



Stanford Contract HEALTH CARE Administration

Contract Administration is a shared service for the following legal entities:

1. Stanford Health Care
2. Lucile Salter Packard Children's Hospital at Stanford
(*"Lucile Packard Children's Hospital" or "Stanford Children's Health"*)
3. The Hospital Committee for the Livermore-Pleasanton Areas
(*"Stanford Health Care – ValleyCare"*)
4. Stanford University Medical Network Risk Authority, LLC
(*"The Risk Authority"*)
5. University HealthCare Alliance
6. Packard Children's Health Alliance
7. Stanford Health Care Advantage
8. Stanford Blood Center, LLC
9. CareCounsel, LLC

Standard Contract Language

Last Updated on: 5.20.20

Last Updated by: Chris Wintrode, Administrative Director – Business Operations & Strategic Initiatives and Contracts

Table of Contents

Introduction.....	5
General Language	7
Access to Books and Records.....	7
Affiliates	7
Arbitration	8
Assignment and Subcontracting	9
Audit Rights.....	9
Background Checks	9
Changes and Cancellations.....	10
Compliance with Entity Policies	10
Compliance with Laws	10
General	10
Fire Safety, Seismic, etc.....	10
Hazardous Materials.....	10
Confidentiality and Work Product.....	11
Confidentiality - One Way	11
Confidentiality - Mutual.....	12
Ownership of Work Product	13
Conflict of Interest.....	14
Counterparts/Electronic Signatures	14
Data.....	14
Debarred Vendors.....	14
Design.....	15
Entire Agreement.....	15
Equal Opportunity	15
Governing Law/Venue	15
HIPAA Compliance.....	16
HIPAA Confidentiality (no BAA).....	16
Hospital Practices	17
Indemnity.....	19
Indemnity – General Services	19
Indemnity – Staffing.....	20
Independent Contractor; Waiver of Benefits.....	20
Inspection	21
Insurance.....	22

Commercial General Liability.....	22
Auto.....	22
Workers Compensation	22
Property	23
Hazardous Materials.....	23
Cyber Liability	23
Policy Requirements (Self-Insurance, “AM Best” Ratings, Additional Insured, Certificate of Insurance).....	23
Intent of Parties/No Referrals	24
Invoicing and Payment	24
Maintenance and Availability of Vendor Personnel Files	25
Names and Logos	25
Non-Solicitation of Personnel	25
Notice	26
Evaluation.....	26
Reimbursable Expenses.....	27
Representations and Warranties	28
General	28
Reseller or Distributor’s Warranty	29
Installation or Other Services Warranty.....	30
Severability.....	30
Shipment.....	30
Storage.....	30
Subcontracting.....	31
Survival.....	31
Term and Termination.....	32
Termination/Amendment Due to Changes in Laws	32
Termination - For Vendor Breach.....	32
Termination – For Convenience.....	32
Use of Outside Resources.....	32
Waiver	33
Information Technology & Services Language	34
Audit Rights.....	34
Maintenance and Support Fees (Caps on Escalation).....	34
SLAs and Service Level Credits.....	35
Subcontractors (Offshoring Prohibited)	36
Transition Support.....	36

Warranties.....	37
Software	37
IT Services	38
Pass Through of Manufacturer Warranties (For Distributors/Resellers).....	38

Introduction

The Stanford Health Care Contract Administration Standard Contract Language document contains all standard language that may be required in legal documents for the following entities:

1. **Stanford Health Care**
 - a. Legal name used in contracts
 - i. Stanford Health Care, a California nonprofit public benefit corporation
 - b. Generic Address
 - i. 300 Pasteur Drive, Stanford, CA 94305
 - c. Accounts Payable Address
 - i. Accounts Payable, Mail Code 5540, 300 Pasteur Drive, Stanford, CA 94305, SHCAPInvoices@stanfordhealthcare.org
2. **Lucile Salter Packard Children's Hospital at Stanford**
 - a. Legal name used in contracts
 - i. Lucile Salter Packard Children's Hospital at Stanford, a California nonprofit public benefit corporation
 - b. Generic Address
 - i. 725 Welch Road, Palo Alto, CA 94304
 - c. Accounts Payable Address
 - i. Accounts Payable, Mail Code 5553, 725 Welch Road, Palo Alto, CA 94304, ap@stanfordchildrens.org
3. **The Hospital Committee for the Livermore-Pleasanton Areas**
 - a. Legal name used in contracts
 - i. The Hospital Committee for the Livermore-Pleasanton Areas, a California nonprofit public benefit corporation
 - b. Generic Address
 - i. 1111 East Stanley Boulevard, Livermore, CA 94550
 - c. Accounts Payable Address
 - i. Accounts Payable, 1111 E. Stanley Boulevard, Livermore, CA 94550, AcctsPayable_VC@stanfordhealthcare.org
4. **Stanford University Medical Network Risk Authority, LLC**
 - a. Legal name used in contracts
 - i. Stanford University Medical Network Risk Authority, LLC, a Delaware limited liability company
 - b. Generic Address
 - i. 1820 Embarcadero Road, Suite 111, Palo Alto, CA 94303
 - c. Accounts Payable Address
 - i. Accounts Payable, P.O. Box 60790, Palo Alto, CA 94306, info@theriskauthority.com
5. **University HealthCare Alliance**
 - a. Legal name used in contracts
 - i. University HealthCare Alliance, a California nonprofit public benefit corporation
 - b. Generic Address
 - i. 7999 Gateway Boulevard, Suite 200, Mail Code 5941, Newark, CA 94560
 - c. Accounts Payable Address
 - i. Accounts Payable, 7999 Gateway Boulevard, Suite 200, Newark, CA 94560, APUHA@stanfordhealthcare.org

6. **Packard Children’s Health Alliance**
 - a. Legal name used in contracts
 - i. Packard Children’s Health Alliance, a California nonprofit public benefit corporation
 - b. Generic Address
 - i. 770 Welch Road, Suite 150, Palo Alto, CA 94304
 - c. Accounts Payable Address
 - i. Accounts Payable, Mail Code 5553, 725 Welch Road, Palo Alto, CA 94304, pcha@stanfordchildrens.org
7. **Stanford Health Care Advantage**
 - a. Legal name used in contracts
 - i. Stanford Health Care Advantage, a California nonprofit public benefit corporation
 - b. Generic Address
 - i. 1221 Broadway, 3rd Floor, Oakland, CA 94612
 - c. Accounts Payable Address
 - i. Accounts Payable, 7979 Gateway Boulevard, Suite 120, Newark, CA 94560, SHCAAdvantageAP@stanfordhealthcare.org
8. **Stanford Blood Center, LLC**
 - a. Legal name used in contracts
 - i. Stanford Blood Center, LLC, a California limited liability company
 - b. Generic Address
 - i. 3373 Hillview Avenue, Palo Alto, CA 94304
 - c. Accounts Payable Address
 - i. Accounts Payable, Mail Code 5521, 300 Pasteur Drive, Stanford, CA 94305, SBCAPInvoices@stanfordhealthcare.org
9. **CareCounsel, LLC**
 - a. Legal name used in contracts
 - i. CareCounsel, LLC, a California limited liability company
 - b. Generic Address
 - i. 899 Northgate Drive, Suite 530, San Rafael, CA 94903
 - c. Accounts Payable Address
 - i. Accounts Payable, 899 Northgate Drive, Suite 530, San Rafael, CA 94903, CareCounselAdmin@stanfordhealthcare.org

Contract Administration maintains a Standard Operating Procedure that contains a list of the standard contract language that is required based on the type of contract.

This Standard Contract Language document is organized into sections and the following defined term acronyms were used:

1. When referring to any of the above nine Stanford legal entities:
 - a. Entity
2. When referring to a non-Stanford legal entity:
 - a. In General:
 - i. **Vendor**
 - b. In IT Related Legal Documents
 - i. Licensor

The defined term acronyms **highlighted in yellow** should be updated when placed into the actual legal document.

General Language

Access to Books and Records

If this **Agreement** is for the provision of **services** with a value of Ten Thousand and 00/100 Dollars (\$10,000.00) or more over a twelve (12) month period, then until the expiration of four (4) years after the furnishing of any **services** pursuant to this **Agreement**, **Vendor** shall make available, upon written request by the Secretary of the United States Department of Health and Human Services or from the United States Comptroller General, or any of their duly authorized representatives, this **Agreement** and such books, documents and records of **Vendor** that are necessary to certify the nature and the extent of the reasonable cost of **services** to **Entity**. If **Vendor** enters into an **agreement** with any related organization to provide **services** pursuant to this **Agreement** with a value of Ten Thousand and 00/100 Dollars (\$10,000.00) or more over a twelve (12) month period, such **agreement** shall contain a clause identical in content to the first sentence of this paragraph. This paragraph shall be of force and effect only to the extent required by 42 U.S.C. § 1395x(v)(1)(I).

Affiliates

Vendor agrees that it will extend the pricing and terms and conditions set forth in this **Agreement** for the **goods and/or services** covered by this **Agreement** to additional entities. For the purposes hereof, an “Additional Entity” shall mean any person, partnership, corporation, limited liability company, or other legal entity which, directly or indirectly, Control, are Controlled by, or are under common Control with **Entity**. “Control” means the right to vote for or appoint a majority of the board of directors or other comparable governing body of such entity, or if it possesses, directly or indirectly, the power to direct or cause the direction of the management of such person or entity. For clarity and the avoidance of doubt, an Additional Entity currently includes: Stanford Health Care; Lucile Salter Packard Children’s Hospital at Stanford; The Hospital Committee for the Livermore-Pleasanton Areas; Stanford University Medical Network Risk Authority, LLC; University HealthCare Alliance; Packard Children’s Health Alliance; Stanford Health Care Advantage; Stanford Blood Center, LLC; CareCounsel, LLC. For any purchase of **goods and/or services** by an Additional Entity pursuant to this **Agreement**, only such purchasing Additional Entity shall be obligated or incur liability to **Vendor** with respect to such purchase and, if requested by **Vendor**, such purchasing Additional Entity shall agree in writing to be bound by the terms and conditions of this **Agreement** in the same capacity as **Entity**.

Arbitration

Arbitration Clause. Any dispute, controversy or claim concerning or relating to this **Agreement** (a “Dispute”), shall be resolved in the following manner:

i. The Parties shall use all reasonable efforts to resolve the Dispute through direct discussions between persons associated with each Party who have the authority to resolve the Dispute. A Party may give the other Party notice of any Dispute not resolved in the normal course of business. Within ten (10) days after such notice is given, the receiving Party shall submit to the other Party a written response. The notice and response shall include (i) a statement of that Party’s position and a summary of arguments in support of that position and (ii) the name and title of the person who will represent that Party in any negotiations to resolve the Dispute.

ii. Within twenty (20) days of written notice that there is a Dispute, employees of each Party with authority to settle such Dispute shall meet in Palo Alto, California (or such other location as the Parties mutually agree) or confer by telephone in an effort to reach an amicable settlement and to explore alternative means to resolve the Dispute expeditiously (e.g., mediation).

iii. If the Dispute, has not been resolved as a result of the procedure in the sections above or otherwise within forty-five (45) days of the initial written notice that there is a Dispute (or such additional time to which the Parties may agree), the matter shall be resolved by final and binding arbitration in Palo Alto, California, administered by JAMS, Inc. (formerly known as Judicial Arbitration and Mediation Services, Inc.) pursuant to its Comprehensive Arbitration Rules and Procedures. If the Parties are unable to agree on the arbitrator within sixty (60) days of the original written notice of Dispute (or such additional time to which the Parties may agree), the Parties shall each appoint one arbitrator approved by JAMS, Inc. and the two arbitrators shall select a third neutral, independent and impartial arbitrator from the list of arbitrators approved by JAMS, Inc.

iv. Judgment on an arbitral award may be entered by any court of competent jurisdiction, or application may be made to such a court for judicial acceptance of the award and any appropriate order including enforcement.

v. Nothing herein however shall prohibit either Party from seeking judicial relief in the Superior Court of the State of California, Santa Clara County or the U.S. District Court for the Northern District of California (and the corresponding appellate venues), if such Party would be substantially prejudiced by a failure by the other Party to act during such time that such good faith efforts are being made to resolve the claim or controversy.

vi. If any Party should bring any action (arbitration, at law, or in equity) to resolve any claim related to this **Agreement** or any **Ordering Document**, or to interpret any term contained in this **Agreement** or any **Ordering Document**, the prevailing Party in such action (as determined by the arbitrator(s), judge, or equivalent) shall be entitled to receive from the non-prevailing Party all of its costs and expenses incurred in such action including, without limitation, reasonable attorneys’ fees.

Assignment and Subcontracting

- 1.1. **Assignment and Subcontracting.** Vendor shall neither assign its rights nor delegate its duties under this Agreement or any SOW without the prior written consent of Entity. This prohibition of assignment and delegation extends to all assignments and delegations that lawfully may be prohibited by agreement. Prior to subcontracting any of the Services or delegating any of Vendor's obligations under this Agreement or any SOW, Vendor must notify Entity and obtain Entity's written consent in connection therewith, which consent or approval Entity may withhold at its sole discretion. If Entity consents to such subcontracting or delegation arrangement through Vendor's use of a subcontractor, no use of such subcontractor, subcontracting, or delegation releases Vendor from Vendor's responsibilities or obligations under this Agreement or any SOW. Vendor shall remain liable for the acts, omissions, performance, or non-performance of any subcontractor.
 - 1.1.1. Vendor shall ensure that any subcontractor has agreed in writing to comply with all provisions in this Agreement to the extent such provisions would be applicable to Vendor hereunder. Any permitted disclosure of Entity Confidential Information to subcontractor by Vendor will be limited to the extent such subcontractor has a reasonable "need to know" such information for the proper performance of the Services.

Audit Rights

Entity shall have access to and the right to examine and copy any directly pertinent books, documents, papers, and records of Vendor involving transactions related to this Agreement until the expiration of four (4) years after final payment hereunder. Vendor further agrees to promptly furnish, when requested by Entity, such books, documents, and records of Vendor as are necessary to verify the accuracy of the amounts invoiced to Entity against any past or current goods and services provided by Vendor. If any audit discloses an overpayment by Entity or a discrepancy in the amount invoiced by Vendor against the goods and services actually provided by Vendor, Vendor will promptly reimburse Entity within thirty (30) days of Entity's notification to Vendor of any such overpayment, rectify such discrepancy, or both, and further reimburse Entity for any costs and expenses incurred by Entity for any such audit, including in connection with its retention of any third-party auditor.

Background Checks

[INSERT THE FOLLOWING IF ENTITY IS LPCH AND VENDOR IS PERFORMING SERVICES ON HOSPITAL PREMISES WHERE PATIENT CARE IS PROVIDED OR FOR CONSTRUCTION PROJECTS:]

Background Checks. All persons who enter Entity's premises are subject to Entity's Visitor Management Badging System process and must be screened against sex offender registry databases, cleared, and issued a Packard Pass badge. No Vendor personnel found to be a positive match on such database may perform work within Entity's premises, or in any other position that could compromise the safety and security of Entity's patients, employees, guests, or property. Verification of each individual's clearance shall be managed by Vendor and evidence shall be provided to Entity. Vendor agrees that its employees and those of its subcontractors shall undergo such screening and obtain a Packard Pass prior to entering Entity's premises, and must wear that Packard Pass in clear view at all times while within Entity's premises.

Changes and Cancellations

Orders placed under this Agreement may be changed or amended only by a written agreement signed by both Vendor and Entity setting forth the particular changes to be made and the effect, if any, of such changes on the price and time of delivery.

Compliance with Entity Policies

Vendor shall comply with all applicable Entity policies and procedures in effect on the date of this Agreement and as the same may be updated from time to time.

Compliance with Laws

General

Vendor shall comply with all applicable federal, state, and local laws, regulations, including non-discrimination and equal employment opportunity provisions, and executive orders in performance of the Agreement.

Fire Safety, Seismic, etc.

[USE FOR FACILITIES-TYPE VENDORS AND SERVICES ONLY:]

If the goods or services apply to a hospital, Vendor shall comply with Stanford Facilities Seismic Safety Act of 1983, as amended, and related regulations and all applicable requirements of the Reviewing Agency, OSHPD, NFPA 101, the State Fire Marshal, the local fire chief, OSHA, CAL-OSHA, The Joint Commission, and the National Fire Protection Association. Vendor shall file all notices, reports, and other filings required by applicable governmental authorities with respect to the goods or services.

Hazardous Materials

[USE FOR FACILITIES-TYPE VENDORS AND SERVICES ONLY:]

Vendor shall not permit any Hazardous Substances (as defined below) to be brought onto or stored at the site or used in the performance of the goods or services. If the goods or services contemplate handling Hazardous Substances, they shall be handled in strict compliance with all applicable requirements, including but not limited to the Sewer Use Ordinance (Chapter 16.09) of the City of Palo Alto Municipal Code. Vendor shall not intentionally or accidentally release or dispose of any Hazardous Substances at the site or other property of Entity. Vendor shall indemnify, defend, protect and hold Entity harmless from all costs, expenses, claims, damages, penalties, liabilities and assessments (including without limitation environmental consultants' and attorneys' fees) arising from or in any way connected with any Hazardous Substance introduced onto the site or into the soil, surface or ground water, or air as a result of any action or inaction of Vendor or any subcontractor or other person for whose acts Vendor is liable. For purposes of this Agreement, "Hazardous Substance" means any substance or material which has been determined or during the time of performance of the goods and services is determined to be capable of posing a risk of injury to health, safety, property or the environment by any federal, state or local governmental authority.

Confidentiality and Work Product

Confidentiality - One Way

“Confidential Information,” for the purposes of this Agreement, shall mean all tangible and intangible confidential and proprietary information and trade secrets (whether or not patentable or copyrightable), owned or possessed by Entity, including without limitation, Entity’s and its affiliates’ and subsidiaries’ business/company information, business practices, data processes, computer or software products or programs and all related documentation, cost, and pricing data, know-how, marketing or business plans, analytical methods and procedures, hardware design, technology, financial information, or personnel or Entity data, in each case that is disclosed to Vendor or to which Vendor gains access in connection with this Agreement. Confidential Information of Entity shall also include any information regarding Entity’s employees or contractors that contains an employee or contractor name, social security number, address, telephone number, birthdate, driver’s license number, other licensure or certification information, financial account information, benefit or beneficiary information, salary or payroll information (including W-2s), or health information (including, but not limited to, medical record or medical record number).

Nondisclosure.

Vendor agrees (i) to hold Entity’s Confidential Information in strict confidence, and apply at least the standard of care used by Vendor in protecting its own Confidential Information, and not to disclose such Confidential Information to any third party (except as provided in this section), and (ii) use the Confidential Information of Entity solely to the extent reasonably required for Vendor to exercise its rights or perform its obligations under this Agreement (unless otherwise authorized by Entity in writing in advance). Vendor agrees to limit disclosure of Entity’s Confidential Information to those of its employees and contractors who need to know the same to accomplish the purposes of this Agreement, and who have executed a written agreement with confidentiality provisions no less restrictive than those terms contained herein.

Exclusions.

The obligations to preserve the confidential nature of any of the Confidential Information described herein shall not apply to information that: (i) was previously known to Vendor free of any obligation to keep it confidential; (ii) is or becomes generally known to the public or is obtainable from public sources other than as a result of an act or omission of Vendor; (iii) is independently developed by or on behalf of Vendor without use of or reference to the Entity’s Confidential Information; or (iv) Vendor is compelled to disclose the Confidential Information by a governmental agency or a court of law having proper jurisdiction. If disclosure is compelled pursuant to subsection (iv) of this section, Vendor shall give Entity reasonable notice (to the extent Vendor is permitted to do so by applicable law) to enable Entity to seek to limit such disclosure of the Confidential Information.

Confidentiality - Mutual

“Confidential Information,” for the purposes of this **Agreement**, shall mean all tangible and intangible confidential and proprietary information and trade secrets (whether or not patentable or copyrightable), owned or possessed by either Party (“Disclosing Party”), including without limitation, each Party’s and its affiliates’ and subsidiaries’ business/company information, business practices, data processes, computer or software products or programs and all related documentation, cost, and pricing data, know-how, marketing or business plans, analytical methods and procedures, hardware design, technology, financial information, or personnel or other Disclosing Party data, in each case that is disclosed to the other Party (“Receiving Party”) or to which the Receiving Party gains access in connection with this **Agreement**. Confidential Information of the Disclosing Party shall also include any information regarding the Disclosing Party’s employees or contractors that contains an employee or contractor name, social security number, address, telephone number, birthdate, driver’s license number, other licensure or certification information, financial account information, benefit or beneficiary information, salary or payroll information (including W-2s), or health information (including, but not limited to, medical record or medical record number).

Nondisclosure.

The Receiving Party agrees (i) to hold the Disclosing Party’s Confidential Information in strict confidence, and apply at least the standard of care used by the Receiving Party in protecting its own Confidential Information, and not to disclose such Confidential Information to any third party (except as provided in this section), and (ii) use the Confidential Information of the Disclosing Party solely to the extent reasonably required for the Receiving Party to exercise its rights or perform its obligations under this **Agreement** (unless otherwise authorized by the Disclosing Party in writing in advance). The Receiving Party agrees to limit disclosure of the Disclosing Party’s Confidential Information to those of its employees and contractors who need to know the same to accomplish the purposes of this **Agreement**, and who have executed a written agreement with confidentiality provisions no less restrictive than those terms contained herein.

Exclusions.

The obligations to preserve the confidential nature of any of the Confidential Information described herein shall not apply to information that: (i) was previously known to the Receiving Party free of any obligation to keep it confidential; (ii) is or becomes generally known to the public or is obtainable from public sources other than as a result of an act or omission of the Receiving Party; (iii) is independently developed by or on behalf of the Receiving Party without use of or reference to the Disclosing Party’s Confidential Information; or (iv) the Receiving Party is compelled to disclose the Confidential Information by a governmental agency or a court of law having proper jurisdiction. If disclosure is compelled pursuant to subsection (iv) of this section, the Receiving Party shall give the Disclosing Party reasonable notice (to the extent the Receiving Party is permitted to do so by applicable law) to enable the Disclosing Party to seek to limit such disclosure of the Confidential Information.

Ownership of Work Product

Vendor shall promptly disclose to Entity all designs, logos, symbols, drawings, or pictorial reproductions, audio, and/or visual works, notes, documents, software, other works of authorship, processes, compositions of matter, data, formulas, databases, mask works, improvements, specifications, and other technical documentation, techniques, know-how, algorithms, products, trade secrets, and other materials or inventions of any kind conceived, reduced to practice, or developed by Vendor, alone or jointly with others, which result from or relate to the Services, whether or not they are patentable, copyrightable, protectable as trade secrets, or otherwise subject to intellectual property protection (collectively, “Work Product”). Work Product includes, without limitation, any deliverables that Vendor furnishes to Entity. Vendor agrees that all Work Product will be the sole and exclusive property of, and owned by, Entity. Vendor hereby irrevocably transfers and assigns to Entity all of Vendor’s right, title, and interest in and to all Work Product, including, without limitation, any patent, trade secret, copyright, or other intellectual property or proprietary rights therein, without further consideration for such assignment.

Entity and Vendor agree that Vendor shall retain ownership of Vendor’s intellectual property developed prior to or separately from the Services rendered hereunder, including any derivative works or extensions thereof, that may be specified in an exhibit hereto or a SOW or that Vendor can demonstrate was independently developed by Vendor outside the scope of the Services and without the use of Entity facilities, materials, or equipment (“Vendor IP”). To the extent the Work Product incorporates any Vendor IP or any Third Party IP (as defined below), Vendor shall provide Entity with an irrevocable, non-exclusive, worldwide, perpetual, fully paid-up, and royalty free right to use, modify, reproduce, sell, display, and make derivative works of any Vendor IP as may be embodied or incorporated in any Work Product to the extent that such rights are reasonably necessary for Entity’s intended use of the Work Product, or are necessary to meet Entity’s requirements and intended purposes of this Agreement or any SOW. Vendor shall not incorporate any intellectual property of any third party (“Third Party IP”) into any Work Product unless Vendor has a valid license or other right to do so, and Vendor shall procure for Entity the right to use any such Third Party IP in connection with Entity’s intended use of the Work Product to the same extent provided with respect to Vendor IP herein.

At Entity’s request, during and after the Term of this Agreement, Vendor will execute, and cause its employees and non-employee personnel to execute, such other documents as Entity may reasonably request, and otherwise cooperate with Entity to acquire, transfer, maintain, perfect, and enforce its intellectual property rights and other legal protections for the Work Product. Vendor represents and warrants that it has contractually required, and will contractually require, all Vendor employees and non-employee personnel who are performing the Services and/or creating Work Product to have irrevocably and appropriately assigned, or to irrevocably and appropriately assign, all such right, interest, and title in the Work Product such that Vendor’s assignment to Entity is fully accomplished and perfected as provided herein.

[IF VENDOR IS TO OWN ALL IP SUBJECT ONLY TO A LIMITED LICENSE TO STANFORD ENTITY TO ENABLE USE OF THE DELIVERABLES (WHICH VENDOR MAY REQUEST BE LIMITED TO STANFORD ENTITY’S INTERNAL BUSINESS PURPOSES), REPLACE 7.4.1 THROUGH 7.4.3 WITH THE SECTIONS BELOW]

Subject to Section 7.4.2, Vendor agrees that all deliverables furnished by Vendor to Entity pursuant to this Agreement and/or any SOW (“Work Product”) will be the sole and exclusive property of, and owned by, Entity.

Entity and Vendor agree that Vendor shall retain ownership of and all right, title, and interest in and to Vendor's intellectual property, including inventions, trade secrets, patentable, or copyrightable material ("Vendor IP") whether developed prior to, in connection with, or separately from performance of the Services. To the extent the Work Product or any other deliverables provided pursuant to this Agreement incorporates any Vendor IP or any Third Party IP (as defined below), Vendor shall provide Entity with an irrevocable, non-exclusive, worldwide, perpetual, fully paid-up, and royalty free right to use any Vendor IP as may be embodied or incorporated in any Work Product to the extent that such rights are reasonably necessary for Entity's intended use of the Work Product, or are necessary to meet Entity's requirements and intended purposes of this Agreement or any SOW. Vendor shall not incorporate any intellectual property of any third party ("Third Party IP") into any Work Product unless Vendor has a valid license or other right to do so, and Vendor shall procure for Entity the right to use any such Third Party IP in connection with Entity's intended use of the Work Product to the same extent provided with respect to Vendor IP herein.

Conflict of Interest

Vendor represents and warrants that, to the best of its knowledge after reasonable inquiry, there exists no actual or potential conflict between Vendor's family, business, or financial interest and Vendor's provision of services. In the event of change in either Vendor's private interests or the provision of Services, Vendor will inform Entity in writing of any change that may give rise to a potential conflict of interest between those interests and Vendor's provision of Services.

Counterparts/Electronic Signatures

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. Any such counterpart containing an electronic or facsimile signature shall be deemed an original.

Data

Vendor agrees and acknowledges that Entity data remain the sole and exclusive property of Entity and can only be used as required under this Agreement.

Debarred Vendors

Neither Vendor nor any Vendor subcontractor that provides Services under this Agreement has been excluded, suspended, debarred, or otherwise sanctioned from participation in any federal or state healthcare program, including Medicare, Medicaid, or TRICARE/CHAMPUS programs or has been convicted or found to have violated any federal or state fraud and abuse or illegal remuneration law. In the event that during the term of this Agreement, Vendor or any of its agents are so excluded, suspended, debarred, or sanctioned or are convicted or found to have violated any federal or state fraud and abuse or illegal remuneration law, Vendor shall promptly notify Entity of such event by email to ContractAdministration@stanfordhealthcare.org.

Design

Vendor may make design modifications and improvements in the design and specifications of its products without notice to **Entity** as long as these changes do not adversely impact the functionality and performance of the products sold pursuant to this **Agreement** or **Entity**'s site preparation, including but not limited to fixtures and equipment installed during construction to support the installation of **Vendor** products, delivery/installation schedules, equipment performance or functionality. Notwithstanding the foregoing, in the event that subsequent to the issuance and acceptance of a **Quotation** under the **Agreement** and prior to manufacture and shipment of the ordered products, **Vendor** introduces design changes, technological improvements or product enhancements regarding the ordered products and such changes, improvements and enhancements do not impact customer site preparation or adversely affect product functionality or performance or the other related factors noted above, **Vendor** shall incorporate such changes, improvements and enhancements in the ordered products furnished to **Entity** pursuant to such **Agreement**.

Entire Agreement

This **Agreement** sets forth the full and complete understanding of the Parties and its provisions shall not be modified, or waived, in whole or in part, except by a written amendment signed by **Vendor** and **Entity**. All prior and contemporaneous discussions and agreements are merged into this **Agreement**.

Equal Opportunity

[USE WHEN THE CONTRACT IS WITH A GOVERNMENT OR FEDERAL AGENCY]

In connection with **Vendor**'s performance under this **Agreement**, **Vendor** will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, national origin, or physical or mental handicap and will take affirmative action to ensure equal opportunity in all aspects of employment including, but not limited to, recruitment, promotion, demotion, transfer, layoff, termination, compensation, and selection for training, including apprenticeship; 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 stating the terms of the commitment hereunder with respect to equal opportunity.

This **Agreement** is subject to the provisions of (i) Executive Order 11246, ([41 CFR 60-1.4](#)); (ii) Section 503 of the Rehabilitation Act of 1973, ([41 CFR 60-741.5\(a\)](#)); and (iii) Section 4212 of the Vietnam Era Veterans Readjustment Act of 1974, ([41 CFR 60-300.5\(a\)](#)). **Entity** and **Vendor** shall abide by the requirements of [41 CFR 60-741.5\(a\)](#) and [41 CFR 60-300.5\(a\)](#). These regulations prohibit discrimination against qualified individuals on the basis of disability, and qualified protected veterans, and requires affirmative action by covered prime organizations to employ and advance in employment qualified individuals with disabilities and qualified protected veterans.

Governing Law/Venue

This **Agreement** shall be governed by and construed in accordance with the laws of the State of California, without application of principles of conflicts of laws. **[IF THERE IS AN ARBITRATION PROVISION ABOVE, THEN DELETE THE FOLLOWING SENTENCE: The Parties hereto agree that any dispute, action, or proceeding arising out of or under this contract shall be resolved in the Superior Court of the State of California in and for the County of Santa Clara or in the United States District Court for the Northern District of California, and the Parties hereby submit themselves to the personal jurisdiction of said courts.]**

HIPAA Compliance

Entity and **Vendor** acknowledge that they may be required to comply with the Health Information Technology Economic and Clinical Health (“HITECH”) Act, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the regulations issued thereunder, including, but not limited to, the Privacy, Security, Breach Notification and Enforcement Rules (45 C.F.R. Parts 160, 162 and 164), as the same may be amended from time to time. **Entity** and **Vendor** acknowledge that they have entered into a Business Associate Addendum dated _____, 20____ (“BAA”) that satisfies the respective obligations of the Parties under the applicable provisions of HIPAA, HITECH and the regulations thereunder.

HIPAA Confidentiality (no BAA)

[USE WHEN THE VENDOR HAS ACCESS TO PHI IN CIRCUMSTANCES UNDER WHICH A BAA IS NOT REQUIRED AND VENDOR IS NOT PERFORMING A BUSINESS ASSOCIATE SERVICE FOR ENTITY]

Notwithstanding any other terms of this **Agreement**, **Vendor** agrees to safeguard the privacy and security of all Protected Health Information (as defined under the Health Insurance Portability and Accountability Act, amendments thereto, and regulations thereunder) that it receives, accesses, or creates from **Entity**. **Vendor** agrees to not use, access, or disclose Protected Health Information of **Entity**, except to the extent needed directly for patient care or treatment, billing by the **Vendor**, or compliance with Food and Drug Administration requirements or similar laws. **Vendor** will not use, access, or disclose Protected Health Information for any other purpose, including, without limitation, to provide any service on behalf of **Entity**. **Vendor** agrees to comply with all policies and procedures of **Entity** regarding privacy and security of Protected Health Information, including but not limited to the **Vendor** confidentiality agreement and **Vendor**mate System (for registration of **Vendor** personnel when on site at **Entity**). Upon expiration or termination of this **Agreement**, whichever is earlier, **Vendor** will promptly return all Protected Health Information to **Entity** or, unless prohibited by law, will destroy such information in a secure manner consistent with U.S. Department of Health and Human Services requirements and guidance.

Hospital Practices

1. When providing goods and services at Entity's premises, Vendor and Vendor's personnel will practice Stanford Health Care's C-I-CARE and/or Lucile Salter Packard Children's Hospital at Stanford's PCARES program(s):

Connect with people by calling them their proper name or the name they prefer.

Introduce yourself and your role.

Communicate what you are going to do, how long it will take, and how it will impact the other person.

Ask permission before entering a room or undertaking an activity.

Respond to questions or requests promptly and anticipate needs.

Exit courteously with an explanation of what will come next.

Personalize by introducing yourself and your role, connect with people by using their preferred name.

Communicate clearly and in age-appropriate terms what you are going to do, how long it will take, and how it will impact the patient and family.

Ask for input from patients and families, and inquire about questions, needs or concerns.

Respond to a patient's questions or requests promptly; anticipate patient and family needs.

Exit courteously with an explanation of what will come next.

Sustain through Packard Quality Management System ("PQMS").

2. Before starting to provide goods and services at Entity's premises, Vendor must receive orientation from Entity's project coordinator ("Project Coordinator") on fire exits, hand hygiene, and other safety training as necessary with sign off by Vendor that the training was received.

3. Vendor or Vendor's supervisory personnel shall check in with the designated Stanford Project Coordinator each day before beginning work and state the locations where Vendor will be working that day.

4. When providing goods and services at Entity's premises, Vendor and Vendor's personnel must wear badges with identification that identify Vendor and the person's name.

5. When providing goods and services at Entity's premises, Vendor's personnel must wear uniforms and the person's appearance must be professional, neat and groomed.

6. Vendor must confer with Stanford's Project Coordinator as to the content and placement of temporary signs on Entity premises.

7. No storage of Vendor's supplies or equipment on Entity's premises will be permitted unless mutually agreed upon in writing by the Parties.

8. Vendor must have an Injury Illness Prevention Program ("IIPP") and Code of Safe Practice. Vendor must meet all regulatory requirements and have the ability to demonstrate compliance through tailgates, documented training, and written programs. Vendor shall provide copies of personnel California OSHA training documents and copies of IIPP to Entity's Environmental Health and Safety department prior to performing work.

9. The Vendor is responsible for obtaining the following Entity's Safety Policies and complying with the stated requirements:

9.1. Contractor Safety Policy

9.2. Contractor Safety Handbook

9.3. Electrical Safety Program

9.4. Confined Space Entry Procedures

9.5. Lockout Tagout ("LOTO") Program-Control of Hazardous Energy

9.6. Pre-Construction Risk Assessment ("PCRA"), Risk Mitigation

9.7. PCRA Form

9.8. Working at Heights

9.9. Smoke Free Policy

Copies of these documents are available on Entity's intranet and through the Project Manager.

Indemnity

Indemnity – General Services

To the fullest extent permitted by applicable law, **Vendor** shall indemnify, defend, and hold **Entity** and its officers, trustees, directors, representatives, employees, and agents harmless from and against any and all actions, claims, liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorneys' fees and costs, physical damage to or loss of tangible property, or injury, or death of any person, and any product recall or retrofit) arising out of, resulting from, or caused by: (a) negligence or intentional misconduct of **Vendor**, its employees, agents, or subcontractors; (b) the failure of **Vendor** or its employees, agents, or subcontractors to comply with the provisions of the **Agreement** or applicable laws, rules, and regulations; (c) any defect in design, workmanship, or materials carried out or employed by **Vendor** or its employees, agents, or subcontractors; (d) entering upon premises occupied by or under the control of **Entity** or any of its affiliates; or (e) any illness, injury, death, or property damage suffered or alleged by any person employed by **Vendor**. To the extent that this **Agreement** contains a provision that limits **Vendor**'s liability under the **Agreement**, **Vendor**'s indemnification obligations will be excluded from such limitation of liability. **Vendor** shall also indemnify, defend, and hold **Entity** and its officers, trustees, directors, representatives, employees, and agents harmless from and against any and all third-party claims and liabilities (including, without limitation, reasonable attorneys' fees and costs), regardless of the form of action, arising out of or in connection with a claim that the products supplied by **Vendor** infringe, violate, or misappropriate a valid third-party patent, copyright, or other proprietary right. **Vendor** may not settle or compromise any claim or consent to the entry of any judgment with respect to which **Entity** is seeking indemnification hereunder in a manner that adversely affects the rights of **Entity** without **Entity**'s prior written consent, which shall not be unreasonably withheld or delayed. This section shall survive the expiration or earlier termination of this **Agreement**.

Indemnity – Staffing

To the fullest extent permitted by applicable law, **Vendor** shall indemnify, defend, and hold **Entity** and its officers, trustees, directors, representatives, employees, and agents harmless from and against any and all actions, claims, liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable attorneys' fees and costs, physical damage to or loss of tangible property, or injury, or death of any person) arising out of, resulting from, or caused by: (a) negligence or intentional misconduct of **Vendor**, its employees, agents, or subcontractors; (b) the failure of **Vendor** or its employees, agents, or subcontractors to comply with the provisions of the **Agreement** or applicable laws, rules, and regulations; (c) any illness, injury, death, or property damage suffered or alleged by any **Vendor Personnel**; (d) compensation, wage, and/or hour complaints (including claims for missed meal and rest break periods) raised by **Vendor Personnel**; or (e) **Vendor**'s failure to pay federal, state, or local payroll taxes, penalties, and interest, and any other charges or levies, including any and all costs of defense against the assertion of any such taxes, penalties, interest, charges, or excises, and from the costs of preparing any tax or information return, resulting from any re-characterization or attempted re-characterization of any **Vendor Personnel** as employees of **Entity**. To the extent that this **Agreement** contains a provision that limits **Vendor**'s liability under the **Agreement**, **Vendor**'s indemnification obligations will be excluded from such limitation of liability. **Vendor** may not settle or compromise any claim or consent to the entry of any judgment with respect to which **Entity** is seeking indemnification hereunder in a manner that adversely affects the rights of **Entity** without **Entity**'s prior written consent, which shall not be unreasonably withheld or delayed. This section shall survive the expiration or earlier termination of this **Agreement**.

Independent Contractor; Waiver of Benefits

Vendor is an independent contractor to **Entity**. Neither **Vendor** nor any of its employees, contractors, affiliates, or third-party agents shall be, or be deemed to be, an employee of **Entity**. **Vendor** is not the agent for **Entity** and does not currently have, or will have, any authority to bind **Entity** to any contract or liability or to act or represent **Entity** in any capacity other than as an independent contractor. Nothing in this **Agreement** is intended to, or shall be deemed to, constitute or create i) a reclassification of **Vendor** from being an independent contractor, ii) a partnership, agency relationship, joint venture, employer and employee relationship, or iii) any other special relationship between the Parties. **Vendor** shall not take any action that expresses or implies any relationship other than that of independent contractor. **Vendor** is responsible for **Vendor**'s own actions during the performance of **Vendor**'s obligations herein. **Vendor** shall indemnify, save, and hold harmless **Entity** from any and all liability **Entity** may incur by reason of (a) **Vendor**'s failure to comply with this section or (b) a determination that **Vendor** or any of **Vendor**'s employees, contractors, affiliates, or third-party agents is a common-law employee.

Entity shall not withhold taxes on any monies owed **Vendor** nor make any tax or other payments on behalf of **consultant**. **Vendor** agrees that **Vendor** is solely responsible for the payment of all federal, state, and local taxes and all appropriate deductions or withholdings.

[INCLUDE THE SECTIONS BELOW ONLY IF AN INDEPENDENT CONTRACTOR QUESTIONNAIRE IS REQUIRED IN CONNECTION WITH THE AGREEMENT, I.E., CONSULTANT IS AN INDIVIDUAL OR A LEGAL ENTITY OWNED BY A SINGLE PERSON (E.G., A SINGLE MEMBER LLC)]

Vendor agrees and certifies that **Vendor** is not entitled to participate in any perquisites or benefits maintained by **Entity** for the benefit of its employees, including, but not limited to, group health insurance, long-term disability, life insurance, workers compensation, vacation/sick pay, retirement/pension plans, and severance pay whether currently in effect or adopted in the future (the “**Entity Plans**”). If **Vendor** or any of **Vendor**’s employees, contractors, affiliates, or third-party agents is determined by a court of competent jurisdiction or any state or federal agency to be a common-law employee of **Entity** for federal or state employment tax purposes or for any other purposes under any applicable local, state, or federal law, **Vendor** also agrees and certifies that:

Vendor may have a right to participate in the **Entity Plans**, including participation retroactive to the date such **Vendor** is determined to have been a common-law employee, and has been provided with copies of the summary plan descriptions for those plans;

Notwithstanding such right to participate in the **Entity Plans**, **Vendor** specifically and voluntarily waives, in connection with its/his/her acceptance of this **Agreement**, the right to participate in the **Entity Plans** on an irrevocable basis;

Vendor understands that as a result of this waiver, **Vendor** has irrevocably waived **Vendor**’s to participate in the **Entity Plans** for all periods of service with **Entity** and understands that by giving up such rights of participation in the **Entity Plans**, **Vendor** has given up all rights to receive any benefits under each such **Entity Plans**;

Vendor hereby releases **Entity**, any other **Entity** affiliated entities, officers, directors, employees, trustees, and agents from any and all claims, charges, demands, rights, liabilities, and causes of action with respect to, or arising out of, this waiver of **Vendor**’s rights to participate in the **Entity Plans** and understands that this release includes, but is not limited to, the Employee Retirement Income Security Act, the Internal Revenue Code, any local, state, or federal tax, or any other local, state, or federal laws; and

Vendor acknowledges that **Entity** has advised **Vendor** to consult with **Vendor** private attorney prior to signing this **Agreement** and **Vendor** has had ample opportunity to do so, and further acknowledges that **Vendor** has read and understand this waiver and that **Vendor** **Agreement** to this release is truly voluntary and without duress.

Inspection

Entity shall examine the goods promptly after delivery at **Entity** and shall notify **Vendor** of any shortage or any defect in any of the goods that is reasonably discoverable upon visual inspection of the goods. Within thirty (30) business days after **Entity**’s receipt of the goods, **Entity** shall furnish to **Vendor** a description of the nature of any defect or shortage. Upon receipt of notice of any defect or shortage, **Vendor** shall promptly replace any defective or shorted goods. In the absence of a written notice from **Entity** to **Vendor** in accordance with the terms of this paragraph, a shipment of the goods shall be deemed to have been delivered and accepted by **Entity** as complete and in satisfactory condition as to defects reasonably discoverable upon visual inspection. **Entity** shall, at **Vendor**’s expense, follow **Vendor**’s instructions to permit **Vendor**’s inspection of the defective goods or to facilitate the return to **Vendor** (or **Vendor**’s third-party disposal company) any of the defective goods delivered to **Entity**. Latent defects in the goods existing when delivered to **Entity** will not be subject to the thirty (30) business day inspection standard, and upon discovery, **Entity** will be entitled to a full replacement of the goods.

Insurance

Commercial General Liability

[USE FOR ALL CONTRACTS – PROFESSIONAL LIABILITY REQUIRED IN CASES IN WHICH VENDOR IS REPRESENTING ENTITY TO THIRD PARTIES (PROFESSIONAL SERVICES). PROFESSIONAL LIABILITY NOT REQUIRED WHEN VENDOR IS FURNISHING DELIVERABLES SOLELY FOR ENTITY INTERNAL USE. PRODUCT LIABILITY IS REQUIRED WHEN VENDOR IS FURNISHING PRODUCTS/TANGIBLE GOODS.]

Vendor shall, at its own expense, for the duration of this Agreement and for two (2) years after the end of the **Agreement**, maintain policies of commercial general liability insurance including but not limited to product liability insurance and where appropriate professional liability insurance in an amount of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and Three Million and 00/100 Dollars (\$3,000,000.00) annual aggregate respectively to insure it, its employees, and its agents against all claims and liabilities arising out of or related to this **Agreement**. **Vendor** liability aggregates can be satisfied by umbrella or excess liability policies.

Auto

Vendor and all **Vendor** personnel operating motor vehicles on **Entity**'s premises shall maintain automobile liability insurance coverage in accordance with the requirements of California law.

[USE WHEN VENDOR IS USING VEHICLES IN PERFORMANCE OF SERVICES (SUCH AS COURIER OR DELIVERY SERVICES), AS DISTINGUISHED FROM COMMUTING TO ENTITY'S PREMISES.]

If **Vendor** is using motor vehicles in the performance of Services for **Entity**, **Vendor** shall, at its own expense, for the duration of this **Agreement**, maintain comprehensive automobile liability insurance providing coverage for any automobile, including, but not limited to, non-owned and hired auto coverage and uninsured-underinsured auto coverage with a combined single limit for bodily injury and property damage of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.

Workers Compensation

[USE THIS WHEN VENDOR HAS EMPLOYEES IN CALIFORNIA PERFORMING SERVICES FOR ENTITY AND VENDOR PERSONNEL ARE ON ENTITY PREMISES OR TRAVELLING ON ENTITY'S BEHALF.]

Vendor shall maintain in full force during the term hereof, and shall, before commencement of services hereunder, provide **Entity** with evidence of workers compensation insurance covering all persons, if any, whom **Vendor** may employ in the performance of this **Agreement**, in accordance with the laws of the State of California and employer's liability insurance in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.

Property

[USE WHEN VENDOR IS PERFORMING SERVICES ON ENTITY PREMISES.]

Vendor shall, at its own expense, for the duration of this **Agreement** maintain property insurance in appropriate amounts protecting against loss or damage to the **Vendor**'s property as well as property of **Entity** and its affiliates held in **Vendor**'s care, custody, and control.

Hazardous Materials

[USE IF VENDOR IS ENGAGED IN HAZARDOUS MATERIALS ACTIVITIES.]

If the services provided by **Vendor** involve the use of or the abatement, removal, replacement, repair, enclosure, encapsulation and/or disposal of any hazardous material or substance, **Vendor** shall, at its own expense, for the duration of this **Agreement** maintain hazardous material liability insurance covering bodily injury and/or property damage with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence.

Cyber Liability

[USE IF VENDOR HAS ACCESS TO STANFORD IT NETWORK INFRASTRUCTURE OR IS ENGAGED IN HOSTING PROTECTED HEALTH INFORMATION (E.G., CLOUD SERVICES, OUTSOURCED IT APPLICATIONS).]

Vendor shall maintain insurance for network security and privacy risks, including, but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of Confidential Information, privacy perils, and including coverage for related regulatory defense and penalties, in an amount not less than Ten Million and 00/100 Dollars (\$10,000,000.00). The foregoing coverage will include coverage for data breach expenses in an amount not less than Five Million and 00/100 Dollars (\$5,000,000.00) and payable whether incurred by **Entity** or **Vendor**, including, but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations, and crisis management firm fees, credit or identity monitoring, or remediation services.

Policy Requirements (Self-Insurance, "AM Best" Ratings, Additional Insured, Certificate of Insurance)

All insurance policies shall be written with companies which are reasonably acceptable to **Entity** based on AM Best ratings or based on evidence of the financial solvency of self-insured programs or captive insured programs and where permitted, shall name **Entity** as an additional insured. **Vendor** shall notify **Entity** in writing thirty (30) days prior to any material alterations, cancellations or replacement of the existing policy(s). Evidence of such coverage shall be presented to **Entity** prior to execution of this **Agreement**. In the event that such coverage is written on a claims-made basis, **Vendor** shall arrange appropriate tail coverage or prior acts coverage consistent with the requirements of this section in the event that such claims made policy is canceled or not renewed.

Intent of Parties/No Referrals

Neither **Vendor** nor **Entity** intend that any payments made under this **Agreement** be in return for the referral of ongoing business, if any, or in return for the purchasing, leasing, or ordering of any services other than the specific services described in this **Agreement**. All payments specified in this **Agreement** are consistent with what the Parties reasonably believe to be a fair market value for the services provided.

Invoicing and Payment

Invoicing

[EDIT CLAUSES (II) THROUGH (IV) BELOW BASED ON THE NATURE OF THE GOODS AND/OR SERVICES PROVIDED BY VENDOR]

Vendor shall invoice **Entity** for the performance of **services and the provision of goods or materials, if applicable**, only in accordance with this **Agreement and the SOW** pursuant to which such **services** were procured by **Entity**. For **SOWs** providing for invoicing on an ongoing basis, in no event shall **Vendor** invoice **Entity** more frequently than monthly. Each invoice submitted by **Vendor** (i) shall reference the correct **Entity** purchase order number (with only one purchase order number per invoice); (ii) separately itemize **services from goods or materials provided**; (iii) for **services** provided on a time and/or materials basis, the invoice shall contain detailed time entries with hours worked, locations where work was performed, personnel performing the work, and nature of the work; (iv) for **services** where payment is contingent on deliverable(s), the invoice shall state the recipient of the deliverable(s) and the date(s) delivered; and (v) provide the cost of **goods or materials consumed in providing the services**, if applicable. Invoices shall be submitted for approval to **[USE FOR STANFORD HEALTH CARE: SHCAPIInvoices@stanfordhealthcare.org. USE FOR LUCILE SALTER PACKARD CHILDREN'S HOSPITAL AT STANFORD: ap@stanfordchildrens.org. USE FOR PACKARD CHILDREN'S HEALTH ALLIANCE: pcha@stanfordchildrens.org. USE FOR UNIVERSITY HEALTHCARE ALLIANCE: APUHA@stanfordhealthcare.org. USE FOR CARECOUNSEL, LLC: CareCounselAdmin@stanfordhealthcare.org. USE FOR STANFORD BLOOD CENTER, LLC: SBCAPIInvoices@stanfordhealthcare.org. USE FOR STANFORD HEALTH CARE ADVANTAGE: SHCAAdvantageAP@stanfordhealthcare.org. USE FOR THE HOSPITAL COMMITTEE FOR THE LIVERMORE-PLEASANTON AREAS: AcctsPayable_VC@stanfordhealthcare.org. USE FOR STANFORD UNIVERSITY MEDICAL NETWORK RISK AUTHORITY, LLC: info@theriskauthority.com.]** In order to be considered valid, an invoice must (i) meet the requirements of this **Agreement and/or the applicable SOW** and (ii) meet **Entity's** general invoicing requirements as set forth at <https://stanfordhealthcare.org/vendors/vendors.html#invoicestandards>. **Vendor** will issue all invoices for **goods and services** within the time frame required under this **Agreement and/or the applicable SOW**, and **Entity** will have no obligation to pay any invoices that are not issued within thirty (30) days of the date such invoices should have been issued under this **Agreement and/or the applicable SOW**. In the event **Entity** reasonably requests additional substantiating detail, **Vendor** shall promptly provide such detail, and the time during which such request is pending shall extend the due date for payment. **Vendor** shall not issue multiple invoices for the same **Services**. **Vendor** may issue statements of account indicating the status of **Vendor's** invoices to **Entity** by invoice number.

Payment

Payment terms are net sixty (60) days upon Entity's receipt of a complete and valid invoice. Entity's payments may be made through one or more of the following methods: 1) automated clearing house ("ACH") funds transfer in accordance with Vendor's instructions or 2) corporate credit card through Entity's payables program. Entity may withhold payment of particular charges or amounts that Entity disputes in good faith, provided Entity notifies Vendor of such dispute at the time of withholding. Notification for this purpose means providing Vendor with a reasonably detailed explanation, including any supporting documentation if applicable, of the basis for such withholding. The Parties shall use commercially reasonable efforts to promptly resolve any such payment dispute.

Maintenance and Availability of Vendor Personnel Files

[USE THIS PROVISION IF VENDOR IS PERFORMING SERVICES ON HOSPITAL PREMISES WHERE PATIENT CARE IS PROVIDED]

Maintenance and Availability of Vendor Personnel Files. Vendor and its subcontractors shall maintain current and accurate files for each of its employees who perform work at Entity's premises ("Personnel Files"). Vendor and its subcontractors are responsible at their own cost to conduct the background checks and health screens with a company of their choice. Vendor and its subcontractors shall maintain Personnel Files that include written documentation showing the results of all health screens, background checks, training, and HealthStream modules, etc. required by Entity policies, i.e., in particular Entity's then current Non-Employee Compliance Policy. If Entity is subject to an audit by The Joint Commission or other compliance and regulatory organizations with respect to Entity's operations, Vendor and its subcontractors shall cooperate with the auditor's request for information and provide the Vendor and subcontractor Personnel Files within 24 hours and in accordance with applicable law. Entity shall have access to and the right to examine, copy and audit any directly pertinent Personnel Files related to this Agreement upon reasonable notice and during normal business hours to the extent necessary to determine Vendor's compliance with this clause and to respond to requests from The Joint Commission, other compliance and regulatory organizations, or other auditors in accordance with applicable law or this Agreement. Entity retains the right to conduct its own health screens, background checks, training, and HealthStream modules, etc., of Vendor's and its subcontractors' personnel, if necessary.

Names and Logos

Vendor agrees not to use any name or mark of Entity or of Stanford University or to quote the opinion of any of Entity's employees in any advertising or other publicity, including in client lists or on Vendor's website, without obtaining the prior written consent of Entity.

Non-Solicitation of Personnel

To the extent permitted by law, neither Party may solicit for employment, nor hire as an employee or contractor, any employee or consultant of the other Party involved in the performance of services under this Agreement until one year after the termination of this Agreement. Notwithstanding the foregoing, it shall not be a violation of this provision for a Party to hire any such individual who responds to a general solicitation for employment by the hiring Party.

Notice

Any notice or communication required or permitted to be given under this **Agreement** shall be served personally, sent by United States certified mail, overnight delivery, courier, or email to the following address:

If to Entity: **[Select the Applicable Stanford Legal Entity]**
Attn: Contract Administration
300 Pasteur Drive, Mail Code 5572
Stanford, CA 94305
Email: ContractAdministration@stanfordhealthcare.org

If to **Vendor**: **Vendor Name**
Attn: **Contact Person**
Mailing Address
City, State Zip Code
Email: **VendorEmail@Vendor.com**

Any change to the notice address listed above by a Party must be given to the other Party in the same manner as described in this section. The date of notice shall be the date of delivery if the notice is personally delivered, sent by overnight delivery or courier service, three (3) business days following the date of mailing if the notice is sent by United States certified mail, or the date of transmission if the notice is sent by email. Each Party agrees to maintain evidence of the respective notice method utilized.

Evaluation

Services that are related to the care and treatment of patients provided pursuant to contractual **Agreement** will be evaluated on at least an annual basis by **Entity** based on the following criteria which include, but are not limited to, fulfillment of contractual obligations, customer service, quality of service, overall staff competency, and compliance with accreditation standards and/or state/federal requirements.

Reimbursable Expenses

[USE FOR CONTRACTS IN WHICH A STANFORD ENTITY IS REIMBURSING A VENDOR FOR TRAVEL AND/OR RELATED EXPENSES]

Reimbursable Expenses. Any actual expenses reasonably and properly incurred in performing the [insert relevant defined term, viz. Services / Equipment / Goods and Services] under this Agreement will only be reimbursable by Entity if approved by Entity in writing prior to Vendor's incurrence thereof ("Reimbursable Expenses"). Reimbursable Expenses for travel shall only include reasonable transportation, meal, and lodging costs relating to travel that is specifically requested by Entity and that is directly related to providing the [insert relevant defined term, viz. Services / Equipment / Goods and Services]. **[DELETE THE FOLLOWING SENTENCE IF ENTITY IS NOT SHC]** Vendor shall comply with the Vendor Policy Extract for Travel and Expenditure Reimbursement to Non-Employees. To qualify for reimbursement, all Reimbursable Expenses must be evidenced by original receipts (or legible copies thereof) for lodging, meals and incidentals and may not exceed U.S. GSA Per Diem amounts for the Palo Alto/Sunnyvale, California areas (as set forth on <http://www.gsa.gov/portal/category/100120>) and expense reimbursement for personal vehicle use shall be at then current IRS mileage rates. For clarity, credit card statements are not acceptable as evidence of Reimbursable Expenses; receipts must be issued by the provider (e.g., airline, hotel, restaurant, etc.). Entity is not obligated to reimburse Vendor for Reimbursable Expenses that (i) are not documented in accordance with this Section, (ii) exceed any specific amount or limit set forth in the relevant [ordering document, viz. SOW / Sales Order / quotation / other], or (iii) are submitted for reimbursement more than sixty (60) days after the date such expenses were incurred.

Representations and Warranties

General

Unless more favorable warranty terms are extended to Entity in the quotation, Vendor shall provide Entity with Vendor's standard warranty terms for the products being sold to Entity pursuant to this Agreement. In furtherance and not in limitation of the foregoing, Vendor warrants that (1) all products and work will be of new material, merchantable, free from defects, and unreasonable hazards, in design, material, and workmanship, fit for the purposes described in this Agreement and will conform to Vendor's specifications and labeling for such products and to any requirements set forth in this Agreement, (2) Vendor has taken all proper and necessary precautions for the safety and protection of persons and property, and has provided all proper warnings for hazards related to products and work that cannot be eliminated, and (3) Vendor has the authority to enter into this Agreement and to perform its obligations hereunder. These warranties, Vendor's service guarantees, and implied warranties, shall survive inspection, test, and acceptance. Entity's remedies under the warranties shall include at Entity's election (a) repair by Vendor or persons designated by Vendor and accepted by Entity of any products found to be defective in violation of these warranties, without charge, (b) replacement of products with new products that conform to the above requirements or, (c) if repair or replacement is not possible, return and full refund of the purchase price paid by Entity for such products. Vendor shall be responsible for all shipping and other fees in connection with return and/or replacement of defective products. Notwithstanding any provision of this Agreement to the contrary, including Vendor's standard warranty terms, Vendor's warranties for the products sold pursuant to this Agreement shall commence on the date of first patient use of such product or, in the case of products that are not patient-touching, on the date of placement into service following in each case the completion of all required installation, calibration, commissioning, validation and any other similar pre-utilization or pre-placement in service procedures that may apply.

Reseller or Distributor's Warranty

[USE IN PLACE OF THE GENERAL WARRANTY PROVISION IF VENDOR IS A RESELLER OR DISTRIBUTOR]

Unless more favorable warranty terms are extended to **Entity** in the **quotation**, **Vendor** shall provide **Entity** with manufacturers' standard warranty terms for the products being furnished or supplied to **Entity** pursuant to this **Agreement**. In furtherance and not in limitation of the foregoing, such manufacturers' warranties shall provide that (1) all products and work will be of new material, merchantable, free from defects, and unreasonable hazards, in design, material, and workmanship, fit for the purposes described in this **Agreement** and will conform to the respective manufacturer's specifications for such products and to any requirements set forth in this **Agreement**, (2) **Vendor** has taken all proper and necessary precautions for the safety and protection of persons and property, and has provided all proper warnings for hazards related to products and work that cannot be eliminated, and (3) **Vendor** has the authority to enter into this **Agreement** and to perform its obligations hereunder. These warranties, **Vendor**'s service guarantees, and implied warranties, shall survive inspection, test, and acceptance. **Entity**'s remedies under these warranties shall include at **Entity**'s election (a) return and full refund of the purchase price paid by **Entity** for such products, (b) repair by **Vendor** or persons designated by **Vendor** and accepted by **Entity** of any products found to be defective in violation of these warranties, without charge, or (c) replacement of products with new products that conform to the above requirements. **Vendor** shall be responsible for all shipping and other fees in connection with return and/or replacement of defective products. **Vendor** shall provide **Entity** with manufacturers' standard warranty terms for the products being furnished or supplied to **Entity** pursuant to this **Agreement**.

Installation or Other Services Warranty

[USE IN ADDITION TO THE GENERAL WARRANTY PROVISION IF VENDOR WILL PROVIDE INSTALLATION OR OTHER SERVICES UNDER AN AGREEMENT.]

Where **Vendor** provides services, **Vendor** hereby represents and warrants that any services being provided by **Vendor** in connection with the products being sold pursuant to this **Agreement** (including but not limited to installation, repair, preventive maintenance and the like) shall be performed promptly, diligently, and professionally to meet **Entity**'s needs and requirements and to **Entity**'s reasonable satisfaction. Further, **Vendor** hereby represents and warrants that, at all times, the services will be performed by personnel with the necessary skills and expertise to perform the services in a professional and workmanlike manner. For a period of 180 days after acceptance by **Entity**, the services (and attendant deliverables, if any) shall strictly conform to meet with **Entity**'s needs and requirements. Without limiting the generality of the foregoing and **Entity**'s any other remedy at law or equity, including reimbursement of any sums paid to **Vendor** for the services, if notified by **Entity** of any unsatisfactory or nonconforming services during the warranty period, **Vendor** shall use commercially reasonable best efforts to promptly correct the unsatisfactory or non-conforming services at no cost to **Entity** until **Entity** confirms its acceptance.

Severability

The invalidity or unenforceability of one or more provisions of this **Agreement** shall not affect the validity or enforceability of any of the other provisions hereof and this **Agreement** shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Shipment

All deliveries of goods purchased under this **Agreement** will be Free On Board, Destination. For purposes of this paragraph, the term "Free On Board, Destination" means that **Vendor** shall: (i) bear all costs associated with shipping the goods to **Entity**; (ii) bear the risk of loss until **Entity** takes possession of the goods, which goods must be in new and acceptable condition upon receipt by **Entity**; and (iii) be responsible for insuring goods while in transit.

Storage

Vendor acknowledges that **Entity** is not prepared to take immediate delivery of the goods. **Vendor** therefore agrees to bear the cost of storage of the goods prior to permanent placement of the goods at **Entity**. **Vendor** will arrange for storage of the goods or, if **Entity** arranges and pays for storage of the goods, **Vendor** shall reimburse **Entity** for the costs **Entity** incurs in storing the goods.

Subcontracting

Prior Written Approval for Subcontracting. Prior to subcontracting any of the goods and services or delegating any of Vendor's obligations under this Agreement or any Ordering Document, Vendor must notify Entity and obtain Entity's written consent in connection therewith, which consent or approval Entity may withhold at its sole discretion. If Entity consents to such subcontracting or delegation arrangement, whether through Vendor's use of contractors, affiliates, or third-party agents (each, a "Vendor Subcontractor"), no use of such Vendor Subcontractor, subcontracting, or delegation releases Vendor from Vendor's responsibilities or obligations under this Agreement or any Ordering Document. Vendor shall remain liable for the acts, omissions, performance or non-performance of any Vendor Subcontractor.

Vendor shall ensure that any Vendor Subcontractor has agreed in writing to comply with all provisions in this Agreement to the extent such provisions would be applicable to Vendor hereunder. Any permitted disclosure of Entity Confidential Information to Vendor Subcontractor by Vendor will be limited to the extent such Vendor Subcontractor has a reasonable "need to know" such information for the proper performance of the goods and services.

Survival

Notwithstanding termination or expiration of the Agreement, the provisions of the sections entitled Representations and Warranties; Confidentiality and Work Product; Independent Contractor; Waiver of Benefits; Indemnity and Insurance; Arbitration; Miscellaneous; and such other terms and conditions that, by nature and context, survive termination or expiration of this Agreement, shall survive.

Term and Termination

Termination/Amendment Due to Changes in Laws

The Parties agree to take such action as is necessary to implement the standards and requirements of HITECH and regulations thereunder, HIPAA, the Privacy Regulation, the Security Regulation, and other applicable laws relating to the security or confidentiality of Protected Health Information. The Parties further agree to take such action as is necessary to amend this **Agreement** from time to time as is necessary for compliance with the requirements of HITECH, HIPAA, the Privacy Regulation, the Security Regulation or other applicable law.

Termination - For **Vendor** Breach

In the event of **Vendor**'s breach of any term or condition of this **Agreement** or any **Ordering Document**, **Entity** may immediately terminate this **Agreement** or any **Ordering Document** or in the alternative, give written notice to **Vendor** specifying the manner in which the **Agreement** or **Ordering Document** has been breached and the manner in which the breach may be corrected.

Termination – For Convenience

Entity may terminate this **Agreement** or any **SOW** at any time for any reason or no reason by providing **Vendor** with thirty (30) days prior written notice. In the event of either Party's material breach of any term or condition of this **Agreement** or any **SOW**, the non-breaching Party may give written notice to the other Party specifying the manner in which the **Agreement** or **SOW** has been breached and the manner in which the breach may be corrected. In the event the breach remains uncured after thirty (30) days from the date of such notice, this **Agreement** and/or the applicable **SOW(s)** shall thereupon terminate. In the event of termination for reasons other than for **Vendor**'s breach, **Entity** shall be liable only to pay for satisfactory Services performed prior to the effective date of termination, it being understood that, where the termination is due to **Vendor**'s breach, **Entity** shall not be liable to pay **Vendor** if, in **Entity**'s reasonable judgment, the delivered Services are incapable of being used as intended or used without further remedial costs to **Entity**. If **Vendor** terminates, **Entity** may, at its sole discretion, (i) require that **Vendor** complete work-in-progress or any or all specific engagements or projects and such completed work will be subject to approval by **Entity** before payment therefor is made, said approval not to be unreasonably withheld, and/or (ii) require that **Vendor** cease work and cause the effective date of such termination to be prior to the date specified by **Vendor** in its notification given under this section.

Use of Outside Resources

Entity shall retain professional and administrative responsibility for the operation of the program, service, and/or product being purchased under the **Agreement**, as and to the extent required by [Title 22, California Code of Regulations, Section 70713](#). **Entity**'s retention of such responsibility is not intended and shall not be construed to diminish, limit, alter, or otherwise modify in any way the right or obligations of **Entity** or **Vendor** under the **Agreement** and **this Addendum**, including without limitation the obligations of **Vendor** under the insurance and indemnification provisions in the **Agreement** and **this Addendum**.

Waiver

No waiver of any breach of any condition, covenant, or term hereof will be deemed a waiver of any preceding or succeeding breach of the same or any other provisions. No such waiver will be effective unless in a writing that is signed by both Parties and then only to the extent specifically and expressly set forth therein.

Information Technology & Services Language

Audit Rights

Upon thirty (30) days' advance written notice by one Party to the other Party, but in any event not more than once annually and during such other Party's regular business hours, the requesting Party shall have the right, at its expense, to audit or have a third-party auditor audit, such other Party's records relating to the use of or access to or charges or payments in connection with the products, software or services provided to Entity hereunder. In the event such audit concludes any nonconformance by such other Party with the obligations set forth in this Agreement, then in the event of an underpayment by Entity, Entity shall be responsible for payment to Licensor of the difference in the value of the actual use made and the amount paid by Entity, and in the event of an overpayment by Entity, Licensor shall be responsible for payment to Entity of the difference in the value of the actual use made and the amount paid by Entity. In the event any payment shortfall or overpayment identified by such audit is greater than ten percent (10%) of the total amount owed by Entity for use of the Service during the period covered by the audit, Entity shall reimburse Licensor (in the case of a payment shortfall) or Licensor shall reimburse Entity (in the case of an overpayment) for the out of pocket expenses incurred by Licensor or Entity, as the case may be, to conduct the audit.

Maintenance and Support Fees (Caps on Escalation)

Licensor shall provide a statement of Licensor's proposed renewal maintenance and support fees at least ninety (90) days prior to the expiration of the initial or any renewal maintenance and support term, and any proposed fee increase shall be limited to an amount equal to the lesser of: (i) three percent (3%) of the preceding year's maintenance and support fee, or (ii) the increase in the consumer price index for all U.S. urban consumers for the preceding twelve-month period published in the Wall Street Journal.

SLAs and Service Level Credits

Service Level Credits (based on response time and resolution time failures):

All resolution periods specified in “Target Response and Resolution times” table [reference appropriate table in service level provisions of agreement] commence once Entity has provided Licensor the information reasonably requested by Licensor regarding the Software error or defect in question (“Licensor’s Receipt”).

For purposes hereof, a “Response Time Failure” shall mean a failure to respond to a particular service level issue within the initial response time frame set forth above with respect to such service level and a “Resolution Time Failure” shall mean a failure to resolve an error within the Target Resolution Time for such error based on the service level for such error set forth above.

Service Level	Response Time Failure Credit Percentage	Resolution Time Failure Credit Percentage
1	25%	50%
2	12.5%	25%
3	10%	n/a
4	10%	n/a

In the event of one (1) or more Response Time Failures or Resolution Time Failures during a calendar month, at Entity’s request as set forth below, Licensor shall provide Entity a credit in the amount equal to the Response Time Failure Credit Percentage or the Resolution Time Failure Credit Percentage (or a blended percentage in the event of both types of failure) of Entity’s then-current monthly Support Fees ((annual maintenance fee / 12) * applicable percentage) for each such Resolution Time Failure or Response Time Failure, up to a maximum of 100% of the then-current monthly Support Fees (the “Monthly Cap”). Remedies hereunder are cumulative in the event of multiple Response Time Failures and Resolution Time Failures in a single 30-day period. If a Resolution Failure continues for more than a single calendar month, the Monthly Cap will be reset and credits will continue to accrue until the Monthly Cap is reached again for each subsequent calendar month. In order to receive credit, Entity must notify Licensor in writing within forty-five (45) days after the occurrence of the Resolution Time Failure or Response Time Failure. Level 1 errors reported hereunder must be attributable to an error or defect in the licensed Software or Services and not attributable to defects in the other aspects of Entity’s computing environment. Credits can be used towards future annual support payments. Unused credits shall be refunded on the expiration or earlier termination of this agreement, and if this agreement’s term is renewed the credits shall roll over to the renewal term.

Service Level Credits (based on guaranteed percentage uptime):

Service Level Agreement: The Services, in a production environment and as described in the Statement of Work (aka Services Scope Statement), are provided with the service levels described in this Exhibit A. SLAs are only applicable to production environments.

SLA standard is 99.75% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100 and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Entity in Entity’s production environment hosted by Licensor and end when Licensor has restored availability of the Services. Failure to meet the 99.75% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Entity to a credit as follows:

Actual Application Availability % (as measured in a calendar month)	Service Credit to be applied to Entity's monthly invoice for the affected month
<99.75% to 98.75%	10%
<98.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75 to 96.75%	35%
<96.75	50%

“**Outage**” means the accumulated time, measured in minutes, during which Entity is unable to access the Applications for reasons other than an Excluded Event. [Excluded events defined as downtime/system or service unavailability due to factors beyond Licensor’s control].

Subcontractors (Offshoring Prohibited)

Licensor agrees that it will not, nor will any of its subcontractors under this agreement, store any Protected Health Information or other information received from or created on behalf of Entity on computers or servers located outside of the United States. For all subcontractors under this agreement, Licensor will provide Entity with an annual SSAE16 SOC 2 covering security, privacy, and data integrity of the subcontractor’s services, and Licensor will directly manage any such subcontractors in compliance with the HIPAA Security and Privacy Rules and the requirements of this agreement.

Transition Support

Post-termination transition support. Upon expiration or termination of the agreement or any services thereunder, Entity shall have the option to continue any services as needed during a transition period (the “Transition Period”) in order to facilitate business and operations continuity and the transition of the services to an alternate service provider. The Transition Period shall not in any event exceed twelve (12) months and Entity may procure services during the Transition Period on a month-to-month basis. Fees for services during the Transition Period shall be invoiced on a monthly basis based on the services actually procured by Entity during the Transition Period and at the rates in effect as of the termination or expiration of the agreement or the applicable services. During the Transition Period, in addition to providing any services pursuant to paragraph (a) above, Licensor shall provide reasonable cooperation and assistance to Entity upon Entity’s written request and at Licensor’s expense in transitioning the terminated Services to an alternate service provider.

Data export upon termination. Upon the termination or expiration of the agreement or the services, Licensor will make available to Entity, at no additional charge, data files containing all information entered or input by Entity or by Licensor for or on behalf of Entity, into the software. Such export data file shall be in a standard, readable file format (e.g. Microsoft Excel) reasonably acceptable to Entity.

Warranties

Software

Licensor represents and warrants to **Entity** that the Software, when properly installed by **Entity**, will perform substantially in accordance with **Licensor**'s documentation and specifications for such Software for a period of one hundred eighty (180) days from the date of installation of such Software. **Licensor** further represents and warrants that the Software has been developed using good workmanship in accordance with high professional standards, that there is no claim, litigation or proceeding pending or to the knowledge of **Licensor** threatened with respect to the Software or any component thereof and neither the Software nor the proper exercise of rights granted under this **agreement** will infringe upon the United States intellectual property rights of, or require any further or additional license from, any person or entity, except for licenses for third-party software or hardware generally required for the use of the Software on **Entity**'s IT equipment.

[special provision for open source code]: **Licensor** will identify in advance and obtain **Entity** approval for the use of any third party or licensed supplier proprietary code or freely available open-source (shareware) code, to be delivered as part of any contracted effort including Software, Services or other deliverables. **Entity**'s consent to the use of such open-source code shall not in any way limit **Licensor**'s warranties or indemnification obligations hereunder, including but not limited to those relating to intellectual property rights.

No disabling code: **Licensor** will at all times employ all commercially available methodologies, technologies and other means to prevent introduction, and it will not intentionally introduce into **Entity**'s or any of its affiliates websites, hardware, software or network, any software, virus, worm, "back door," Trojan Horse, or similar harmful code (collectively, "Disabling Procedures"); No Disabling Procedures are incorporated into the Software or other work product. Such representation and warranty applies regardless of whether such Disabling Procedures are authorized by the **Licensor** to be included in the software deliverable. If the **Licensor** incorporates into the software deliverable programs or routines supplied by other **Vendors**, **Licensors**, or service providers, the **Licensor** shall obtain comparable warranties from such providers, or take appropriate action to ensure that such programs or routines are free of Disabling Procedures; Notwithstanding any other limitations in the **agreement**, **Licensor** agrees to notify **Entity** immediately upon discovery of any Disabling Procedures that are or may be included in the software deliverable, and, if Disabling Procedures are discovered or reasonably suspected to be present in the software deliverable, the **Licensor** agrees to take action immediately, at its own expense, to identify and eradicate (or to equip **Entity** to identify and eradicate) such Disabling Procedures and carry out any recovery necessary to remedy any impact of such Disabling Procedures. **Licensor** hereby expressly waives and disclaims any right or remedy it may have at law or in equity to de-install, disable or repossess (except as may otherwise be expressly provided in this **agreement**) any software deliverable by means of a Disabling Procedure, in the event **Entity** fails to perform any of its obligations under this **agreement**.

IT Services

Licensor will perform its services in an expert professional and workmanlike manner consistent with performance standards for leading companies in the industry, and in accordance with the requirements set forth in the applicable Statement(s) of Work (SOWs) or Service Level Agreement (SLAs). **Licensor** will comply with, and the services will comply and be performed in accordance with, all applicable federal, state and local laws, rules and regulations, and **Licensor** will provide **Entity** with all data, documents, reports and/or certifications reasonably requested by **Entity** to evidence the foregoing. Services (including without limitation any software or other content, element or portion thereof) and any and all other content, services or Intellectual Property that it provides or otherwise makes available to **Entity**, will not infringe upon, misappropriate or otherwise violate the Intellectual Property of any third party; and, further, **Licensor** is authorized to use and to grant the rights granted herein to any developments or other materials that may be provided to **Entity** as part of the Services including **Licensor**'s permission or license to use third party copyrighted material or Intellectual Property, and that such developments or other materials will not be encumbered by or subject to any claim, lien, judgment, pledge, security interest, conditional sale **agreement**, title retention **agreement**, charge, encumbrance, or other right of any third party.

Pass Through of Manufacturer Warranties (For Distributors/Resellers)

Distributor shall provide **Entity** with manufacturers' standard warranty terms for the products being resold, furnished or supplied to **Entity** pursuant to the **agreement**. Distributor shall also take all actions as may be necessary to enable **Entity** to obtain the full benefit of and enforce such warranties directly against the manufacturer. In the event that Distributor serves as a repair depot for a manufacturer's products Distributor shall be responsible for all shipping and other charges in connection with return and/or replacement of defective products.