**Attachment 1b**

**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”) (each a “Party” and collectively the “Parties”).

1. **SERVICES**
	1. Description of Services. Contractor shall perform the services (“Services”), provide a license or agreement to allow GCHP to access all of the software (“Software”), and provide the items to be delivered to GCHP (“Deliverables”) described in statements of work (each, a “Statement of Work” or “SOW”) or Software agreements attached as Exhibits hereto as well as any Change Order(s) (defined below) (collectively, the “Software and Services”). Any 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 (“BAA”); (2) the Exhibits to this Agreement; (3) this Agreement; (4) any Change Orders, provided that (a) the controlling provisions are labeled as "MSA Override," and (b) the Change Order expressly identifies the provision within this Agreement that is being overridden; (5) the Request for Proposals to which Contractor responded (“RFP”); and (6) 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 incorporated herein by 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 a 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.
	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 Software and/or Services without notice to Contractor and without incurring any liability by virtue thereof.
	5. Place of Performance. Except as expressly described in a SOW, Contractor shall not perform the Services or any portion thereof, nor send or make available any Confidential Information (defined in this Agreement) 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.

1.6 Offshore

Contractor shall not perform the Services or any portion thereof Offshore, nor shall Contractor engage in Offshore subcontracts for the performance of the Services or any portion thereof, without the express written consent of GCHP. In the event GCHP approves an Offshore subcontract, then to the extent required by the Center for Medicare and Medicaid Services (“CMS”) or any governmental agency, within ten (10) days of the execution of such Offshore subcontract, Contractor shall provide to GCHP any and all information necessary to complete the required CMS attestations. All Offshore subcontracts entered into by Contractor pursuant to this Section shall include regulatory and privacy and security provisions substantially similar to those in this Agreement, including but not limited to all Medicare and/or Medicaid language and provisions governing Protected Health Information as that term is defined in Section 8.1 and a BAA.

Contractor shall contractually require all Offshore subcontractors to maintain policies and procedures to protect Protected Health Information, subject to GCHP’s review and approval.

Contractor shall provide ongoing oversight of all Offshore subcontractors and conduct annual audits of the Offshore subcontractors for compliance with any and all applicable regulations and the terms of this Agreement. Contractor shall make said audit results immediately available upon request from GCHP and CMS.

The term “Offshore” refers to any country that is not one of the 50 United States or one of the United States Territories (American Samoa, Guam, Northern Marianas, Puerto Rico, and Virgin Islands.

1. **PAYMENT**
	1. Charges. In full consideration for Contractor’s provision of the Software and Services described in an Exhibit to this Agreement, or a SOW or Change Order, GCHP shall pay the charges and expenses expressly described in any compensation section in such Exhibit, SOW, or Change Order 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, Software, or Deliverable or Milestone (as defined in a SOW), or as otherwise defined in an Exhibit to this Agreement.
	2. Invoice Detail. Each invoice shall show: (i) the SOW number or Exhibit to which the invoice relates; (ii) the Purchase Order Number of the GCHP Purchase Order relating to the SOW or Exhibit; (iii) the GCHP billing information identified on the applicable SOW or Exhibit; (iv) any Software, Service, Milestone or Deliverable to which the invoice applies; and (v) the specific items billed, including hours billed for each Contractor personnel performing under each SOW or Exhibit. 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 Software and 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 Software, Services, Deliverables, or expenses were provided or incurred or allowed to be invoiced under the payment terms of any SOW or Exhibit, 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. Availability of Funds. Payment to Contractor is subject to GCHP’s corresponding receipt of funding from the Department of Health Care Services (“DHCS”), CMS, or any other governmental agency providing revenue to GCHP, as applicable. 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 herein. If GCHP’s payment from Federal or State agencies is delayed, GCHP may extend the time to make payment to Contractor upon prompt written notification of such delay. Contractor shall not suspend or terminate GCHP due to a delay in 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 Federal or State governmental agencies, GCHP shall make payment to Contractor for the applicable time period. Notwithstanding the foregoing, Contractor shall receive payment for all Software or Services rendered and obligations incurred prior to termination or amendment of the Agreement. .

2.6. Increase in Charges. Upon the expiration of any Software Order or Statement of Work, Contractor may increase fees no more than once annually. Contractor shall give GCHP at least ninety (90) days’ notice of any such rate increase. Contractor agrees that any such increase shall not exceed the lesser of \_\_\_\_ percent (\_\_\_%) or the most recent annual rate of increase of the U.S. Bureau of Labor Statistics, Consumer Price Index for CPI-All Urban Consumers, U.S. city average, All items - CUUR0000SA0 (All Items, Los Angeles- Riverside – Orange County CA).

2.7 Benchmarking. From time to time, after the first year of the Term, but no more than once annually, GCHP may solely at its discretion engage the services of an independent third party (a “Benchmarker”) to holistically compare the solution, quality, and cost of all or any discrete portion of the Services against the solution, quality, and cost of other well-managed providers of similar services to ensure that GCHP is receiving from Contractor solution, pricing, and levels of service that are competitive with market solution, pricing, and service levels, given the nature, quality, volume, and type of Services provided by Contractor hereunder (“Benchmarking”); GCHP may engage the Benchmarker at both Parties’ expense (shared equally) or entirely funded by GCHP or primarily funded by GCHP, but this funding arrangement shall be solely at the GCHP’s discretion. The Benchmarker engaged by GCHP shall be a firm with experience in benchmarking and advising software and services sourcing contracts for similar scope and shall be mutually acceptable by both Parties. The Benchmarker shall base its Benchmarking Analysis on the average of a sample of at least eight (8) live contracts entered into within twenty-four (24) months before or after the commencement date of this contract and should consider agreed upon normalizing variables as applicable.

2.7.1. Contractor shall cooperate fully with GCHP and the Benchmarker during such effort, and shall (i) provide the Benchmarker reasonable access to any premises, equipment, personnel, or documents (excluding internal cost data except to the extent that GCHP may be required to reimburse such internal costs in whole or in part), and (ii) provide any assistance reasonably required by the Benchmarker to conduct the Benchmarking, all at Contractor’s cost and expense. The Benchmarking shall be conducted so as not to unreasonably disrupt Contractor’s operations under this Agreement.

2.7.2. If, after making the comparison described in Section 2.7.1, the Benchmarker finds that the pricing, or Service Level targets or credits deviate by more than five percent (5%) from industry averages charged by other well-managed service providers as determined from the sample evaluated under Section 2.7.1, for work of a similar nature, type, or volume (the “Benchmark Standard”), the Benchmarker shall submit a written report to both Parties setting forth such findings and conclusions (after first circulating draft findings to both Parties for comment). The Benchmarker shall submit its report to GCHP and Contractor and each Party shall have fifteen (15) days to review the report. Both Parties shall work to resolve any issues, clarifications, or inaccuracies along with the Benchmarker and GCHP will cause the Benchmarker to produce a revised report for review by the Parties. The Parties shall then meet and negotiate in good faith as to reductions in the Charges to eliminate any such unfavorable variance. If the Parties agree upon such reductions, Contractor shall then prospectively reduce the Fees in a manner that eliminates such variance, commencing on the immediately following invoice and continuing thereafter.

* 1. Expense Reimbursement. GCHP shall not be responsible for reimbursement of Contractor’s expenses incurred in the provision of Software or performance of Services pursuant to this Agreement except to the extent the issued SOW or applicable Exhibit so provides. If, and to the extent that the SOW or applicable Exhibit provides that GCHP shall 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. To the extent that a SOW contains a limitation, under no circumstances will reimbursement for expenses exceed the “Maximum Amount” specified in the SOW ,unless the SOW is modified to increase such maximum amount.
	2. 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 for any reason to pay any tax or file any return or provide information required by law, rule or regulation.
	3. 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 Software and Services performed under this Agreement.
1. **RECORDS AND AUDITS**
	1. Records and Audit. Contractor agrees to make all of its premises, facilities, equipment, books, records, contracts, computer and other electronic systems pertaining to the Software and Services furnished under this Agreement available to GCHP, governmental agencies responsible for regulation of GCHP, and or the California Auditor General (if required) 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.
	2. Record Maintenance and Retention. Contractor shall maintain complete and accurate records to validate and document Contractor’s (i) compliance with this Agreement, (ii) provision of the Software and performance of the Services, and (iii) Charges for Software, Services, and/or Deliverables, all in accordance with general standards applicable to such book or record keeping consistently applied. Such records 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 herein at Contractor’s sole expense.
	3. 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 provide the Software or perform the Services required by this Agreement shall be returned immediately to GCHP upon expiration or termination of this Agreement.
2. **CHANGES; DELAYS; AND SERVICE CREDITS**
	1. Change Orders. If either party desires a change in the Software, Services, or Deliverables, the desired change and any resultant 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 applicable SOW or Exhibit and/or at such other fixed price mutually agreed upon in writing in such Change Order. Contractor shall not perform any services not described in a SOW, an Exhibit, or a Change Order and shall not be entitled to any compensation or remuneration unless such SOW, Exhibit, or Change Order has been signed by an appropriate GCHP employee with sufficient authority to bind GCHP to the SOW, Exhibit, or Change Order. Contractor acknowledges and agrees that a SOW, Exhibit, or Change Order may include additional required GCHP approvals.
	2. Delays. If Contractor has failed or is likely to fail to perform 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 performance of 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.

a. 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.

b. Unless specified in the SOW, in the event Contractor’s performance of the Services is delayed or interrupted because of a Force Majeure event as described in this Section 4.3 of this Agreement for a period of five (5) days or more, and such delay or interruption materially, adversely impacts GCHP’s business and Contractor fails to provide a temporary alternative reasonably acceptable to GCHP, GCHP may in its sole discretion without liability, suspend Contractor’s performance of the Agreement by providing Contractor with written notice of suspension. Once Contractor demonstrates to GCHP’s satisfaction that it is capable of performing the Services, then the above suspension shall end upon GCHP’s written notice of end of suspension.

* 1. Service Credits. To the extent described in an SOW or Exhibit, 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.
1. **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 or Exhibit 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. Contract Governance. The Parties shall implement the contract governance provisions set forth in Exhibit C.
	3. Project Reports. As specified in the applicable SOW, Contractor shall present to GCHP a written status report on 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.
2. **ACCEPTANCE**

6.1. Acceptance of Deliverables, Services, or Software. GCHP shall have ninety (90) calendar days from the date the Deliverables, Services, or Software are delivered to and received by GCHP to review and test them to ensure they properly execute all functional requirements and conform to their specifications, Documentation, and SOW or Exhibit. GCHP shall notify Contractor of the existence of any defect or discrepancies and provide a list of identified discrepancies. 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. The testing and evaluation process shall resume (with GCHP having an additional sixty (60) days to complete its testing), as set forth above. The foregoing time periods may be varied by an applicable SOW or Exhibit. 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 or Software (as corrected, if applicable) contain no defects or deficiencies, GCHP shall provide Contractor a written notice of acceptance (“Acceptance”). No other event shall constitute Acceptance unless specified in the applicable SOW or Exhibit.

6.2 Acceptance of Final Payment. Acceptance by Contractor of the final payment made under this Agreement shall operate as and be 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. Acceptance of payment shall mean 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.. 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 competency 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**
	1. Service and Performance Warranty. Contractor represents and warrants that it (a) has the experience and skill to perform the Services and provide the Software in this Agreement; (b) shall perform the Services and provide the Software in a timely, competent, workmanlike manner and in conformance with the requirements of this Agreement , (c) shall perform the Services and provide the Software in a manner that enables GCHP to comply with Federal and State regulatory requirements, (d) shall conform to all security requirements and protocols that with respect to the performance of the Services and provision of the Software; and (e) shall ensure that all Software, Services, and Deliverables shall conform to their Documentation and functional specifications and properly and accurately execute all functional requirements for one (1) year from the date of Acceptance (the "Warranty Period"). . In the event the Software, 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 Software, Services, or Deliverables. For each day during the Warranty Period that the Services or Deliverables do not conform to this warranty, the Warranty Period shall be extended by one day.
	2. Pass-Through Warranty. If applicable, Contractor shall pass through to GCHP any product and third-party warranties and indemnities associated with the Software or 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. 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.
2. **INTELLECTUAL PROPERTY AND CONFIDENTIALITY**
	1. GCHP Data Ownership. GCHP Data (which shall also be known and treated by Contractor as “Confidential Information”) shall include: (a) GCHP’s data collected, used, processed, stored, or generated in the course of GCHP and its users’ use of the Software or Services and Contractor’s performance of the Services herein; (b) personally identifiable information (“PII“) collected, used, processed, stored, or generated i of the use of the Software or Services, including, without limitation, any information that identifies an individual, such as an individual’s name, address, social security number or other government-issued identification number, date of birth, telephone number, biometric data, mother’s maiden name, email address, credit card information, or an individual’s name in combination with any other of the elements listed herein; and (c) protected health information (“PHI”), as that term is defined by defined under the Health Insurance Portability and Accountability Act of 1996, and its implementing regulations (“HIPAA”), collected, used, processed, stored, or generated as the result of the use of the Services. GCHP Data is and shall remain the sole and exclusive property of GCHP and all right, title, and interest in the same is reserved by GCHP. This Section shall survive the expiration or termination of this Agreement.
	2. Contractor Use of GCHP Data. Contractor is provided a limited license to GCHP Data for the sole and exclusive purpose of providing the Software and Services, including a license to collect, process, store, generate, and display GCHP Data only to the extent necessary in the providing the Software and Services. Contractor shall: (i) keep and maintain GCHP Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss; (ii) use and disclose GCHP Data solely and exclusively for the purpose of providing the Software and Services, such use and disclosure being in accordance with this Agreement, the applicable Service Order, SOW, or Exhibit, and applicable law; and, (iii) not use, sell, rent, transfer, distribute, or otherwise disclose or make available GCHP Data for Contractor’s own purposes or for the benefit of anyone other than GCHP without GCHP’s prior written consent. This Section shall survive the expiration or termination of this Agreement.
	3. 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 PII and PHI. 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.
	4. 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 Section 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 PHI as defined in HIPAA. Contractor shall execute and abide by the terms of the BAA between the Parties, which is incorporated by reference herein.
	5. 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 or such security requirements or protocols set forth in this Agreement, any BAA, or the Documentation for the Software. 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.
	6. 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 for the period defined in the SOW OR Exhibits hereto (”Term”). By giving written notice via a Purchase Order to Contractor no less than ninety (90) days prior to the then-existing expiration date, GCHP may extend the term of this Agreement or any Statement of Work for a period and at pricing that has been agreed upon in the applicable SOW Exhibit, or Purchase Order. GCHP may also procure additional quantities of Services or users if any Software is priced on a per user basis, 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 SOW or Exhibit. No other pricing terms in a Purchase Order to Contractor shall be binding on either Party. The definition of “Term” shall encompass any and all extensions and renewals of this Agreement.
	2. Termination. Any notice of termination provided hereunder shall be issued as soon as is practicable to begin reasonable preparations for the transition assistance and other obligations contemplated herein.

9.2.1. GCHP, at its sole option, by notifying Contractor in writing, may, upon one-hundred-twenty (120) calendar days’ notice, terminate this Agreement or any Exhibit or SOW in its entirety. Upon the effective date of termination, Contractor will inform GCHP of the extent to which performance has been completed through such date, and collect and deliver to GCHP whatever Deliverables then exist in a manner prescribed by GCHP. Contractor will be paid for all work performed through the date of termination.

9.2.2. Either Party may terminate this Agreement or any affected SOW or Exhibit upon thirty (30) days prior written notice to cure a material breach or such other period as may be specified in this Agreement or any SOW or mutually agreed for cure of the breach. Notwithstanding anything herein to the contrary, Contractor agrees that a good faith dispute regarding Charges that remain unpaid shall not be deemed to be a breach of this Agreement, and Contractor shall not suspend, delay or terminate this Agreement, or any Deliverables, Software, or Services during such dispute period.

9.2.3 GCHP may also terminate immediately if there is a Change in Control of Contractor and does not consent to such Change in Control. For purposes of this Agreement a “Change in Control” shall mean (i) the sale, transfer or other disposition, whether in a single transaction or series of related transactions, of all or substantially all of the assets of Contractor; (ii) the merger, consolidation or other reorganization of Contractor if immediately following such merger, consolidation or reorganization, a majority or controlling interest in the issued and outstanding voting securities or interests of the surviving, consolidated or reorganized entity are held by persons other than those holding voting securities or interests of Contractor as of the Effective Date; or (iii) the sale or issuance of voting securities or interests of Contractor, whether in a single transaction or series of related transactions, if, immediately following such transaction or series of related transactions, a majority or controlling interest in the issued and outstanding voting securities or interests of Contractor are held by persons other than those holding voting securities or interests of Contractor as of the Effective Date, except as otherwise approved in advance by GCHP. In theevent that Contractor’s governing body has approved a Change in Control, then (a) Contractor shall notify GCHP not less than thirty (30) days after such approval, and (b) if GCHP desires to terminate upon the closing of such change in control, the Parties shall work in good faith to commence a transition plan whose advance work minimizes the length of the transition assistance period after such closing to the extent reasonably possible.

9.2.4 Either Party may terminate this Agreement immediately (subject to the Transition provisions and obligations set forth herein) upon receiving notice that the other Party has:

(1) been debarred, suspended, or excluded from a *Federal* Health Care Program;

filed for dissolution;

(2) filed for voluntary or involuntary bankruptcy, which petition is not dismissed with prejudice within sixty (60) days after filing; or

(3) had a receiver appointed for the collection of assets.

* 1. Effect of Termination. Upon the termination or expiration of this Agreement or any SOW or Exhibit, Contractor shall: (a) deliver to GCHP all Deliverables in whatever form or media they may then exist; (b) document the status of the Software or Services that have been terminated and deliver such documentation to GCHP; and (c) deliver to GCHP all fees paid by GCHP for Software, 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 or Exhibit for any reason shall not affect GCHP’s or Contractor’s rights or obligations for any Software, Services, or Deliverables provided or 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.
	2. 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.
1. **INDEMNITY**
	1. Indemnification.

10.1.1. Contractor agrees to defend, indemnify and hold harmless GCHP, its affiliates and subsidiaries, and their officers, directors, commissioners, employees, agents and representatives 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 (i) any breach of any representation or warranty of Contractor contained in this Agreement, (ii) 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.

10.1.2. 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.

10.1.3. If the use of any Deliverables, Software, 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.

1. **INSURANCE**

Contractor shall maintain insurance coverage sufficient to cover any indemnification under this Agreement or any Exhibits or SOWs incorporated herein and to 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 for no less than two (2) years after the expiration or termination of this Agreement.

1. **SUBCONTRACTORS**
	1. Copies of Subcontracts, Requirements. 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 Software and Services provided by the subcontractor. GCHP shall have the right to approve any subcontractors, as may be further described in any applicable SOW or Exhibit hereto.
	2. Liability for Subcontractors. Subcontracting by a Party in accordance with the provisions of the Agreement shall not relieve that Party from its obligations and liabilities as detailed in the Agreement. Each Party shall be fully liable for the correct performance of any part of its activities and the compliance of its obligations detailed in the Agreement. Each Party agrees to take all necessary measures in order to ensure that the obligations applicable to such Party also apply to its subcontractors. Notwithstanding the above, each Party will remain liable for the breach of its contractual obligations and liabilities under this Agreement by 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. Contractor agrees to notify GCHP in the event the agreement with its subcontractor is terminated.

 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.

1. **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 Exhibit or 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:

a.Conduct an audit of Contractor's performance of the contracted services in accordance with Section 3.1;

b. 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 Contractor or GCHP, at GCHP’s sole discretion;

13.1.3 Withhold and retain from the compensation due Contractor as provided for in any applicable SOW Exhibit of the Agreement; or

13.1.4. Terminate this Agreement for cause as described in the Agreement and/or any SOW or Exhibit to this Agreement.

1. **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)

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

Contractor GCHP

* 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 or Exhibit 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 one (1) business day after deposit with a national overnight courier for next business day delivery, or (2) 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 (3) upon the date of transmission of electronic notice to an authorized email address with written confirmation of receipt if followed by the original copy mailed to the applicable Party at its address below or other address provided in accordance herewith. Either Party may change its address for notices effective three (3) business days after providing written notice to the other Party.

Procurement Officer

Gold Coast Health Plan

711 E. Daily Drive, Suite #106

Camarillo, CA 93010-6082

procurement@goldchp.org

Phone: 805-437-5500

Contractor:

[NAME OF Contractor]

STREET ADDRESS

CITY, STATE ZIP

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

Fax: (XXX)XXX-XXXX

Email: EMAIL ADDRESS]

* 1. Compliance with Law and Policies. Contractor shall provide the Services and Software in compliance with the requirements of all applicable Federal, State and local laws, ordinances, regulations and codes as they concern the subject matter of this Agreement, including if applicable, the Health Insurance Portability and Accountability Act (collectively, "Law"). Contractor shall comply with the Medi-Cal and Medicaid requirements for subcontractors, as applicable to the Software and Services, which are described in Exhibit G. Contractor agrees to comply with any GCHP policies and procedures implementing such legal requirements 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. Limited Background Check.

15.4.1. Contractor agrees that GCHP has the right to require Contractor to submit to and hereby authorizes GCHP to conduct a reference, fingerprint or other criminal background investigation with respect to regulatory and other legal considerations of GCHP..

15.4.2. Contractor also acknowledges and agrees that at GCHP’s request, Contractor shall require the same of any of its employees or contractors who perform services related to the performance of Contractor’s obligations under this Agreement.

* 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 Exhibits, SOWs, Change Orders and all Exhibits and addenda thereto are incorporated herein and constitute the entire agreement of the Parties. 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 may not be delegated, transferred, or assigned (in whole or in part) by Contractor without GCHP's 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: Sections 1.3, 2, 3, 4.4, 7, 8, 9.3, 10, 11, 12.2, 14, and 15.
	10. 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, or programmatic requirements. Contractor shall comply with all monitoring provisions of this Agreement, including any RFP or SOW, and any monitoring requests by GCHP.
	11. 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.
	12. 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 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.
	13. 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.

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

b. Have not within a three-year period preceding this Agreement have 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;

c. 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; and

d. Have not within a three-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

e. 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.

f. 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.

g. 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.

h. In the event Contractor receives payment for Services under this Agreement which are later disallowed for nonconformance with the terms and conditions herein, Contractor shall refund the disallowed amount to GCHP within thirty (30) days of GCHP’s written request. GCHP retains the option to offset the amount disallowed from any payment due to Contractor under this Agreement, or under any other contract or agreement between Contractor and GCHP.

* 1. 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.
	2. Headings; Captions. Section headings are used for convenience only and shall in no way affect the construction or interpretation of this Agreement.
	3. 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.
	4. 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: Nick Liguori 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-, VIII” 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. Employer’s Liability |  $1,000,000 each accident for bodily injury by accident; $1,000,000 each employee for bodily injury by disease; $1,000,000 policy limit for bodily injury by disease. |
|  |  |
| c. General Liability | $1,000,000 per claim/occurrence/$3,000,000 annual aggregate  |
|  |  |
| d. Products and Completed Operations  | $1,000,000 per claim/occurrence/$3,000,000 annual aggregate |
|  |  |
| e. Personal and Advertising Injury | $1,000,000 per claim/occurrence/$3,000,000 annual aggregate |
|  |  |
| e. Automobile | $1,000,000 Combined single limit for each accident for bodily injury and property damage. Includes coverage for all owned, hired and non-owned automobiles. |
|  |  |
| f. Professional Liability | $5,000,000 per claim/occurrence/$5,000,000 annual aggregate |
|  |  |
| g. Privacy Liability and Network Security or Cyberliability  | $10,000,000 per claim/occurrence/$10,000,000 annual aggregate. This 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. The coverage may be combined with Professional liability, if applicable. |
|  |  |
| f. Umbrella Policy  | $10.000,000, The umbrella should sit above the Employees, Liability, General Liability, Products and Completed Operations, Personal & Advertising, and Automobile.  |

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. GCHP 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.

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.
2. Contractor shall provide GCHP with certificates of insurance evidencing all of the above coverage, including all special requirements specifically noted above, and shall provide GCHP with certificates of insurance evidencing renewal or substitution of such insurance thirty (30) days prior to the effective date of such renewal or substitution

**EXHIBIT A**

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

THIS STATEMENT OF WORK ("SOW") is made \_\_\_\_\_\_\_\_\_\_, 202\_ 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 Contractor.]

1. **GCHP’S RESPONSIBILITIES**

 [Insert specific responsibilities of GCHP, i.e., GCHP shall supply working office space and access to the applicable software applications as necessary to perform Services.]

1. **VENDOR'S DELIVERABLES**

 [Insert a clear description of Contractors deliverables.]

1. **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.

1. **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 \_\_\_\_\_\_\_\_\_\_\_\_\_ ( ) months, the “Renewal Term”, 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:

1. **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 $\_\_\_\_\_\_.

1. **ACCEPTANCE**

 Insert acceptance criteria which will trigger payment.

1. **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: Nick Liguori 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.

**EXHIBIT C**

**CONTRACT GOVERNANCE PLAN**

1. **Introduction**

This Contract Governance Plan establishes a minimum engagement structure needed to manage the relationship between GCHP and the Contractor. Conflicts between the Governance Plan and the Agreement or other Schedules or Exhibits will be governed by the Agreement or other Schedules or Exhibits.

1. **Contract Governance Plan**

The Contract Governance Plan consists of an engagement plan to establish the organizational interfaces for management and operation of the GCHP/Contractor relationship. These components of the Contract Governance Plan provide a minimum level of governance and are to be supplemented and refined as mutually agreed to by the Parties as needed to effectively manage the relationship.

1. **Engagement Plan**

The engagement plan provides a catalog of all the meetings between GCHP and Contractor and includes: the purpose and focus of the meeting, the meeting schedule, the meeting frequency, the meeting attendees and the required input and outputs of the meeting. The engagement plan shall include, at minimum, the following meetings and discussion points:

1. **Joint Operations Committee (Quarterly)**

 GCHP and Contractor will create a committee consisting of executive leadership and management which will meet quarterly to focus on the GCHP and Contractor relationship, the delivery of services, and operational performance.

The focus of the meeting will include:

(i) review of performance against the established service levels and key milestones;

(ii) discussion of operational trends and compliance with set standards, policies and procedures;

1. identifying and addressing contractual or management problems affecting the performance of the Services;
2. discussion of risks, issues and the plans for resolution;

(v) discussion of audit results and status of corrective action activities;

(vi) developing and implementing plans to meet the goals of this Agreement;

1. assessing the quality of GCHP’s and Contractor’s working relationship and developing/implementing action plans to strengthen such relationship;
2. discussion of the program successes, key initiatives, process improvements, potential areas for improvement and lessons learned.
3. **Contract Performance Review Meeting (Monthly)**

GCHP and Contractor will meet monthly with attendance by functional area management and supervisors, and functional area leads to discuss service level performance, program issues, risks and Changes to the Agreement.

The focus of the meeting will include:

1. review of monthly operational metrics and service level attainment;
2. review of service level trends and analysis, recommendation of improvements and preventative or corrective actions;

(iii) discussion of service level dependencies (e.g. outages, project implementations);

1. identifying and addressing contractual or management problems and issues and risks affecting the performance of the Services;
2. proposing Changes, as needed, to the GCHP/Contractor relationship, and/or the Agreement;
3. discussion of audit results and the status of corrective action activities
4. review and validation of invoice calculations to ensure they match the agreed upon amounts and accurately reflect the allocations for service level penalties, as appropriate.
5. **Operations Meeting (Monthly)**

GCHP and Contractor will meet on a minimum basis of monthly and as needed daily with attendance by functional area management and functional area leads to focus on daily operations, priority and escalated issues, resources and workload forecasting. Multiple daily/weekly meetings may be needed to represent different work streams and functional departments. These meetings are used to discuss high level updates, issues and escalations not resolved through daily activities.

The focus of the meeting will include:

 (i) review of daily/weekly operational performance status and plans;

(ii) review of the status of all issues and the path for resolution;

(iii) identifying potential risks and the discussion of the mitigation plan;

(iv) discussion of resource capacity and assigning additional resources as required to assist with issue resolution activities;

(v) discussion of workload prioritization

1. forecasting workload and discussing planned or anticipated activities;

(vii) discussion of audit results and the corrective action status;

(viii) discussion of new and revised processes.

1. **Other Meetings**

Additional meetings may be required as set out in the Agreement or mutually agreed to by the Parties.

1. **Organizational Charts**

Contractor will provide organizational charts with the roles and responsibilities of individuals supporting this Agreement and provide updates to the organizational charts as they occur. GCHP and Contractor will assign an individual to be the single point of contact for the Contract Governance Plan development and maintenance.

**EXHIBIT D**

**SERVICE LEVEL METHODOLOGY**

1. Introduction
2. This Service Level Methodology Exhibit describes (a) the methodology for calculating Service Level Credits that will be provided to GCHP by Contractor if Contractor fails to meet a Service Level, and (b) the process the Parties will follow to add, modify, or delete Service Levels during the Term.
3. Definitions
	1. Certain Definitions
		1. **“Amount at Risk”** has the meaning given in Section 5.2.
		2. **“Business Days**” means 8:00 am Pacific Time until 5:00 pm, Pacific Time Monday through Friday (except on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day). For purposes of measuring performance against Service Levels, each Business Day shall start at the occurrence of the event to be measured by the Service Level and end the same time of day the following Business Day (e.g., a task that requires a one (1) Business Day Turnaround Time and starts on 3:00 p.m. local time on Friday must be finished by 3:00 p.m. local time on Monday.)
		3. **“Calendar Days”** means all days in a month, including weekends and holidays. “Downtime” shall mean any period where the Software is not accessible or available to the end users, regardless of reason. “Scheduled Downtime” shall mean Downtime where the Parties have previously agreed upon the time and duration of such Downtime. Only Downtime occurring during such previously agreed period shall be deemed to be Scheduled Downtime. Scheduled Downtime may also consist of regularly scheduled events should such events be described in the relevant Statement of Work (“SOW”).
		4. “**Key Performance Indicator**” or “**KPI**” means an expected Service Level that does not give rise to a Service Level Credit if not achieved.
		5. **“Critical Performance Indicator” or “CPI”** means a Service Level that has high visibility and materially affects GCHP's ability to perform its business. Failure to meet the Service Levels for a CPI shall give rise to a Service Level Credit.
		6. “**Downtime”**  means any period where the Software is not accessible or available to the end user, regardless of reason. “**Scheduled Downtime**” means Downtime where the parties have previously agreed upon the time and duration of such Downtime. Only Downtime occurring during such previously agreed period shall be deemed to be Scheduled Downtime. Scheduled Downtime may also consists of regulatory scheduled events should such events be described in the relevant Statement of Work (SOW).
		7. “**Defect Correction/Code Resolution”:** A Digital Health Platform modification or addition that, when made or added to the Software, corrects the defect.
		8. **“Measurement Period”** means, for any Service Level, the period of time during the Term, during which Contractor’s actual performance of the relevant Services is to be measured against the corresponding Service Level.
		9. **“Pool Percentage Available for Allocation”** means one hundred (100) percentage points.
		10. “**Service Level”** means the quantitative performance standards set forth in Attachment A to the licensing or SaaS agreement that is incorporated into the Master Service Agreement as Exhibit E attached hereto, or otherwise by GCHP in accordance with Section 6 below.
		11. **“Service Level Credit”** has the meaning given in Section 5.3.3 below.
		12. **“Service Level Failure”** means, with regard to any Service Level Category (i.e., 1.1, 1.2), a failure by Contractor to either (i) perform at the level that meets the corresponding Service Level during any particular Measurement Period, or (ii) properly measure and report on the performance for any Service Level to the extent Contractor is responsible for such measurement and reporting and provision of Supporting Information.
		13. **“Severity Level”** means the expected impact of the Service Level Failure, as described by the Severity Levels below.
		14. **“Severity Level 1”.** Severity Level I (one) incident is defined as any reported or detected incident that (i) causes the Software to be unavailable or (ii) prevents GCHP from processing critical transactions (including authorizations) or accessing the database or Software. The Incident has high visibility and materially affects GCHP's ability to perform its business, and there is no workaround that end users are able to implement. A Severity Level I incident significantly impacts critical network infrastructure, computer systems, applications, access and availability, information or data assets, or any communications technology necessary to conduct business and/or regulatory compliance. This includes a security incident or “event,” which may indicate a compromise took place, an internal or external attack against the service(s) provided, or a system and/or application outage that requires all business to stop until the event can be resolved.
		15. **“Severity Level 2”.** Severity Level II (two) incident is defined as any reported or detected Incident that (i) causes the Software to be unavailable to a substantial number of End Users (for example, 25% of End Users or (ii) prevents GCHP from processing urgent transactions (including claims) or accessing the database or Software or where a particular IT component or Service is affected that is not urgent but not critical. The Incident moderately impacts GCHP's ability to perform its business (i.e., performance is degraded, or functions limited).
		16. **“Severity Level 3”.** A Severity Level III (three) incident impacts the service being provided and is a minor disruptive to the end user. The incident has a noticeable effect on critical network infrastructure, computer systems, applications, access and availability, information or data assets, or any communications technology necessary to conduct business.
		17. **“Severity Level 4”.** A Severity Level IV (four) incident minimally impacts the service being provided and is not disruptive to the end user. It may be a nuisance or intermittent problem that cannot readily be replicated and needs time for identification and resolution.
		18. “**Software Uptime**” shall be 24 hours per day, 7 days per week, 365 days per year, excluding Scheduled Downtime and Force Majeure.
		19. **“Weighting Percentage”** means the portion of the Pool Percentage Available for Allocation that GCHP has allocated with respect to a Service Level. The Weighting Percentage for each of the Service Levels as of the Effective Date shall be as set forth in the software agreement, which will be incorporated into the Agreement, and shall be subject to modification pursuant to Section 6.
		20. **“Workaround Solution**”: Relief from non-conforming product behavior. Relief may take the form of an alternate usage, a system configuration change, a patch and/or design approach, or information in the case of an information request.
		21. **Other Terms**
			1. Other terms used in this Exhibit are either defined in the context in which they are used or are defined elsewhere in this Agreement, and in each case shall have the meanings there indicated.
4. Commencement

Service Levels are established as provided herein and in the Software Order Forms and will be measured starting on the date that production systems are made available to the user community.

1. Measurement, Reporting, and Supporting Information
	1. Measurement Period and Times
		1. The Measurement Period for each Service Level shall be as set forth in Section 5.5.2 of this Exhibit D.
	2. Measurement Process and Tools
		1. Contractor shall measure its performance with respect to each Service Level using the corresponding measurement tools, processes and methodologies identified for such Service Level in the Software Order Form.
		2. Contractor shall provide (except as expressly stated otherwise in this Agreement) and utilize the necessary measurement and monitoring tools and procedures required to measure and report Contractor's performance of the Services against the applicable Service Levels. Such measurement and monitoring shall permit reporting at a level of detail sufficient to verify compliance with the Service Levels and will be subject to verification and review by GCHP. Contractor shall provide GCHP with information and access to such tools and procedures, and the raw data used for measurement and monitoring upon request, for purposes of verification.
		3. If, after the Effective Date, Contractor desires to use a different measurement tool, process or methodology for any Service Level, Contractor shall provide written notice to GCHP proposing:
			1. the alternative measurement tool, process or methodology; and
			2. any reasonable adjustments to the Service Levels that are necessary to account for any increased or decreased sensitivity that will likely result from use of the alternative measurement tool, process or methodology.
			3. Contractor may utilize such alternative measurement tool, process or methodology only to the extent such tool, and any associated Service Level adjustments, (i) provide GCHP a method of verifying service level performance that is at least as accurate, timely and easy to understand as the then-current tool, process or methodology, or (ii) are approved in writing by GCHP.
	3. Supporting Information
		1. Contractor shall deliver a monthly performance report ("**Monthly Performance Report**" or "**MPR**") to GCHP that compares Contractor’s performance of the services with each of the Service Levels during the immediately preceding month. The Monthly Performance Report shall also include Contractor’s calculation of any Service Level Credit that is due to GCHP as a result of Contractor’s failure to meet Service Levels. The MPR shall be delivered no later than the tenth (10th) Business Day of the subsequent month following the reporting month.
		2. The MPR shall be in a form agreed to by GCHP and shall contain no less than the following information: (a) actual performance compared to the Service Level; (b) the cause or basis for not meeting the Service Level; (c) the specific remedial actions Contractor has undertaken or will undertake to ensure that the Service Level will be subsequently achieved; and (d) any Service Level Credit. Contractor and GCHP will meet as often as shall be reasonably requested by GCHP, but no less than monthly, to review the performance of Contractor as it relates to the Service Levels. Where Contractor fails to provide an MPR for Service Level compliance in the applicable timeframe, the Service Level shall be deemed to be unsatisfied for the purposes of calculating a Service Level Credit. Contractor shall, without charge, make GCHP’s historical MPRs available to GCHP upon request.
		3. Contractor shall provide to GCHP detailed supporting information (including raw performance data where possible) relating to Contractor’s performance relative to the Service Levels (“**Supporting Information**”) or electronic access to Supporting Information. Such Supporting Information shall at a minimum include all information that is necessary for GCHP to verify the accuracy of Service Level measurements and reporting, and any other Supporting Information requested by GCHP to the extent it is available to Contractor.
		4. Contractor shall make the MPR and Supporting Information available to GCHP both (i) in a form suitable for use on a personal computer; and (ii) via a secure website; provided, however, that if requested by GCHP, Contractor shall also provide to GCHP interactive electronic access to performance data where possible (i.e., access to performance data that is the same as is available to Contractor and reflects performance at the then-present time), to the extent that the agreed-upon measurement tools used to measure performance are capable of providing such access. To the extent that such tools are not capable of providing GCHP with such interactive access, Contractor shall promptly provide access to timely Supporting Information upon GCHP’s request.
2. Service Level Methodology
	1. General
		1. As of the first calendar day of the seventh month immediately following the date on which production systems are made available to the user community, Contractor shall meet or exceed each of the Service Levels.
		2. Service Levels constitute one means, but not the exclusive means, of measuring Contractor’s performance of the Services. Moreover, if a Service Level includes multiple conditions or components (e.g., components (a), (b) and(c)), then Contractor’s performance must satisfy each and every condition or component (i.e., components (a), (b) and (c)) to achieve the corresponding Service Level.
		3. If any portion of the Services is to be provided from a business continuity recovery environment, the Service Levels shall continue to apply; except to the extent a disaster occurring at a GCHP facility prevents Contractor from meeting such Service Levels.
	2. Amount at Risk

Contractor will place fifteen percent (15%) of the aggregate monthly charges payable to GCHP under this Agreement (excluding Pass-Through Expenses) at risk each month for Service Level Credits (such amount is the “**Amount at Risk**”).

* 1. Failure to Perform
		1. In the event of a Service Level Failure as measured over a one-month period as specified below, Contractor will provide GCHP with the applicable credits. The credits shall be applied to GCHP’s invoice within thirty (30) days. If there is no such invoice, then Contractor shall provide a refund check for such credits to GCHP unless GCHP agrees to allow more time for the credit to be provided on an invoice.
		2. For each Service Level Failure, Contractor shall promptly (i) investigate, assemble and preserve pertinent information with respect to, and report on the causes of the problem, including performing a “**Root Cause Analysis”** or “**RCA**” of the problem in accordance with the timeframes established in the Service Order; (ii) propose a Corrective Action Plan (“CAP”) for GCHP’s review, comment and approval including but not limited to (x) a commitment by Contractor to GCHP to devote the appropriate time, skilled personnel, systems support and equipment, and/or resources to remedy, minimize the impact of, and correct the problem; and the time frames for implementation of the CAP; and (y) advise GCHP of what Contractor is doing to prevent recurrence and begin meeting the Service Level.
		3. In the event of a Service Level Failure, Contractor shall: (a) owe to GCHP any applicable Service Level Credit; and, (b) use commercially reasonable efforts to subsequently meet any unmet Service Level. Service Level Credits shall be applied by Contractor against the invoice following the next applicable invoice. In no case shall GCHP be required to notify Contractor that a Performance Credit is due as a condition of payment of the same. Without regard to whether Service Level Credits may have been or will be paid, Contractor will use its best efforts to minimize the impact or duration of any outage, interruption, or degradation of Service.
		4. Contractor recognizes that a Service Level Failure may have a material adverse impact on the business and operations of GCHP and that the damages from a Service Level Failure are not susceptible to precise determination. Accordingly, with the exception of Excused Failures as set forth in Section 5.4, in addition to any non-monetary remedies available to GCHP under this Agreement, at law or in equity, GCHP may elect in lieu of pursuing other monetary remedies to recover as its remedy for such Service Level Failure a credit calculated pursuant to Section 5.5 as liquidated damages (each such credit, a “**Service Level Credit**”). GCHP may, in the alternative, either before or after receiving any particular Service Level Credit, make a claim for damages against Contractor arising out of Contractor’s failure to meet the applicable Service Level; provided, however, that if GCHP had previously received any Service Level Credits, as a result of such failure, then the amount of damages then recoverable by GCHP shall be reduced by the amount of any Service Level Credits previously received and not returned by GCHP. This provision shall not limit GCHP's rights with respect to termination of this Agreement for cause.
	2. Excused Service Level Failures
		1. If Contractor fails to meet a Service Level and documents in a RCA within three months after such failure that either: (i) the failure is mutually agreed not to be the fault of the Contractor, GCHP’s (including its subcontractors) failure to perform a retained responsibility was the root cause of Contractor’s failure to meet such Service Level ; (ii) Contractor would have achieved such Service Level but for such GCHP failure; (iii) Contractor used commercially reasonable efforts to perform and achieve the Service Level notwithstanding the presence and impact of such GCHP failure; and (iv) Contractor is without fault in causing such GCHP failure, or (b) the Service Level failure was the result of a Force Majeure event, then upon GCHP approval of Contractor’s RCA, (x) no Service Level Credit shall be assessed against Contractor for such Service Level Failure; (y) any Service Level Credits received by GCHP for such Service Level Failure shall be returned to Contractor; and (z) Contractor shall otherwise be excused from achieving such Service Level for as long as GCHP fails to perform such retained responsibility and Contractor continues to use commercially reasonable efforts to prevent, overcome, or mitigate the adverse effects of such failure to the extent required to achieve the applicable Service Level.
		2. Contractor shall not be excused from a failure to achieve a Service Level other than under this Section, or as expressly provided elsewhere in this Agreement.
	3. Service Level Credits
		1. Calculation. For each Service Level Failure of any CPI within a Service Level Category *(i.e*., 1.1, 1.2, 1.3) , the applicable Service Level Credit referenced above shall be calculated in accordance with the following formula:

**Service Level Credit = A x B**

Where:

A = the applicable Weighting Percentage; and

B = the Amount at Risk for such calendar month.

The Service Level Credit shall be applied only once for one or more Service Level Failures in a Service Level Category. For example, if Contractor has a Service Level Failure of Service Level 1.1.A, the Service Credit shall be calculated as fifty percent (55%) multiplied by the Amount at Risk for such calendar month. , if Contractor has a Service Level Failure of Service Level 1.1.A and 1.1.B, the Service Level Credit shall be calculated as fifty percent (55%) multiplied by the Amount at Risk for such calendar month. The resulting Service Credit shall be the same amount.

* + - 1. If the event of a Service Level in ( A) in the current month AND (B) two (2) additional times within the previous three (3) month period, GCHP shall receive a Credit equal to one and one half times (1.5x) the applicable Credit.
			2. In the event of a Service Level Failure (A) in the current month AND (B) four (4) additional times within the previous six (6) month period, GCHP shall receive a Credit equal to two times (2x) the applicable Credit.
		1. Phase In of Service Level Credits. During the first six calendar months immediately following the date on which production systems are made available to the user community, Service Level Credits shall be assessed for failures to satisfy the CPI according to the following schedule:
			1. For the first three calendar months, zero percent (0%) of the Service Level Credits shall be assessed.
			2. Beginning on the first Calendar Day of the fourth month, twenty five percent (25%) of the Service Level Credits shall be assessed.
			3. Beginning on the first Calendar Day of the fifth month, fifty percent (50%) of the Service Level Credits shall be assessed.
			4. Beginning on the first Calendar Day of the sixth month, sixth percent (75%) of the Service Level Credits shall be assessed.
			5. Beginning with the first Calendar Day of the seventh month and following months, 100% of the Service Level Credits shall be assessed.
		2. Limitations

*In no event shall the sum of the Weighting Percentages for all Service Levels exceed the Pool Percentage Available for Allocation.*

*In no event shall the total amount of Service Level Credits payable by Contractor for Service Level Failures occurring during a calendar month exceed the Amount at Risk for such calendar month.*

1. Modifications And Improvements To Service Levels
	1. Deletions of Service Levels

GCHP may at any time during the Term, in its sole discretion upon written notice to Contractor, delete one or more then-existing KPIs at any time during the Term. GCHP may delete one or more then-existing CPIs and reallocate Weighting Percentages on an annual basis

* 1. Additions or Modification of Service Levels

GCHP may, in its reasonable discretion upon ninety (90) Calendar Days prior written notice to Contractor, add a new KPI or modify a then-existing KPI with respect to any Service at any time during the Term. GCHP may add a CPI or modify a then-existing KPI on an annual basis with ninety (90) Calendar Days prior written notice. Any such addition or modification is subject to agreement of Contractor. Within thirty (30) days after Contractor's receipt of such notice the Parties will meet to discuss in good faith the standard of performance, measuring technique and interval as well as any other pertinent factors related (collectively, "metrics') to a new Service Level. If the Parties fail to reach an agreement on the metrics related to the new Service Level, then (a) Contractor shall apply metrics that are no worse, overall, than the best metrics with which Contractor has performed the Service or a substantially similar service over the immediately preceding six (6) months for any other Contractor client, and (b) Contractor shall develop a written plan describing the steps that would be necessary to implement GCHP's requested metrics, any Contractor expense associated therewith and the timeframe within which such new metrics could be implemented. GCHP may require Contractor to apply the requested metrics if GCHP agrees to pay at least one-half (1/2) of the expense associated with the new metrics.

* 1. Effect of Changes to Service Levels
		+ - 1. *The Weighting Percentage change shall take effect no sooner than sixty (60) days after receipt of notice by Contractor; and*
				2. *The sum of the Weighting Percentages for all Service Levels shall not exceed the Pool Percentage Available for Allocation.*
	2. Meetings to Add and/or Adjust Service Levels

GCHP and Contractor will meet to review the Service Levels on a semi-annual basis to discuss the Service Levels and will make additions and/or adjustments to the Service Levels as appropriate to reflect improved performance capabilities associated with advances in technology, processes, methods and tools. As new technologies, processes, methods and tools are introduced, additional Service Levels reflecting industry best practices for those technologies and processes will be established by the Parties.

1. Audit of Service Levels

No more than quarterly, GCHP shall have the right to audit Contractor’s books, records, and measurement and auditing tools to verify Service Level achievement and to determine correct payment of any Service Level Credit.

1. Termination for Catastrophic Service Level Failures

In addition to any rights to terminate described in the Agreement, GCHP may terminate the Agreement for cause in the event of any catastrophic condition, including but not limited to the following: (a) Contractor fails to meet all of the CPIs in a single MPR, (b) Contractor fails to meet any one or more of the CPIs for three consecutive MPRs, provided, however, that such termination right shall not apply to Force Majeure Events.

1. Survival

The obligations in this Exhibit that are intended by their terms to survive the expiration or termination of this Agreement shall so survive. Any Service Level Credits remaining upon termination shall be paid by Contractor to GCHP within thirty (30) days of the effective date of such termination.

**EXHIBIT E**

**Placeholder - *Insert Contractor’s software terms and condition***

**EXHIBIT F**

**Placeholder - Insert Contractor’s *Software Order Form Template***

**EXHIBIT G**

**Medi-Cal and Medicaid CARE Program Provisions AND OTHER FEDERAL REQUIREMENTS**

The below provisions apply exclusively to services provided and activities engaged in under a subcontract pursuant to the Medi-Cal Managed Care Program contract requirements and the rules set forth in Title 22, California Code of Regulations and Title 42 of the Code of Federal Regulations. The below provisions are required to be included in GCHP’s subcontracts by either the MegaRule Amendments, GCHP’s Medi-Cal Managed Care Program Contract with DHCS (“Medi-Cal Agreement”), or are established in State regulations, or by one or all of these authorities. Authorities are cited in parentheses for ease of reference to relevant regulatory requirements. The Parties do not anticipate an expansion of the scope of Services related to including this Attachment D Medi-Cal and Medicaid Managed Care Program Provisions. If a Medi-Cal and Medicaid Managed Care Program Provisions require additional scope change, the Parties shall amend the applicable Statement of Work to revise the fees/charges in an amount bearing a reasonable relationship to the impact of the change in the scope. All citations to the Medi-Cal Agreement are for reference only.

1. All Services to be furnished by Contractor are set forth in this Agreement. (22 C.C.R. § 53250(c)(1); 42 C.F.R. § 438.230(c)(1); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(1).)
2. This Agreement shall be governed by and construed in accordance with all laws, regulations, and contractual obligations incumbent upon the GCHP under its agreement with DHCS as further enumerated in this Attachment D and/or the Agreement, including but not limited to, Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972 (regarding education programs and activities); 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. Contractor shall comply with the Medi-Cal Managed Care Program and all applicable provisions of the Medi-Cal Agreement as enumerated in this Attachment D and/or the Agreement. (22 C.C.R. § 53250(c)(2); 42 C.F.R. § 438.230(c)(2); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(2).)
3. This Agreement has been approved by DHCS in accordance with procedures set forth in the Medi-Cal Agreement. (22 C.C.R. § 53250(c)(3); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(3).) Amendments to this Agreement will be submitted to the DHCS, for prior approval, at least thirty (30) days before the effective date of any proposed changes governing compensation, services or term. Proposed changes which are neither approved nor disapproved by the DHCS, shall become effective by operation of law thirty (30) days after the DHCS has acknowledged receipt of the amendment, or upon the date specified in the amendment, whichever is later. (22 C.C.R. § 53250(c)(3); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(3).)
4. The term of this Agreement and the methods of extension, renegotiation, and termination are as set forth in the Agreement. (22 C.C.R. § 53250(c)(4); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(4).)
5. Contractor agrees to submit all of the reports required and requested by GCHP in accordance with the Agreement and/or applicable SOW. (22 C.C.R. § 53250(c)(5); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(6).) Contractor shall submit claims and Encounter Data in accordance with the Agreement to GCHP that allow the GCHP to meet its administrative functions and the requirements set forth in the Medi-Cal Agreement. (Medi-Cal Agreement, Ex. A, Att. 3, § 2.C.)

6. Contractor shall comply with all of the monitoring provisions of this Agreement, the monitoring provisions in the Medi-Cal Agreement (as applicable) and enumerated herein, and any monitoring requests of DHCS, including but not limited to, the following: (42 CFR § 438.3(h), Medi-Cal Agreement, Ex. A, Att. 6, Ex. A, Att. 6, § 14.B.(7).)

1. Through the end of the records retention period, Contractor shall allow DHCS to inspect, evaluate, and audit any and all premises, books, records, equipment, and facilities, contracts, computers, or other electronic systems maintained by Contractor pertaining to these Services at any time during normal business hours, pursuant to 42 CFR § 438.3(h).
2. Records and documents include, but are not limited to, all physical records originated or prepared pursuant to the performance under this Agreement, including working papers, reports, financial records, and books of account, medical records, prescription files, laboratory results, subcontracts, information systems and procedures, and any other documentation pertaining to medical and non-medical services rendered to Members. Upon request, through the end of the records retention period Contractor shall furnish any record as it is maintained by Contractor, or copy of it, to DHCS or any other entity listed below at Contractor's sole expense.
3. If DHCS, the Center for Medicare and Medicaid Services (“CMS”), or the Department of Health and Humans Services (“DHHS”) Inspector General determines that there is a reasonable possibility of fraud or similar risk, DHCS, CMS, or the DHHS Inspector General may inspect, evaluate, and audit a subcontractor at any time.
4. DHCS shall conduct unannounced validation reviews on primary care sites, selected at the discretion of DHCS' to verify compliance of these sites with DHCS requirements.
5. Authorized State and federal agencies will have the right to monitor all aspects of the Contractor's operation for compliance with the provisions of this Agreement and applicable federal and State laws and regulations. Such monitoring activities will include, but are not limited to, inspection and auditing of Contractor and subcontractor facilities, management systems and procedures, and books and records as the Director deems appropriate, at any time pursuant to 42 CFR § 438.3(h). The monitoring activities will be either announced or unannounced. Staff designated by authorized State agencies will have access to all security areas and Contractor will provide reasonable facilities, cooperation and assistance to State representative(s) in the performance of their duties. Access will be undertaken in such a manner as to not unduly delay the work of the Contractor. (42 CFR § 438.3(h), Medi-Cal Agreement, Ex. E, Att. 2, § 20.)

7. Contractor shall make all of its premises, facilities, equipment, books and records, contracts, computer and other electronic systems, pertaining to the goods and Services furnished under the terms of this Agreement, available for purpose of audit, inspection, evaluation, examination or copying:

a. By DHCS, CMS, DHHS Inspector General, the Comptroller General, and the Department of Justice; or their designees;

1. At all reasonable times, at Contractor’s place of business or at such other mutually agreeable location in California;
2. In a form maintained in accordance with the general standards applicable to such book or record keeping;
3. For a term of at least ten (10) years from the final date of the Agreement period or from the date of completion of any audit, whichever is later.
4. Including all encounter data for a period of at least ten (10) years.
5. If DHCS, CMS, or the DHHS Inspector General determines there is a reasonable possibility of fraud or similar risk, DHCS, CMS, or the DHHS Inspector General may inspect, evaluate, and audit the Subcontractor at any time.
6. Upon resolution of a full investigation of fraud, DHCS reserves the right to prospectively suspend or terminate the Contractor’s Agreement pursuant to the Agreement; seek recovery of payments made to the Contractor; impose other sanctions provided under this Agreement, and/or direct GCHP to terminate its subcontract with Contractor due to fraud. (22 C.C.R. § 53250(e)(1); 42 C.F.R. § 438.230(c)(3); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(8).)

8. The method and amount of compensation to be received by Contractors is set forth in this Agreement. (22 C.C.R. § 53250(e)(2); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(9).)

9. Contractor shall maintain and make available to the DHCS, upon request, copies of all subcontracts. All subcontracts shall be in writing and require that:

a. Subcontractor make all applicable premises, facilities, equipment, books, records, contracts, computer, or other electronic systems related to this Agreement available at all reasonable times for audit, inspection, examining or copying by the DHCS, CMS, DHHS, the Inspector General, at the Comptroller General, the Department of Managed Health Care (“DMHC”), and the Department of Justice, or their designees. (42 C.F.R. § 438(h); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(10).)

b. Subcontractor agrees to retain all records and documents for a minimum of at least ten (10) years from the close of the final date of the contract period or from the date of completion of any audit, whichever is later. (42 C.F.R. § 438.3(u); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(10).)

1. Contractor agrees to notify DHCS in the event that this Agreement is amended or terminated. Notice is considered given when properly addressed and deposited in the United States Postal Service as first-class registered mail, postage attached to:

California Department of Health Care Services

Managed Care Operations Division

Attn: Contracting Officer

MS 4407

P.O. Box 997413

Sacramento, CA 95899-7413

(22 C.C.R. § 53250(e)(4); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(13).)

1. Contractor agrees that any assignment or delegation of this Agreement shall be void unless prior written approval is obtained from the DHCS in those instances where prior approval by the DHCS is required. (22 C.C.R. § 53250(e)(5); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(14).)
2. Contractor agrees to hold harmless both the State of California and GCHP Members in the event that GCHP cannot or will not pay for Services performed by Contractor pursuant to this Agreement. (22 C.C.R. § 53250(e)(6); Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(15).)
3. Upon request by DHCS, Contractor shall timely gather, preserve and provide to DHCS, in the form and manner specified by DHCS, any information specified by DHCS, subject to lawful privileges, in Contractor’s possession, related to threatened or pending litigation by or against DHCS. If Contractor asserts that any requested documents are covered by a privilege, Contractor shall: (1) identify such privileged documents with sufficient particularity to reasonably identify the document while retaining the privilege; and (2) state the privilege being claimed that supports withholding production of the document. Such request shall include, but is not limited to, a response to a request for documents submitted by any party in any litigation by or against DHCS. Contractor acknowledges that time may be of the essence in responding to such request. Contractor shall use all reasonable efforts to immediately notify DHCS and GCHP of any subpoenas, document production requests, or requests for records, received by Contractor related to GCHP’s contract with DHCS. Contractor shall be reimbursed by GCHP for the services necessary to comply with this requirement. If Contractor uses a third party to assist in comply with this Section 13, the amount shall not exceed normal and customary charges for similar services and such charges and documentation shall be subject to review by GCHP and DHCS. If Contractor uses existing personnel and resources to comply with this Section 13, Contractor shall maintain and provide to GCHP time reports supporting the time spent by each employee as a condition of reimbursement. The reimbursement claims and supporting documentation shall be subject to review by GCHP and DHCS and shall include but are not limited to: a) compensation and payroll taxes and benefits, on a prorated basis, for the employees' time devoted directly to compiling information pursuant to this Section 13; b)costs for copies of all documentation submitted to GCHP and/or DHCS pursuant to this section, subject to a maximum reimbursement of ten (10) cents per copied page; and/or c) copies of invoices from third Parties.
4. Contractor agrees to comply with all applicable requirements of the DHCS, Medi-Cal Managed Care Program as enumerated herein. (Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(21).)
5. Contractor agrees that GCHP’s may prospectively revoke its delegation of activities or obligations or specify other remedies in accordance with the Agreement in instances where DHCS or GCHP determines that Contractor has not performed satisfactorily. (Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(22).)
6. 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 or as otherwise provided for under the Agreement and to the extent possible. (Medi-Cal Agreement, Ex. A, Att. 6, § 14.B.(24).)
7. Contractor shall retain, as applicable to Contractor’s provision of Services, the following information: enrollee grievance and appeal records in § 438.416, base data in § 438.5(c), Medical Loss Ratio reports in § 438.8(k), and the data, information, and documentation specified in §§ 438.604, 438.606, 438.608, and 438.610 for a period of no less than ten (10) years. (42 CFR § 438. 3(h).)
8. In accordance with 42 C.F.R. § 438.608(c), Contractor agrees to:
9. Provide written disclosure of any prohibited affiliation under 42 C.F.R. § 438.610.
10. Provide GCHP with the disclosure statement that satisfies the requirements of 22 C.C.R. § 51000.35 and 42 C.F.R. § 455.104 prior to commencing services under this Agreement. Specifically, 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. (42 C.F.R. § 438.608(c), Medi-Cal Agreement, Ex E, Att. 2, §34, Cal. Welf & Inst. Code § 14452(a).)
11. In the event that Contractor identifies an overpayment, duplicate payment or other excess payment to Contractor from GCHP (“Overpayment”), Contractor shall report within sixty (60) calendar days of the date of identification of the Overpayment to Plan’s Compliance Officer at GCHP, 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 shall also make repayment to GCHP within sixty (60) calendar days of the date of identification of such Overpayment. (42 C.F.R. § 438.608(d), 42 U.S.C. § 1320a–7k, Medi-Cal Agreement, Ex. E, Att. 2, § 34.B.)
12. Contractor shall not attempt recovery in circumstances involving casualty insurance, tort liability or workers’ compensation. (22 C.C.R. § 53222.)
13. Contractor shall report to GCHP for reporting to DHCS within ten (10) days after discovery any circumstances which may result in casualty insurance payments, tort liability payments, or workers’ compensation award. (22 C.C.R. § 53222(b).)
14. Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that it is an equal opportunity employer, and will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by DHCS, advising the labor union or workers' representative of the Contractor's commitment as an equal opportunity employer and will post copies of the notice in conspicuous places available to employees and applicants for employment.
15. Contractor shall not discriminate against Members or Eligible Beneficiaries because of race, color, national origin, creed, ancestry, religion, ancestry, language, age, marital status, sex, sexual orientation, national origin, age, sex, or physical or mental handicap 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. For the purpose of this Agreement, discrimination on the grounds of race, color, national origin, creed, ancestry, religion, ancestry language, age, marital status, sex, national origin, marital status, sexual orientation, gender identity, health status, physical or mental disability, or identification with any other persons or groups defined in Penal Code 422.56 or physical or mental handicap include, but are not limited to, the following:
* Denying any Member any Covered Services or availability of a Facility;
* Providing to a Member any Covered Service which is different, or is provided in a different manner or at a different time from that provided to other Members under this Contract except where medically indicated;
* Subjecting a Member to segregation or separate treatment in any manner related to the receipt of any Covered Service;
* Restricting a Member in anyway in the enjoyment of any advantage or privilege enjoyed by others receiving any Covered Service, treating a Member or Eligible Beneficiary differently from others in determining whether he or she satisfies any admission, Enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any Covered Service;
* The assignment of times or places for the provision of services on the basis of the race, color, national origin, creed, ancestry, religion, language, age, gender, marital status, sex, sexual orientation, gender identity, health status, or physical or mental disability, or identification with any other persons or groups defined in Penal Code 422.56, of the participants to be served.

Contractor shall take affirmative action to ensure that Members are provided Covered Services without regard to race, color, national origin, creed, ancestry, religion, language, age, gender, marital status, sex, sexual orientation, gender identity, health status, or physical or mental disability, or identification with any other persons or groups defined in Penal Code 422.56, except where medically indicated. For the purposes of this section, physical handicap includes the carrying of a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes will include, but are not limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia. (Medi-Cal Agreement, Ex. E, Att. 2, § 28.A.)

1. In addition to other obligations contained herein, Contractor shall comply with applicable requirements of California law relating to Disabled Veteran Business Enterprises commencing at Section 10115 of the Public Contract Code. (Medi-Cal Agreement, Ex. E, Att. 2, § 30.)
2. 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. (Medi-Cal Agreement, Ex. E, Att. 3, § 10.)
3. Contractor shall report to GCHP’s compliance officer all cases of suspected fraud, waste, and/or abuse, as defined in 42 C.F.R. § 455.2, where there is reason to believe that an incident of fraud and/or abuse has occurred, by subcontractors, Members, Contractors, or employees within (48) hours of the time when 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. Contractor shall establish policies and procedures for identifying, investigating, and taking appropriate corrective action against fraud, waste, and/or abuse in the provision of or payment for health care services under the Medi-Cal Managed Care Program. 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 antifraud plan, including its policies and procedures as provided to Contractor relating to the investigation, detection, and prevention of and corrective actions relating to fraud, waste and abuse.
4. 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. § 438.608, the Federal False Claims Act (31 .S.C. § 3729 *et seq.),* Employee Education About False Claims Recovery (U.S.C. § 1396a(a)(68)), the California State False Claims Act ([Cal. Gov](http://Cal.Gov)’t Code Section§ 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 Contractor’s applicable written policies and procedures and any relevant employee handbook excerpts. Contractor shall comply with 42 C.F.R. §§ 438.608(a)(8) and 438.610.
5. 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 Contractors is updated monthly and available online and in print at the DHCS Medi-Cal website (<http://medi-cal.ca.gov>). Lists of excluded individuals and entities are also available through 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. Contractor must notify GCHP within ten (10) working days of removing a suspended, excluded, or terminated Contractor from its employment or subcontract and confirm that the individual or entity is no longer receiving payments in connection with the Medicaid program. Medi-Cal Agreement, Ex. E, Att. 2, § 28.)

**OTHER FEDERAL REQUIREMENTS**

1. 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.
2. 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.
3. 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).
4. 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.

**EXHIBIT H**

**HOSTING SERVICES**

**Placeholder – *If applicable* insert hosting services terms and conditions**

**EXHIBIT H-1**

**HOSTING SERVICES STATEMENT OF WORK**

**Placeholder – *If applicable* insert hosting services statement of work template**