractor.
     5. This Section shall survive Termination of this Agreement.
  3. Availability of Funds. Payment to Contractor is subject to GCHP’s corresponding receipt of funding from the Department of Health Care Services (“DHCS”), the Centers for Medicare and Medicaid Services (“CMS”), or any other governmental agency providing revenue to GCHP, as applicable (“Governmental Agencies”). If payments from Federal or State governmental agencies are terminated or reduced, GCHP may terminate the Agreement or adjust the rate of payment as set forth above. If GCHP’s payment from Federal or other Governmental Agencies are delayed, GCHP may extend the time to make payment to Contractor upon prompt written notification of such delay. Contractor shall not suspend or terminate this Agreement due to a delayed receipt of payment if such delay results from a corresponding delay in GCHP’s receipt of payment from Federal or State Governmental Agencies, provided that such delays do not exceed ninety (90) days and GCHP has notified Contractor as set forth above. Within fifteen (15) days following GCHP’s receipt of payment from Federal or State Governmental Agencies, GCHP shall make payment to Contractor for the applicable time period. Notwithstanding the foregoing, Contractor shall receive payment for services rendered and obligations incurred prior to termination or amendment of the Agreement. Contractor agrees to hold harmless both the State and GCHP members in the event that GCHP cannot or will not pay for services performed by Contractor pursuant to this Agreement. This Agreement is subject to any restrictions, limitations, or conditions enacted by the Congress or State Legislature or any statute enacted by the Congress or State Legislature that may affect the provisions, terms or funding of this Agreement in any manner
  4. Expense Reimbursement. GCHP shall not be responsible for reimbursement of Contractor’s expenses incurred in the performance of Services pursuant to this Agreement except to the extent the issued SOW so provides. If, and to the extent that the SOW requires GCHP to reimburse any such expenses of Contractor, such reimbursement shall be subject to the GCHP’s Reimbursable Expense Guidelines, attached hereto as Exhibit B, and incorporated herein by reference
  5. Taxes. Contractor agrees to pay and hold GCHP harmless against any penalty, interest, additional tax or other charges that may be levied or assessed as a result of the delay or failure of Contractor to pay any tax, file any return or provide information required by law, rule or regulation.
  6. Sales and Use Taxes. GCHP shall be solely responsible for the payment of any and all sales and use taxes assessed by any governmental authority with respect to the Services performed under this Agreement.
  7. Records and Audit. Contractor agrees to make all of its premises, facilities, equipment, books, records, contracts, computer and other electronic systems pertaining to the goods and Services furnished under this Agreement available for the purpose of an audit, inspection, evaluation, examination or copying at all reasonable times at the Contractor’s place of business or at such other mutually agreeable location in California.
     1. Record Maintenance and Retention. Contractor shall maintain complete and accurate records to validate and document Contractor’s (i) compliance with this Agreement, (ii) performance of the Services, and (iii) Charges for Services and/or the Deliverables, all in accordance with general standards applicable to such book or record keeping consistently applied. Such records, including all Encounter Data, shall be maintained for a term of at least ten (10) years from the termination or expiration of the Agreement or from the date of completion of any audit, whichever is later. Contractor shall furnish any record, or copy of it, to DHCS or any other entity listed in this Section at Contractor’s sole expense.
     2. Audit by GCHP. Contractor shall, upon request from GCHP, make available to GCHP for audit and inspection all of its premises, facilities, equipment, books, and records, contracts, computer and other electronic systems pertaining to the goods and services furnished under this Agreement.
     3. Audit by California Auditor General. If this Agreement exceeds Ten Thousand and No/100 Dollars ($10,000.00), Contractor shall be subject to the examination and audit by the Auditor General of the State of California for a period of three (3) years after final payment under the Agreement (California Government Code Section 8546.7). Any such audit will be conducted upon reasonable notice and during regular business hours, and shall be at GCHP’s expense, unless such audit reveals an overcharge of more than five percent (5%), in which event Contractor shall reimburse GCHP the cost of such audit. Contractor shall provide reasonable assistance to GCHP or its designated agent to conduct audits. All overcharges revealed by any audit hereunder shall be immediately reimbursed to GCHP.
     4. Audit by State and Federal Agencies. Contractor shall permit DHCS, CMS, the Federal Department of Health and Human Services (“DHHS”) Inspector General, the Federal Comptroller General, the Federal and California Departments of Justice (“DOJ”), the California Department of Managed Health Care (“DMHC”), and their designees to inspect, examine, or copy all applicable books and records, and the premises in which it is being performed. Contractor shall provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives of State or Federal agencies in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work. If DHCS, CMS, or the DHHS Inspector General determine there is a reasonable possibility of fraud or similar risk, DHCS, CMS, or the DHHS Inspector General may inspect, evaluate or audit the Contractor at any time. Upon resolution of a full investigation of fraud, DHCS reserves the right to: (i) suspend or terminate Contractor from participation in the Medi-Cal program; (ii) seek recovery of payments made to Contractor; (iii) impose other sanctions provided under the State or GCHP; and (iv) direct GCHP to terminate this Agreement due to fraud.
     5. Return of Documents. All deliverables and supporting documents, records, data, or other materials provided to GCHP by Contractor shall be the property of GCHP upon completion of this Agreement. Any and all records, documents, data, or other materials provided by GCHP to Contractor that were required for Contractor to perform the Services required by this Agreement shall be returned immediately to GCHP upon expiration or termination of this Agreement.

1. **CHANGES; DELAYS; AND SERVICE CREDITS**
   1. Change Orders. If either party desires a change in the Services or Deliverables, the desired change and any resulting change to the Charges shall be specified in a written document presented to the other party (“Change Order”). Contractor shall be entitled to an additional charge described in a Change Order only if Contractor provides to GCHP a written proposal for such change or increase in scope. If such proposal is accepted, Contractor shall be compensated at the rates set forth in the SOW and/or at such other fixed price mutually agreed upon in writing. Contractor shall not perform any services not described in an SOW or a Change Order and shall not be entitled to any compensation or remuneration unless such SOW or Change Order has been signed by an appropriate GCHP employee with sufficient authority to bind GCHP to the SOW or Change Order. Contractor acknowledges and agrees that a SOW or Change Order may require additional GCHP approvals. Notwithstanding anything in this Agreement to the contrary, GCHP shall have the right, upon written notice to Contractor, to suspend in whole or in part the delivery of any Services or Deliverables, and the parties shall negotiate in good faith any adjustments in prices or ship dates necessitated by such suspension.
   2. Delays. If Contractor has failed or is likely to fail to provide the Services on time, Contractor shall, at Contractor’s expense, provide as many additional Contractor personnel as necessary to meet the performance timelines. Contractor shall inform GCHP as early as possible of any anticipated delays in the Services and of the actions being taken to ensure completion of the Services within a time period acceptable to GCHP. GCHP’s acceptance of additional personnel as provided herein shall not be construed or implied to constitute a waiver of any of GCHP’s rights under the terms of this Agreement.
   3. Force Majeure. Neither party shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused by an event (including, fire, flood, terrorism, pestilence, earthquake, elements of nature or acts of God, riots, or civil disorders) beyond the reasonable control of such party, provided (i) the non-performing party is without fault in causing such default or delay, (ii) such default or delay could not have been prevented by reasonable precautions (including the implementation of, and adherence to, a prudent disaster recovery and business continuity plan), and (iii) such default or delay could not reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means.
   4. Service Credits. To the extent described in an SOW, GCHP may be entitled to credits against the Charges as a result of Contractor’s failure to meet service levels that are subject to such credits. Alternatively, GCHP may make a claim for damages against Contractor arising out of Contractor’s failure to meet such service levels; provided, however, that if GCHP had previously received any service level credits as a result of such failure, then the amount of damages to which GCHP is entitled under its subsequent claim shall be reduced by the amount of any service level credits previously accepted by GCHP with respect to such failure. This right shall not limit any other rights of the parties in this Agreement.
   5. Changes to DHCS Agreement. GCHP shall inform Contractor of prospective requirements added by DHCS to this Agreement before the requirement would be effective, and obtain Contractor’s agreement to comply with the new requirements within thirty (30) days of the effective date, unless otherwise instructed by DHCS and to the extent possible.
2. **PROJECT MANAGEMENT**
   1. Contractor Project Personnel. Contractor shall staff each Project with sufficient qualified personnel to complete its obligations hereunder. Contractor shall promptly replace any such individual upon GCHP's reasonable request, and shall not otherwise remove, replace or reassign any individuals identified in the applicable SOW as Key Contractor Personnel without GCHP's prior written consent, provided that Contractor reserves the right to terminate the employment of any person without the consent of GCHP. Contractor shall cooperate with third parties working on GCHP’s behalf.
   2. Project Reports. Unless specified otherwise in the applicable SOW, Contractor shall present to GCHP a written status report of the Project and its progress, on a task-by-task basis, including, without limitation, Contractor hours expended if charged on an hourly basis and any impediments to the timely completion of the Project, all sufficiently in advance to permit GCHP to compensate for, or work around, such impediment. These reports shall include any unanticipated issues and recommendations for dealing with such issues.
3. **ACCEPTANCE**

GCHP shall have thirty (30) calendar days from the date the Deliverables and Services are delivered to and received by GCHP to review and test them to ensure they conform to their specifications, documentation and SOW. GCHP shall notify Contractor of the existence of any defect and Contractor shall, at no cost or expense to GCHP, work promptly and diligently to correct such defect within twenty (20) calendar days of GCHP’s notice to Contractor of such defect. Should Contractor fail to make such correction in a reasonably timely manner, such correction may be made by GCHP, and the cost thereof shall be charged to Contractor. If GCHP determines the Deliverables and Services (as corrected, if applicable) contain no defects, GCHP shall provide Contractor a written notice of acceptance (“Acceptance”). No other event shall constitute Acceptance. Acceptance by Contractor of the final payment made under this Agreement shall operate as a release of GCHP from all claims and liabilities for compensation to Contractor for anything done, furnished or relating to Contractor’s work or services. Absence of any negotiation of GCHP's check or the failure to make a written claim for extra compensation within ten (10) calendar days of the receipt of that check shall constitute acceptance of payment. However, approval or payment by GCHP shall not constitute, nor be deemed, a release of the responsibility and liability of Contractor, its employees, subcontractors, agents for the accuracy or completeness of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by GCHP for any defect or error in the future.

1. **WARRANTIES; COMPLIANCE WITH LAW**
   1. Service and Performance Warranty. Contractor represents and warrants that it (a) has the experience and skill to perform the Services in this Agreement; and (b) shall perform the Services in a timely, competent, workmanlike manner and in conformance with the requirements of this Agreement, and (c) that all Deliverables shall conform to their documentation, functional specifications and requirements for one (1) year from the date of Acceptance (the "Warranty Period"). In the event the Services or Deliverables do not conform to this warranty, Contractor shall, at no cost or expense to GCHP, promptly correct, re-perform and, as applicable, re-deliver the Services and Deliverables. The Warranty Period shall be extended for every day the Services or Deliverables do not conform to this warranty.
   2. Pass-Through Warranty. If applicable, Contractor shall pass through to GCHP any product and third party warranties and indemnities associated with the Services. If Contractor is not permitted to pass-through such warranties, Contractor shall assert and enforce such warranties and indemnities on behalf of GCHP.
   3. Mutual Warranties. Each party represents and warrants to the other that: (i) it is validly existing under the laws of the state of its formation and has the full right, authority, capacity and ability to enter into this Agreement and to carry out its obligations hereunder; (ii) this Agreement is a legal and valid obligation binding upon it and enforceable according to its terms; and (iii) the execution, delivery and performance of this Agreement does not conflict with any agreement, instrument or understanding, oral or written, to which it is bound.
   4. No Other Warranties. Except for the express warranties set forth herein, each party disclaims all other warranties, express and implied, including warranties of merchantability and fitness for a particular purpose.
   5. Compliance with Law and Policies. Contractor shall provide the Services in compliance with the requirements of all applicable Federal, State and local laws, ordinances, regulations and codes, including those laws applicable to the DHCS Medi-Cal Managed Care Program and governing the DHCS contract with GCHP for Medi-Cal managed care, and, if applicable, the Health Insurance Portability and Accountability Act (collectively, "Law"). Contractor agrees to comply with any provision required to be in this Agreement by such DHCS contract with GCHP (“Medi-Cal Agreement”), which is incorporated in this Agreement by reference, and any GCHP policies and procedures that have been provided to Contractor at least thirty (30) days in advance of implementation. Contractor agrees to report any violation of Law or GCHP policies or procedures committed by Contractor or, its employees, agents, workforce members, or subcontractors in the performance of the Services to GCHP’s Ethics Hotline at (888) 866-1366 or GCHP’s Ethics Officer at GCHP’s address for Notices.
2. **INTELLECTUAL PROPERTY AND CONFIDENTIALITY**
   1. Intellectual Property. As between Contractor and GCHP, Contractor agrees that all “Work Product” (which, for purposes of this Agreement, shall include any and all Deliverables [including all intermediate versions and all derivatives thereof] and any and all results and proceeds of Contractor’s Services hereunder) shall be owned exclusively by GCHP in any and all manner or medium now known or hereafter devised, in perpetuity. Such ownership shall inure to the benefit of GCHP from the date of creation or fixation in a tangible medium of expression, as applicable. GCHP and Contractor agree that all Work Product shall be considered a “work-made-for-hire” in favor of GCHP within the meaning of the Copyright Act of 1976, as amended. If and to the extent the Work Product, or any part thereof, is found by a court of competent jurisdiction not to be a “work-made-for-hire” within the meaning of the Copyright Act of 1976, as amended, Contractor hereby expressly assigns to GCHP all exclusive right, title and interest in and to the copyright, patent, trademark, trade secret and all other proprietary rights in and to the Work Product without further consideration, free from any claim, lien for balance due or rights of retention thereto on the part of Contractor. Contractor shall deliver all Work Product to GCHP promptly upon completion or, if sooner, the termination of the Services hereunder. Contractor agrees to execute all documents GCHP reasonably requires to perfect such assignment, and in the event that Contractor fails to execute such documents for any reason, Contractor hereby appoints GCHP as its attorney-in-fact for the sole purpose of executing such documents.
   2. Confidential Information. For the purposes of this Agreement, “Confidential Information” means any software, data, business, financial, operational, customer, contractor or other information disclosed by one party to the other and not generally known by or disclosed to the public. Confidential Information shall include any and all Personal Information, defined as any information that is or includes personally identifiable information, including, but not limited to, name, address and any unique personal identification number. Notwithstanding anything herein to the contrary, Confidential Information shall not include information that is: (a) already known to or otherwise in the possession of a party at the time of receipt from the other party, provided such knowledge or possession was not the result of a violation of any obligation of confidentiality; (b) publicly available or otherwise in the public domain prior to disclosure by a party; (c) rightfully obtained by a party from any third party having a right to disclose such information without breach of any confidentiality obligation by such third party; or (d) developed by a party independent of any disclosure hereunder.
   3. Health Information. All services performed by Contractor under this Agreement shall be in strict conformance with all applicable Federal, State of California and/or local laws and regulations relating to confidentiality, including but not limited to, California Civil Code Section 56 et seq., California Welfare and Institutions Code Sections 5328, 10850 and 14100.2, Health and Safety Code Sections 11977 and 11812, 22 California Code of Regulations Section 51009, 45 Code of Federal Regulations Parts 160, 162, and 164, and 42 Code of Federal Regulations Section 2.1 et seq. Contractor shall submit to GCHP reports certifying its compliance with all Federal and State statutes and regulations regarding confidentiality. To the extent the services to be performed by the Contractor involve Protected Health Information as defined in the Health Insurance Portability and Accountability Act implementing regulations at 45 Code of Federal Regulations Section 160.103, Contractor shall execute and abide by the terms of the Business Associate Agreement between the Parties, which is incorporated by reference herein.
   4. Confidentiality Obligations. Each party shall maintain all of the other party’s Confidential Information in strict confidence and shall protect such information with the same degree of care that such party exercises with its own Confidential Information, but in no event less than a reasonable degree of care. If a party suffers any unauthorized disclosure, loss of, or inability to account for the Confidential Information of the other party, then the party to whom such Confidential Information was disclosed shall promptly notify and cooperate with the disclosing party and take such actions as may be necessary or reasonably requested by the disclosing party to minimize the damage that may result therefrom. Except as provided in this Agreement, a party shall not disclose (or allow the disclosure of) any Confidential Information of the other party without the prior written consent of such party. If a party is legally required to disclose the Confidential Information of the other party, the party required to disclose shall, as soon as reasonably practicable, provide the other party with written notice of the applicable order or subpoena creating the obligation to disclose so that such other party may seek a protective order or other appropriate remedy. In any event, the party subject to such disclosure obligation shall only disclose that Confidential Information which the party is advised by counsel as legally required to be disclosed. In addition, such party shall exercise reasonable efforts to obtain assurance that confidential treatment shall be accorded to such Confidential Information. Access to and use of any Confidential Information shall be restricted to those employees and persons within a party’s organization who have a need to use the information to perform such party’s obligations under this Agreement and are subject to a contractual or other obligation to keep such information confidential. A party’s consultants and subcontractors are included within the meaning of “persons within a party’s organization,” provided such consultants and subcontractors have executed confidentiality agreements with provisions no less stringent than those contained in this Section. Additionally, GCHP may, in response to a request, disclose Contractor’s Confidential Information to a regulator or other governmental entity with oversight authority over GCHP, provided GCHP (i) first informs Contractor of the request, and (ii) requests the recipient to keep such information confidential. Contractor and its subcontractors shall not use such Confidential Information for any purpose other than carrying out the Contractor’s obligations under this Agreement. Contractor and its subcontractors shall promptly transmit to the GCHP program contract manager all requests for disclosure of such Confidential Information.
   5. Return of Confidential Information. All of a party’s Confidential Information disclosed to the other party, and all copies thereof, are and shall remain the property of the disclosing party. All such Confidential Information and any and all copies and reproductions thereof shall, upon request of the disclosing party or the expiration or termination of this Agreement, be promptly returned to the disclosing party or destroyed (and removed from the party's computer systems and electronic media) at the disclosing party’s direction, except that to the extent any Confidential Information is contained in a party's backup media, databases and email systems, then such party shall continue to maintain the confidentiality of such information and shall destroy it as soon as practicable and, in any event, no later than required by such party's record retention policy. In the event of any destruction hereunder, the party who destroyed such Confidential Information shall provide to the other party written certification of compliance therewith within fifteen (15) days after destruction.
3. **TERM AND TERMINATION** 
   1. Term. This Agreement shall commence on the Effective Date and continue until the later of (i) the seventh (7th) anniversary of the Effective Date, or (ii) the completion of all outstanding SOWs (collectively, ”Term”). By giving written notice via a Purchase Order to Contractor no less than thirty (30) days prior to the then-existing expiration date, GCHP may extend the term of this Agreement or any Statement of Work for a period up to sixty (60) months on the terms and conditions (including pricing and cost-of-living adjustments, if any) then in effect. GCHP may also procure additional quantities of Services on the same terms and conditions (including pricing and cost-of-living adjustments, if any) then in effect via a Purchase Order to Contractor at any time during the Term of this Agreement or the Term of any Statement of Work. No other terms in GCHP’s Purchase Order to Contractor shall be binding on either party. GCHP shall have one (1) such extension option for the Agreement and as many extension options as required for any associated Statement of Work, but in no event shall any Statement of Work be extended beyond a period of seventy two (72) months from its initial Term. The definition of “Term” shall encompass any and all extensions and renewals of this Agreement.
   2. Termination. Unless specified otherwise in the MSA Override section of an SOW, GCHP may terminate this Agreement and any SOW(s) for convenience without cost or penalty at any time upon thirty (30) days advance written notice to Contractor. In the event either party breaches any provision of this Agreement, the non-breaching party may terminate this Agreement without penalty or fee upon thirty (30) days advance written notice to the other party, provided such breach is not cured within such thirty (30) day period. In the event GCHP terminates this Contract or a SOW for an uncured breach and it is later adjudicated that no breach occurred, the termination shall be deemed to have been made for convenience. Notwithstanding anything herein to the contrary, Contractor agrees that a good faith dispute regarding Charges that remain unpaid for fewer than sixty (60) days shall not be deemed to be a breach of this Agreement, and Contractor shall not suspend, delay or terminate this Agreement, any SOW, Deliverables or Services during such sixty (60) day period.
   3. Immediate Termination or Suspension. GCHP may immediately suspend or terminate this Agreement in whole or in part, in GCHP’s sole discretion, if Contractor has failed to cure a breach as required by the corrective action plan within thirty (30) days.
   4. Effect of Termination. Upon the termination or expiration of this Agreement or any SOW, Contractor shall: (a) deliver to GCHP all Deliverables in whatever form or media they may then exist; (b) document the status of the Services that have been terminated and deliver such documentation to GCHP; and (c) deliver to GCHP all fees paid by GCHP for Services and Deliverables that remain unperformed or undelivered as of the date of termination as well as all GCHP property and materials that are in the possession of Contractor, its employees, subcontractors and agents. The termination or expiration of this Agreement or any SOW for any reason shall not affect GCHP’s or Contractor’s rights or obligations for any Services or Deliverables completed and delivered to GCHP prior to the date of termination, and GCHP shall pay all charges outstanding at the time of termination within forty five (45) days following submission of a final statement by Contractor.
   5. Remedies. Notwithstanding anything in this Agreement to the contrary, where a breach of certain provisions of this Agreement may cause either party irreparable injury or may be inadequately compensable in monetary damages, either party may obtain equitable relief in addition to any other remedies which may be available. The rights and remedies of the parties in this Agreement are not exclusive and are in addition to any other rights and remedies available at law or in equity.
   6. No Waiver. In no event shall any payment by GCHP constitute a waiver by GCHP of any breach by Contractor or any default which may then exist on the part of Contractor. Neither shall such payment impair or prejudice any remedy available to GCHP with respect to the breach or default.
4. **INDEMNITY**
   1. Indemnification.
      1. Contractor agrees to defend, indemnify and hold harmless GCHP, its affiliates and subsidiaries, and their officers, directors, commissioners, employees, agents and representatives (collectively, “GCHP Indemnitees”) from and against all actions, suits, costs, damages, expenses, fines, penalties, settlements and judgments, and liabilities (including, without limitation, reasonable attorneys’ fees and costs) (“Claims”) arising out of or in connection with any breach of any representation or warranty of Contractor contained in this Agreement, or any breach of any covenant or other obligation or duty of Contractor under this Agreement or under applicable law, excluding Claims to the extent resulting from the sole negligence or wrongful acts of GCHP. GCHP agrees to notify Contractor promptly in writing of any such claim, following actual knowledge of such Claim, provided however that the failure to give such notice shall not relieve Contractor of its obligations hereunder except to the extent that Contractor is materially prejudiced by such failure.
      2. In the event that any third party Claim is brought, GCHP shall have the option at any time to either (i) tender its defense to Contractor, in which case Contractor shall provide qualified attorneys, consultants, and other appropriate professionals to represent GCHP's interests at Contractor's expense, or (ii) undertake its own defense, choosing the attorneys, consultants, and other appropriate professionals to represent its interests, in which case Contractor shall be responsible for and shall pay reasonable fees and expenses of such attorneys, consultants, and other appropriate professionals. GCHP shall have the sole right and discretion to settle, compromise, or otherwise resolve any and all claims, causes of action, liabilities, or damages against it, notwithstanding that GCHP may have tendered its defense to Contractor. Any such resolution shall not relieve Contractor of its obligation to indemnify GCHP. Contractor agrees that any settlement, compromise or resolution Contractor enters into arising as a result of the Claims will not include any admission of wrongdoing by GCHP. The indemnification requirements set forth herein shall survive the termination of this Agreement.
      3. If the use of any Deliverables or Services is enjoined or threatened to be enjoined due to an alleged infringement or misappropriation, Contractor shall, at its discretion and expense: (i) procure the right for GCHP to continue using such Deliverables or Services; (ii) modify or replace the affected items with functionally equivalent or better items; or (iii) refund the amount paid by GCHP in connection with the affected Deliverables or Services. This Infringement indemnity section states Contractor’s entire obligation, and GCHP's sole remedy, for a third party's claim of infringement or misappropriation.
5. **INSURANCE**

Contractor shall maintain insurance coverage and satisfy the requirements in the Insurance Addendum attached hereto at its sole cost and expense. If Contractor ceases operations or for any other reason terminates such insurance coverage, Contractor shall obtain other coverage for an extended claims reporting period of no less than two (2) years after the expiration or termination of this Agreement.

1. **SUBCONTRACTORS**
   1. Approval of Subcontracts. Contractor shall obtain GCHP’s written consent, which GCHP may withhold in its sole discretion,before entering into agreements with a subcontractor for the performance of the Services or portion thereof. GCHP may, in its sole discretion and upon thirty (30) days advance notice to Contractor, withdraw its consent for the use of a permitted subcontractor and, in such an event, Contractor must terminate its use of that subcontractor for the Services. Contractor shall be responsible for all acts or omissions of its subcontractors. Contractor shall ensure that any and all subcontractors are insured in accordance with the Insurance Addendum. The GCHP Reimbursable Expense Guidelines in Exhibit B shall apply to travel expenses incurred by a subcontractor that Contractor is obligated to reimburse to the subcontractor. GCHP shall not be responsible to pay Contractor any amount in excess of Contractor’s actual cost of reimbursing a subcontractor, or the maximum amount permitted by the GCHP’s Reimbursable Expense Guidelines, whichever is less. In no event shall GCHP pay Contractor any percentage, fee, administrative charge, or other mark-up. Contractor agrees to notify GCHP in the event the agreement with its subcontractor is terminated.
   2. Copies of Subcontracts, Requirements.
      1. Upon GCHP or DHCS request, Contractor shall provide copies of all subcontracts and/or subcontract templates to GCHP or DHCS.
      2. Contractor’s agreements with subcontractors shall be in writing and shall bind subcontractors to the terms and conditions of this Agreement as applicable to the services provided by the subcontractor.
      3. Contractor shall require that the subcontractor: (a) make all premises, facilities, equipment, applicable books, records, contracts, computer, or other electronic systems related to this Agreement, available at all reasonable times for audit, inspection, examination, or copying by DHCS, CMS, or the DHHS, Inspector General, the Comptroller General, DOJ, and DMHC, or their designees, and (b) retain all records and documents for a term of at least ten (10) years from the close of the final date of the Agreement or from the date of completion of any audit, whichever is later.
   3. Reports. Contractor shall submit all reports required by GCHP and shall cooperate with GCHP by collecting and sharing all data that GCHP is required to report to government agencies, accreditation entities, and other third parties.
   4. Oversight and Monitoring. Nothing contained in this Agreement shall limit GCHP’s right to perform its oversight and monitoring responsibilities of Contractor or its subcontractors, as required by applicable State and Federal law, as amended, programmatic requirements, or its contract with DHCS. Contractor shall comply with all monitoring provisions of this Agreement, including any RFP or SOW, and any monitoring requests by DHCS or GCHP.
      1. Authorized State and Federal agencies shall have the right to monitor all aspects of the Contractor's operations for compliance with the provisions of this Agreement and applicable Federal and State laws and regulations. Such monitoring activities shall include, but are not limited to, inspection and auditing of Contractor and subcontractor facilities, management systems and procedures, and books and records as deemed appropriate, at any time, pursuant to 42 CFR 438.3(h). The monitoring activities shall be either announced or unannounced.
      2. To assure compliance with this Agreement and for any other reasonable purpose, the State and its authorized representatives and designees shall have the right to access Contractor’s premises, with or without notice to Contractor. This will include the Management Information System operations site or such other place where duties under the Agreement are being performed.
      3. Staff designated by authorized State agencies shall have access to all security areas and the Contractor shall provide, and shall require any and all of its subcontractors to provide, reasonable facilities, cooperation and assistance to State representative(s) in the performance of their duties. Access shall be undertaken in such a manner as to not unduly delay the work of the Contractor and/or the subcontractor(s).
   5. Disclosures. In accordance with 42 C.F.R. 438.608(c), Contractor and any subcontractors shall:
      1. Provide written disclosure of any prohibited affiliation under 42 C.F.R. 438.610;
      2. Provide written disclosures of information on ownership and control as required under 42 C.F.R. 455.104; and
      3. Report to DHCS within sixty (60) calendar days when it has identified the Capitation Payments or other payments in excess of the amounts specified in this Agreement.
   6. Conflicts of Interest. Contractor shall ensure that its personnel do not have conflicts of interest with respect to GCHP and the Services. “Conflict of Interest” includes activities or relationships with other persons or entities that may result in a person or entity being unable or potentially unable to render impartial assistance or advice to GCHP, or the person's objectivity in performing the contract work is or may be impaired, or a person has an unfair competitive advantage.
   7. Litigation Assistance. Contractor shall make itself and any subcontractors, employees or agents assisting in the performance of its obligations under this Agreement, available to GCHP at no cost to GCHP to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against GCHP, its directors, officers or employees based upon claimed violation of contract or laws. Contractor shall timely gather, preserve and provide to GCHP, any records in Contractor’s possession related to threatened or pending litigation by or against DHCS or GCHP related this Agreement. Contractor shall be reimbursed for reasonable and actual costs associated with such production. Contractor shall use all reasonable efforts to immediately notify GCHP of any subpoenas, document production requests, or requests for records, received by Contractor or its subcontractors related to this Contract or subcontracts entered into under this Agreement.
2. **FRAUD AND ABUSE**
   1. Compliance with State and Federal Fraud and Abuse Laws. Contractor represents, certifies, and warrants that it is currently, and for the duration of this Agreement shall remain in compliance with all applicable State and Federal laws and regulations designed to prevent or ameliorate fraud, waste, and abuse including, but not limited to, applicable provisions of the Federal and State civil and criminal law, the program integrity requirements of 42 C.F.R. Section 438.608, the Federal False Claims Act (31 U.S.C. § 3729 et seq.), Employee Education About False Claims Recovery (42 U.S.C. § 1396a(a)(68)), the California State False Claims Act (Cal. Gov’t Code § 12650 et seq.), and the anti-kickback statute (Social Security Act § 1128B(b).). Upon request by DHCS, Contractor shall demonstrate compliance with this provision, which may include providing DHCS with copies of Contactor’s applicable written policies and procedures and any relevant employee handbook excerpts.
   2. Fraud and Abuse. Contractor shall implement and maintain procedures that are designed to detect and prevent Fraud, Waste, and Abuse including, but not limited to, the following:
      1. Fraud Reporting. Contractor shall report to GCHP’s compliance officer all cases of suspected fraud, waste, and/or abuse, as defined in Title 42 of the Code of Federal Regulations, Section 455.2, where there is reason to believe that an incident of fraud and/or abuse has occurred, by subcontractors, members, providers, or employees within forty-eight (48) hours from the time Contractor first becomes aware of, or is on notice of, such activity. Contractor shall immediately report to GCHP any notices of investigations of Contractor relating to fraud, waste, or abuse. Upon the request of GCHP and/or the State, Contractor shall consult with the appropriate State agency prior to and during the course of any such investigations. Contractor shall comply with GCHP’s anti-fraud plan, including its policies and procedures relating to the investigation, detection, and prevention of and corrective actions relating to fraud, waste and abuse.
      2. Contractor shall submit quarterly fraud reports to GCHP which must, at a minimum, include:
         1. Number of complaints of fraud and abuse submitted that warranted preliminary investigation; and
         2. For each complaint which warranted a preliminary investigations, supply:
         3. Name and/or SSN or CIN;
         4. Source of complaint;
         5. Type of provider (if applicable);
         6. Nature of complaint;
         7. Approximate dollars involved; and
         8. Legal and administrative disposition of the case.
      3. Contractor shall submit the following components with the report or otherwise explain the reason components are not submitted with the report: police report, health plan’s documentation (background information, investigation report, interviews, and any additional investigative information), GCHP member information (patient history chart, Patient profile, Claims detail report), provider enrollment data, Confirmation of services, list items or services furnished by the provider, Pharmaceutical data from manufacturers, wholesalers and retailers and any other pertinent information.
      4. Suspended, Excluded, or Ineligible Employees or Contractors.
         1. Contractor shall comply with 42 C.F.R. 438.608(a)(8) and 438.610. Additionally, Contractor is prohibited from employing, contracting or maintaining a contract with persons or entities for the provision of services related to this Agreement that are excluded, suspended or terminated from participation in the Medicare or Medi-Cal/Medicaid programs. Contractor shall notify GCHP immediately upon discovery of employment or contract with a person or entity that is excluded, suspended, or terminated. A list of suspended and ineligible providers is updated monthly and available on line and in print at the DHCS Medi-Cal Web site (http://medi-cal.ca.gov), by the DHHS, Office of Inspector General, List of Excluded Individuals and Entities (http://oig.hhs.gov), and the Federal System of Award Management (http://www.sam.gov). Contractor is deemed to have knowledge of any persons or entities on these lists.
         2. Contractor must notify GCHP within ten (10) working days of removing a suspended, excluded, or terminated provider from its employment or subcontract and confirm that the individual or entity is no longer receiving payments in connection with the Medicaid program.
3. **CORRECTIVE ACTION/REMEDIES**
   1. Corrective Action. If GCHP has reason to believe that a Contractor has not provided Services or performed activities in accordance with the terms of this Agreement or any SOW or in accordance with GCHP's reasonable performance expectations, GCHP may take such steps as it deems necessary, including, but not limited to, the following:
      1. Conduct an audit of Contractor's performance of the contracted services in accordance with Section 2.10;
      2. Notify Contractor in writing regarding the area of deficiency, and require Contractor to implement, by a specific time of not less than thirty (30) days, a corrective action plan developed by GCHP. Contractor’s Failure to fully correct the deficiency or issue within the specified time frame may lead to payment being withheld;
      3. Withhold a portion of payment based upon GCHP's reasonable analysis of the cost impact associated with the performance deficiency or issue, including, but not limited to, costs incurred to mitigate the impact of the performance deficiency or issue. Any such withholding, or a portion thereof may be restored to the Contractor upon GCHP's determination of satisfactory correction of the performance deficiency or issue (with any interest on such withholding retained by GCHP);
      4. Withhold and retain from the compensation due Contractor as provided for in any applicable Exhibit of the Agreement;
      5. If GCHP has delegated function(s) or activit(ies) under this Agreement, GCHP may de-delegate a function assigned to Contractor that has led to an administrative, financial, and/or other issue that does, or threatens to, seriously and adversely impact GCHP’s operations related to quality of member care, access to care, or payment for care. In addition to de-delegating a function, GCHP shall reduce Contractor’s payment based upon an agreed upon dollar amount associated with GCHP’s costs to perform the previously delegated function;
      6. Impose monetary sanctions for performance deficiencies or issues, in the same manner as provided in law, regulation and the Medi-Cal Agreement for non-performance or non-compliance of contractual or regulatory requirements, which may be deducted from payments at the discretion of GCHP; or
      7. Terminate this Agreement for cause as described in the Agreement and/or SOW.
4. **DISPUTE RESOLUTION**
   1. Government Claims Act. Contractor agrees to meet and confer in good faith to resolve any disputes that may arise under or in connection with this Agreement. In all events and subject to the provisions of this Section which follow, Contractor shall comply with the provisions of the Government Claims Act (Government Code Section 900, et. seq.) with respect to any dispute or controversy arising out of or in any way relating to this Agreement or the subject matter of this Agreement (whether sounding in contract or tort, and whether or not involving equitable or extraordinary relief) (a "Dispute").
   2. Judicial Reference. A dispute between Contractor and GCHP arising out of this Agreement shall be heard and decided by a referee appointed pursuant to California Code of Civil Procedure Section 638 (or any successor provision thereto, if applicable), who shall hear and determine any and all of the issues in any such action or proceeding, whether of fact or law, and to report a statement of decision, subject to judicial review and enforcement as provided by California law, and in accordance with Chapter 6 (References and Trials by Referees), of Title 8 of Part 2 of the California Code of Civil Procedure, or any successor chapter. The referee shall be a retired judge of the California superior or appellate courts. The referee shall be determined by agreement between the parties, provided that in the absence of such agreement, the referee shall be appointed by the Ventura County Superior Court in accordance with California Code of Civil Procedure Section 640 (or any successor provision thereto, if applicable). The parties acknowledge, by their initials herein, that they forego any right to trial by jury in any judicial reference proceeding, and that each party shall be responsible for paying an equal share of all costs for the referee until such time as a judgment is entered. Any counterpart or copy of this Agreement, filed with such Court upon such motion, shall conclusively establish the agreement of the parties to such appointment. The parties agree that the only proper venue for the submission of claims to judicial reference shall be the courts of general jurisdiction of the State of California located in Ventura County. The parties reserve the right to contest the referee's decision and to appeal any award or order of any court. The designated non-prevailing party in any dispute shall be required to fully compensate the prevailing party for its payments to the referee for his or her services hereunder at the referee's then respective prevailing rates of compensation.

Acknowledgement of Waiver of Jury and Payment of Referee Fees (Initials)

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

GCHP Contractor

* 1. Limitations. Contractor must comply with the claim procedures set forth in the Government Claims Act (Government Code Section 900, et. seq.) prior to filing any legal proceeding, including judicial reference, against GCHP. If no such Government Code claim is submitted, no action against GCHP may be filed. Notwithstanding anything to the contrary contained in this Agreement, any suit, judicial reference or other legal proceeding must be initiated within one (1) year after the date the facts giving rise to a dispute occurred or such dispute shall be deemed waived and forever barred; provided that, if a shorter time period is prescribed under the Government Claims Act, then the shorter time period (if any) prescribed under the Government Claims Act shall apply.
  2. Cut-Off for Disputes Against GCHP. Within ninety (90) days of the expiration or termination of this Agreement or any SOW under this Agreement, Contractor shall provide to GCHP formal written notice of any unresolved disputes Contractor has against GCHP relating to this Contract or to the applicable SOW. The formal written notice shall describe any unresolved dispute and identify the amount Contractor demands in satisfaction of the dispute, and it shall include any supporting documentation. Contractor’s failure to submit timely notice shall constitute a waiver of all unresolved disputes against GCHP. To the extent a dispute arises after the time for providing notice, and Contractor could not have timely discovered the dispute, Contractor shall provide formal written notice within ten (10) days of discovery. Nothing herein shall modify Contractor’s duty to comply with the Government Claims Act and Section 14.3 above.

1. **MISCELLANEOUS**
   1. Use of Name; Publicity. Except for its internal business use, as required by law or to comply with the request of a governmental entity, neither party shall use the other party's name, trademarks, service marks, logos or other identifiers (collectively, “Trademarks”), or make any reference to the other party or its Trademarks in any manner including, without limitation, client lists and press releases, without the prior written approval of such other party.
   2. Notices. Unless otherwise provided herein, any notice, consent, request, or other communication to be given under this Agreement shall be deemed to have been given by either party to the other party upon the date of receipt, if hand delivered, or two (2) business days after deposit in the U.S. mail if mailed to the other party by registered or certified mail, properly addressed, postage prepaid, return receipt requested, or one (1) business day after deposit with a national overnight courier for next business day delivery, or upon the date of electronic confirmation of receipt of a facsimile transmission if followed by the original copy mailed to the applicable party at its address below or other address provided in accordance herewith, or upon the date of transmission of electronic notice to an authorized email address with written confirmation of receipt. Either party may change its address for notices effective three (3) business days after providing written notice to the other party.

Gold Coast Health Plan

711 E. Daily Drive, Suite #106

Camarillo, CA 93010-6082

Attn: Dale Villani  
Title: Chief Executive Officer

Fax: (805) 981-5314

Email: Dvillani@goldchp.org

Contractor:

[NAME OF Contractor]

STREET ADDRESS

CITY, STATE ZIP

Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: (XXX)XXX-XXXX

Email: EMAIL ADDRESS]

* 1. Authority. Each corporate entity executing this Agreement represents and warrants that all necessary corporate action has been taken, including the due adoption of a resolution by its board of directors, sufficient to enable such corporation to enter into this Agreement, to be bound thereby and to perform fully as required hereunder. Each person executing this Agreement on behalf of Contractor represents and warrants that he/she has been duly authorized to enter into this Agreement on behalf of said party.
  2. Entire Agreement. This Agreement, its addenda, all SOWs, Change Orders and all exhibits and addenda thereto are incorporated herein and constitute the entire agreement of the parties. The Medi-Cal Agreement is incorporated herein by reference and shall be the guiding and controlling document when interpreting the terms of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, representations, promises, and agreements concerning the subject matter herein whether written or oral.
  3. Assignment. This Agreement and the duties and obligations of Contractor hereunder are of a unique and personal nature and may not be delegated or assigned (in whole or in part) by Contractor without GCHP's and DHCS’ prior written consent. Any assignment or delegation made by Contractor without such written consent is void. The provisions of this Agreement are binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.
  4. Amendments and Modifications. Except as expressly provided otherwise in an SOW or Change Order, no addition to or change in the terms of this Agreement shall be effective or binding on either of the parties unless reduced to writing and signed by the duly authorized representative of each party. Notwithstanding anything to the contrary anywhere in this Agreement, no terms or conditions related to the Services or Deliverables available via click-through or similar mechanism, in shrink-wrap or other Deliverable packaging, or described on Contractor’s or a third party's website shall be binding upon GCHP.
  5. Waiver and Severability. An individual waiver of a breach of any provision of this Agreement requires the consent of the party whose rights are being waived and such waiver shall not constitute a subsequent waiver of any other breach. If a court of competent jurisdiction declares any provision of this Agreement invalid or unenforceable, such judgment shall not invalidate or render unenforceable the remainder of the Agreement, provided the basic purposes of this Agreement are achieved through the provisions remaining herein.
  6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to any conflict of law principles. Unless otherwise specified in this Section, all actions and proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state courts located in the County of Ventura, State of California. Each party hereby submits to the personal jurisdiction and venue of such courts.
  7. Independent Contractor. Contractor is acting as an independent contractor in performing the Services hereunder. Nothing contained herein or done in pursuance of this Agreement shall constitute a joint venture, partnership or agency for the other for any purpose or in any sense and neither party shall have the right to make any warranty or representation to such effect or to otherwise bind the other party.
  8. No Third-Party Beneficiaries. The obligations created by this Agreement shall be enforceable only by the parties hereto, and no provision of this Agreement is intended to, nor shall it be construed to, create any rights for the benefit of or be enforceable by any third party, including, but not limited to, any GCHP member.
  9. Survival. In addition to this Section, the following sections shall survive the expiration or termination of this Agreement: Section 1.3 (Transition Services), Section 2 (Payment), Section 3.4 (Service Credits), Section 6.1 (Services and Performance Warranty) and Sections 7 through 14.
  10. Immigration Compliance. Contractor warrants, represents and agrees that Covered Services shall not be performed under this Agreement by any person who is an unauthorized alien under the Immigration Reform and Control Act of 1986 (as the same has been or may be amended) or its implementing regulations. Contractor shall ensure that each and every person performing Covered Services shall be a citizen or permanent resident of the United States, or have a valid United States visa authorizing employment in the United States, and shall be permitted to work for Federal contractors, including, but not limited to, Medicare and Medicaid contractors.
  11. Export Regulations. Contractor acknowledges its obligations to control access to technical data under the U.S. Export Laws and Regulations and agrees to adhere to such laws and regulations with regard to any technical data received under this Agreement.
  12. Nondiscrimination. Contractor shall not discriminate against GCHP members or Eligible Beneficiaries because of race, color, national origin, creed, ancestry, religion, language, age, marital status, sex, sexual orientation, gender identity, health status, physical or mental disability, or identification with any other persons or groups defined in Penal Code 422.56, in accordance with Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d, rules and regulations promulgated pursuant thereto, or as otherwise provided by law or regulations.
  13. Foreign Corrupt Practices Act. Contractor represents and warrants that it has not and shall not (i) violate the Foreign Corrupt Practices Act, the United Kingdom Bribery Act or any other applicable anti-corruption laws or regulations, or (ii) offer, give pay, promise to give or pay, or authorize the giving or payment of anything of value to a Territory official (as defined in the Foreign Corrupt Practices Act (P.L. 95-213), as amended, to any Territory political party or official thereof or any candidate for Territory political office, or to any person (collectively, “Foreign Person”), while knowing or being aware of a high probability that all or a portion of such thing of value shall be used, directly or indirectly, for the purposes of (a) influencing any official act, omission or decision of such Foreign Person; or (b) inducing such Foreign Person to use his or its influence to affect any official or governmental act, omission or decision in order to assist GCHP or Contractor in obtaining or retaining business. Contractor further agrees that if subsequent developments cause the certifications and information reported herein to be no longer accurate or complete, Contractor shall immediately furnish GCHP with a report detailing such change in circumstances.
  14. Disabled Veteran Business Enterprises. Contractor shall comply with applicable requirements of California law relating to Disabled Veteran Business Enterprises commencing at Section 10115 of the Public Agreement Code.
  15. Equal Opportunity. Contractor and its subcontractors shall abide by the requirements of 41 C.F.R. 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities. In the event of the Contractor’s noncompliance with the requirements of the provisions herein or with any Federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Federal and State contracts in accordance with procedures authorized in Federal Executive Order No. 11246 or as otherwise provided by law.
  16. Air or Water Pollution Requirements. If the amount of this contract exceeds $100,000, Contractor agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act [42 USC 1857(h)], Section 508 of the clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. part 15), If Contractor is an institution of higher education, nonprofit organizations or commercial businesses, it agrees to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 USC 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 USC 1251 et seq.), as amended.
  17. Debarment and Suspension Certification. Contractor agrees to comply with applicable Federal suspension and debarment regulations including, but not limited to, 7 C.F.R. 3017, 45 C.F.R. 76, 40 C.F.R. 32, or 34 C.F.R. 85. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
      1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
      2. Have not, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
      3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Subprovision b. herein;
      4. Have not within a three (3) year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default;
      5. Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under Federal regulations (i.e., 48 C.F.R. 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State;
      6. Shall include a clause entitled, “Debarment and Suspension Certification’’ that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions; and
      7. If Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, GCHP may terminate this Agreement for cause or default.
  18. Additional Federal Requirements. Contractor shall comply with all applicable Federal requirements in Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972 (regarding education programs and activities, as amended); the Age Discrimination Act of 1975; the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act of 1990, as amended; and Section 1557 of the Patient Protection and Affordable Care Act, as applicable.
  19. Public Records Act. Information received in accordance with this Agreement shall be public records on file with GCHP and DHCS, except as specifically exempted by statute. GCHP and DHCS shall ensure the confidentiality of information and contractual provisions filed with GCHP and DHCS which are specifically exempted by statute from disclosure, in accordance with the statutes providing the exemption. Contractor shall disclose the names of the officers and owners of Contractor, stockholders owning more than ten percent (10%) of the stock issued by Contractor, if any, and major creditors holding more than five percent (5%) of the debt of Contractor. For that purpose, Contractor shall use the Disclosure Form made available by GCHP.
  20. Headings; Captions. Section headings are used for convenience only and shall in no way affect the construction or interpretation of this Agreement.
  21. Counterparts; Time is of the Essence. This Agreement, each SOW and Change Order may be executed in counterparts and by facsimile or emailed PDF signature, all of which taken together constitute a single agreement between the parties. Each signed counterpart, including a signed counterpart reproduced by reliable means (such as facsimile and emailed PDF), shall be considered as legally effective as an original signature. The parties acknowledge and agree that time is of the essence in this Agreement.
  22. Interpretation. This Agreement is the product of mutual negotiation, and if any ambiguities should arise in the interpretation of this Agreement, both parties shall be deemed authors of this Agreement. Any provision of this Agreement that is in conflict with Current or future applicable Federal or State laws or regulations is hereby automatically amended to conform to the provisions of those laws and regulations.

In concurrence and witness whereof, this Agreement has been executed by the parties effective on the date and year first above written.

**Ventura County Medi-Cal Managed Care [CONTRACTOR]**

**Commission d.b.a. Gold Coast Health Plan**

Signature: Signature:

Name: Dale Villani Name:

Title: Chief Executive Officer Title:

**INSURANCE ADDENDUM**

1. Prior to the commencement of work, Contractor shall deposit with GCHP’s designated representative evidence of insurance protection in the form of certificates (ACORD). All insurance policies maintained to provide the coverages required herein shall be issued by insurance companies authorized to do business in the state in which work is performed, and by companies rated, at a minimum, “A X” by A.M. Best. Coverages afforded under such policies are primary with respect to GCHP, and any other insurance maintained by GCHP are excess and non-contributing with the insurance required hereunder. The amounts shall not be less than those specified below:

Insurance Coverage Limits of Liability

a. Workers Compensation Statutory

b. General Liability -coverage $1,000,000 per occurrence/ $2,000,000 annual aggregate

c. Professional Liability $1,000,000 per claim/ $3,000,000 annual aggregate This coverage shall be maintained for a minimum of two (2) years following termination or completion of Contractor’s work pursuant to the Agreement.

d. Automobile Liability – owned, hired, $500,000 per person/ $1,000,000 per occurrence

and non-owned.

e. Privacy Liability and Network $1,000,000 per occurrence/$5,000,000 annual aggregate. This

Security or Cyber Liability Insurance coverage shall include coverage of data breaches, security incidents, hacks, and ransomware attacks against Contractor and be maintained for a minimum of five (5) years following termination of Contractor’s work pursuant to the Agreement.

1. Contractor agrees to waive any rights of subrogation that Contractor may have against GCHP under applicable insurance policies related to the work performed by Contractor. Indemnification by Contractor shall not be limited or reduced by any insurance coverage limitations. GCHP, Inc. and its affiliates and subsidiaries shall be named as an additional insured on all policies (excluding Workers Compensation) and evidenced on the certificate of insurance. All certificates of insurance shall provide that the insurer give thirty (30) days’ written notice to GCHP prior to the effective date of expiration, any material change or cancellation. Said notice shall be submitted to a GCHP Strategic Sourcing representative.

3.0 Notwithstanding any insurance coverages of Contractor, nothing in this Insurance Addendum shall be deemed to limit or nullify Contractor’s indemnification obligations under the Agreement. Contractor agrees that it shall work solely at Contractor’s risk.

1. Contractor shall make certain that any and all subcontractors hired by Contractor are insured in accordance with this Agreement. If any subcontractor’s coverage does not comply with the provisions herein, Contractor shall indemnify and hold GCHP harmless of and from any and all damage, loss, cost or expense, including attorneys’ fees, incurred by GCHP as a result thereof.

**EXHIBIT A**

**STATEMENT OF WORK NO.\_\_\_ TO MASTER SERVICES AGREEMENT**

THIS STATEMENT OF WORK ("SOW") is made \_\_\_\_\_\_\_\_\_\_, 2019\_ by and between       (“Contractor”) and GCHP, Inc. (“GCHP”). The parties entered into certain Master Services Agreement dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Agreement”). The Agreement is incorporated into this SOW and this SOW is subject to the Agreement’s terms and conditions.

1. **SUMMARY OF SCOPE OF WORK**

Contractor shall provide:

1. **VENDOR'S RESPONSIBILITIES**

[INSERT SPECIFIC RESPONSIBILITIES OF VENDOR.]

1. **GCHP’S RESPONSIBILITIES**

[INSERT SPECIFIC RESPONSIBILITIES—i.e., GCHP shall supply working office space and access to the applicable software applications as necessary to perform Services.]

**IV. VENDOR'S DELIVERABLES**

[NEED CLEAR DESCRIPTION OF VENDOR'S DELIVERABLES AND, IF APPROPRIATE, THEIR DUE DATES. MUST BE CLEAR ENOUGH TO LATER DETERMINE IF VENDOR LIVED UP TO CONTRACTUAL OBLIGATION.]

# V. MILESTONES [SPECIFY MILESTONES FOR DELIVERABLES TO ENSURE VENDOR PERFORMS TIMELY]

**VI. PROJECT SCHEDULE**

|  |  |
| --- | --- |
| **PROJECT SCHEDULE** | |
| **Milestone or Major Project Deliverable** | **Completion Date** |
| [insert Period of performance, milestones, etc.] (If Applicable) |  |
| [insert Period of performance, milestones, etc.] (If Applicable) |  |

a. Assumptions. [INSERT CERTAIN ASSUMPTIONS UPON WHICH THE SOW IS BASED]

**VII. SOW TERM**

The Initial Term of this Statement of Work shall be from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ until \_\_\_\_\_\_\_\_\_\_\_\_\_\_. Upon the expiration of the Initial Term, GCHP shall have the right to renew this Statement of Work at the fees listed, for consecutive Renewal Terms of \_\_\_\_\_\_\_\_\_\_\_\_\_, not to exceed a maximum of \_\_\_\_\_\_\_ (\_\_\_) Renewal Terms, by giving Contractor written notice of renewal at least thirty, (30) days prior to the expiration of the then-current term.

**OR:**

Start Date: End Date:

**VIII. COMPENSATION (Check the appropriate box)**

**Fixed Fee.** The fixed fee to GCHP for the Services in this SOW is: $     .

GCHP shall pay Contractor in accordance with the following fixed fee payment schedule.

|  |  |
| --- | --- |
| **Project Task** | **Payment Amount** |
|  |  |

**or**

**Time and Materials Fees.** GCHP shall pay Contractor for the Services in this SOW on an hourly basis at the hourly rates listed below:

|  |  |  |
| --- | --- | --- |
| **Position or Skill-set** | **Estimated Number of Hours** | **Hourly Fee** |
|  |  |  |
|  |  |  |

**☐ Travel & Expenses:** (check if applicable) **$ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Total Compensation.** The total compensation for the project under this SOW No. \_\_\_ shall not exceed $\_\_\_\_\_\_.

**IX. ACCEPTANCE**

Insert acceptance criteria which will trigger payment.

**X. Key Contractor Personnel (Names & Titles), if any (changes and additions may be made by email consent of both parties):**

|  |  |
| --- | --- |
| **Name** | **Title** |
|  |  |
|  |  |

The parties' duly authorized representatives have executed this SOW as of the date written above.

**Ventura County Medi-Cal Managed Care [CONTRACTOR]**

**Commission d.b.a. Gold Coast Health Plan**

Signature: Signature:

Name: Dale Villani Name:

Title: Chief Executive Officer Title:

Date: Date:

**EXHIBIT B**

**REIMBURSABLE EXPENSE GUIDELINES**

These REIMBURSABLE EXPENSE GUIDELINES (“Guidelines”) shall apply to certain expenses that Contractor may incur, pursuant to the Agreement. With respect to such expenses, GCHP and Contractor hereby agree as follows:

1. **GENERAL**
   1. When practical to do so, Contractor shall book all travel for the sole purpose of fulfilling on-site service obligations described in the GCHP SOW. Contractor shall communicate to GCHP’s Project Manager all associated travel costs prior to finalizing any/all travel arrangements. Contractor shall provide the travel service name and telephone number and agent assigned to Contractor by GCHP. Any airline ticket, car rental and hotel charges should be paid directly by Contractor, with available discounts applied.
   2. For purposes of reimbursement hereunder, Contractor must submit original receipts to receive reimbursement of air travel expenses.
2. **AIR TRAVEL**

All personnel of Contractor (“Travelers”) will fly economy/coach class. Original airline receipts are required for reimbursement in all cases.

1. **HOTELS**
   1. Requests by Travelers for specific hotels will be honored only at the discretion of GCHP’s Project Manager and only if the rates of such hotels are the same as or lower than current industry averages.
   2. Lodging expenses shall include the cost of a Traveler’s room plus applicable taxes, but shall not include room service, recreation, or any other direct charges to the room (See Section 5 of the Guidelines for further discussion of these charges).
2. **AUTOMOBILE EXPENSE**
   1. Rental car charges shall be billed directly to each Traveler.
      1. Reimbursement will cover no more than the cost of a mid-size rental car. ***Limousine service is expressly prohibited.***
      2. Additional insurance coverage, as provided in the rental car agreement, will not be reimbursed.
   2. Mileage for travel in Contractor’s vehicle or in Traveler’s personal vehicle shall be reimbursed at the same per-mile rate in effect from time to time for reimbursement of mileage incurred by GCHP’s own employees. Toll-road charges will be reimbursed only if incurred for office-to-office travel between Contractor’s offices and GCHP’s. Mileage and tolls should be supported by appropriate, contemporaneous logs of such charges maintained by Traveler.
3. **MISCELLANEOUS TRAVEL EXPENSES**
   1. Original receipts must be submitted for expenses including the following: meals; taxi and hotel shuttle fares; parking; and other costs for which receipts can be typically obtained. Expenses such as tips (for which receipts are usually are not provided) should be reasonable for the services provided and supported by a personal log or other contemporaneous record kept by the Traveler.
      1. Traveler’s expense report submitted as documentation for reimbursement shall be signed by appropriate management personnel of Contractor and shall include copies of applicable receipts as supporting documentation.
      2. Documentation of each business meal shall include the names of all Individuals for whom the meal was ordered, the date of the meal, the business purpose, the relationships between or among the individuals, and a summary of the business discussion.
   2. A per diem allowance is offered for meals, tips, and incidentals, when agreed to in advance in writing by GCHP Management, shall be in lieu of any other reimbursement for such expenses and shall not exceed the maximum per traveler rates established by the U.S. General Services Administration: http://www.gsa.gov/portal/category/100120
4. **OTHER EXPENSES**

If incurred by Contractor exclusively for purposes of the Agreement, other costs (such as for document reproduction, computer time, air freight, postage telephone, and facsimile) will be reimbursed by GCHP only upon submission in advance of documentation satisfactory to GCHP. Such documentation may include office logs that identify specific costs with specific services performed by Contractor under the Agreement.

1. **Subcontractors**

If Contractor contracts with a third party (“Subcontractor”) for purposes of performing Contractor’s obligations under the Agreement, these Guidelines shall apply to travel expenses incurred by a Subcontractor and which Contractor is obligated to reimburse to the Subcontractor. GCHP shall not be responsible to pay Contractor any amount in excess of Contractor’s actual cost of reimbursing a Subcontractor, or the maximum amount permitted by these Guidelines, whichever is less. In no event shall GCHP pay Contractor any percentage, fee, administrative charge or other mark-up.