

**AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
CARE SOLACE, INC.**

**PREAMBLE**

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Care Solace, Inc., a Delaware corporation (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

**RECITALS**

- A. City desires to secure the services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";
- B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,
- C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

**AGREEMENT TERMS AND CONDITIONS**

**1. AGREEMENT DOCUMENTS**

The documents forming the entire Agreement between City and Contractor shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit B – Schedule of Fees

Exhibit C – Insurance Requirements

Exhibit D – Contractor's Terms and Conditions

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings,

whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and these Agreement Terms and Conditions, these Agreement Terms and Conditions shall govern and control (for the sake of clarity, these Agreement Terms and Conditions shall supersede Exhibit D Contractor's Terms and Conditions).

## **2. TERM OF AGREEMENT**

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on February 1, 2025 and terminate on January 31, 2028. The City reserves the right to exercise two (2) additional one-year options after the initial term for a total of five (5) years.

## **3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE**

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

## **4. WARRANTY**

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

## **5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE**

Contractor represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

## **6. COMPENSATION AND PAYMENT**

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is three hundred ninety thousand dollars (\$390,000), subject to budget appropriations, which includes all payments that

may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

## **7. TERMINATION**

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor. In the event that Contractor determines, in its sole and absolute discretion, to cease to offer the Services to new clients and to discontinue support of the services for existing clients, Contractor may terminate this Agreement without cause by providing City with sixty (60) days' prior written notice, and such termination shall be subject to a prorated refund.
- B. Termination for Default. If either Party fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, the other Party may terminate this Agreement immediately upon written notice to the non-performing Party.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Contractor will deliver to City all City information or material that Contractor has in its possession.

## **8. ASSIGNMENT AND SUBCONTRACTING**

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

## **9. NO THIRD PARTY BENEFICIARY**

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

## **10. INDEPENDENT CONTRACTOR**

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights to manage its employees in their performance of Services under this Agreement.

## **11. CONFIDENTIALITY OF MATERIAL**

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

## **12. OWNERSHIP OF MATERIAL**

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties. Contractor shall retain ownership of its Proprietary Rights and Technology, as defined in Exhibit D hereto.

## **13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR**

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Contractor shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

#### **14. HOLD HARMLESS/INDEMNIFICATION**

- A. To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or persons contracting with Contractor to perform any portion of the Scope of Services – and shall expressly include passive or active negligence by City connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the sole active negligence or sole willful misconduct of City; the obligation to defend is not similarly limited.
- B. Contractor's obligation to protect, defend, indemnify, and hold harmless in full City and City's employees, shall specifically extend to any and all employment-related claims of any type brought by employees, contractors, subcontractors or other agents of Contractor, against City (either alone, or jointly with Contractor), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.
- C. To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

#### **15. INSURANCE REQUIREMENTS**

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

#### **16. WAIVER**

The Parties agree that waiver by a Party of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review,

acceptance nor payments for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

## 17. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara  
Attention: City Manager's Office  
1500 Warburton Avenue  
Santa Clara, CA 95050  
and by e-mail at [manager@santaclaraca.gov](mailto:manager@santaclaraca.gov) and  
[cjung@santaclaraca.gov](mailto:cjung@santaclaraca.gov)

And to Contractor addressed as follows:

Care Solace Inc.  
Attn: Chad Castruita  
120 Birmingham Dr., Ste. 200  
Cardiff, CA 92007  
and by email at [chad.castruita@caresolace.org](mailto:chad.castruita@caresolace.org)

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

## 18. COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Contractor's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally Contractor has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

## 19. CONFLICTS OF INTEREST

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code section 87100 and

following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

**20. FAIR EMPLOYMENT**

Contractor shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

**21. NO USE OF CITY NAME OR EMBLEM**

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

**22. GOVERNING LAW AND VENUE**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

**23. SEVERABILITY CLAUSE**

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

**24. AMENDMENTS**

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

**25. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

Approved as to Form: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
GLEN R. GOOGINS  
City Attorney

\_\_\_\_\_  
JOVAN D. GROGAN  
City Manager  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

“CITY”

**CARE SOLACE, INC.**  
a Delaware corporation

Dated: \_\_\_\_\_

By (Signature): \_\_\_\_\_

Name: Anita Ward

Title: Chief Growth Officer

Principal Place of Business Address: 120 Birmingham Dr., Ste. 200  
Cardiff, CA 92007

Email Address: [Anita.Ward@caresolce.org](mailto:Anita.Ward@caresolce.org)

Telephone: ( )

Fax: ( )

“CONTRACTOR”



## EXHIBIT A SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are set forth below.

### 1. Project Scope

- a. Contractor will serve as a hub and coordinated point of entry to mental health and social services, supporting the entire City ecosystem including but not limited to City departments, first responders, crisis centers, social workers, courts/jails, and the school district(s).
- b. Contractor's services will be made available to all City residents and employees and Santa Clara Unified School District families and employees, subject to Santa Clara Unified School District's agreement and approval ("Eligible Users").
- c. Contractor will provide timely connections, through its three proprietary services - **Care Companion™(s), Care Match, and Providers** that includes a Warm Handoff® process as further described under Exhibit A – Section 3(a) Care Companions - to verified mental health providers and City and County of Santa Clara (County) social services, expand on existing programs, and bridge the gaps for needs that exceed the scope of those services.
- d. Contractor will ensure that all individuals receive equitable access to reliable, ethical, and high-quality mental health care, regardless of insurance coverage - private, cash, public, and no insurance.
- e. Contractor will ensure all services are confidential and are accessible 24 hours per day, 7 days per week, 365 days per year via phone or Internet with no required equipment or access speed.
- f. Contractor will ensure ongoing care coordination with all community organizations, including but not limited to nonprofit organizations, churches, and associations.
- g. Contractor will provision services to Eligible Users affected by opioid use disorder (OUD) or any co-occurring substances use disorder/mental health conditions.

### 2. Major Deliverables

- a. Contractor's three main proprietary services - **Care Companions, Care Match, and Providers** will amplify the City's current initiatives and services, while filling gaps and offering insights.

- b. **Care Companions** will provide care coordination for all Eligible Users.
- c. **Care Match** online portal Software will support self-guided care navigation and access to the Care Solace Provider network, serving all pathways of care.
  - i. Activate Contractor's **Provider Database** for Eligible Users to access mental health providers, and filter selections by language, ethnicity, age, specialization and more.
  - ii. Activate Social Services database for individuals to access social services in support of all the social determinants of health.
- d. Client Success Team ("Team") will ensure the delivery of services to Eligible Users. Team will provide data and impact reporting to the City of Santa Clara.
- e. Contractor will provide regular reports with data and insights.

### 3. Tasks That Support the Deliverables

- a. **Care Companions** will provide care through these tasks:
  - i. Assess the situation
  - ii. Find appropriate providers
  - iii. Secure an appointment
  - iv. Follow through on care
- b. **Care Match** anonymous search tool will manage services through these tasks:
  - i. Create and operate a Care Solace proprietary custom web link to Care Match for the City.
  - ii. With City's prior review and express written permission, co-brand with the City's logo.
  - iii. Make **Care Match** available to Eligible Users on any website or benefit platform for access to health care providers.
- c. **Data and Reporting** Regular data and performance reports will be furnished to the City, including but not limited to:
  - i. Monthly impact reports that include key performance indicators (KPIs) on total utilization, number of users, total communications, confirmed appointments, type of needs, anonymous searches, referrals from staff, insurance pathways utilized for services, and the primary

community-based mental health services with which people are connecting.

- ii. Additional data requests may be made by the City - such as data patterns, satisfaction with providers, feedback on Contractor's customer services - to assist with informing implementation plans, staff training, school programming and community outreach. All data contained in **Impact Reporting** is anonymized and does not contain personally identifiable information of individual users.
  - iii. Presentation of its reporting at City Council meetings, as requested by the City.
- d. **Providers** Contractor maintains high standards for verifying and including providers in its database. Contractor shall not be liable for the quality of care provided by providers and will ensure that the City likewise shall not be liable; such liability shall be with the provider as related to services between the Eligible User and the provider.

For an individual provider to be listed in the database, the person must be a licensed, master's level clinician.

1. Verification process includes confirmation of these criteria:

- a. Provider or facility possesses a current and active professional state license authorizing the practice of the type of services being provided.
- b. Professional state license is in good standing.
- c. Individual provider or facility does not appear on the current State or Federal Office of Inspector General's List of Excluded Individuals/Entities.
- d. Location, specialties, phone number, and accepted insurances are also confirmed. It is the responsibility of the Eligible User to verify that a suggested provider accepts their insurance before obtaining healthcare services directly from a selected provider.

**EXHIBIT B**  
**SCHEDULE OF FEES**

The maximum compensation the City will pay the Contractor for all professional fees, costs, and expenses provided under this Agreement shall not exceed three hundred ninety thousand dollars (\$390,000). In no event shall the amount billed to the City by Contractor for services under this Agreement exceed one hundred thirty thousand dollars (\$130,000) annually.

Contractor will bill City on an annual basis for Services provided by Contractor on an invoice and in a format approved by City and subject to verification and approval by City. City will pay Contractor within thirty (30) days of City's receipt of an approved invoice. The annual fee for the full scope of services detailed under Exhibit A shall be one hundred thirty thousand dollars (\$130,000).

## **EXHIBIT C INSURANCE REQUIREMENTS**

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect during the period of performance of the Agreement and for twenty-four (24) months following acceptance by the City, at its sole cost and expense, the following insurance policies from insurance companies authorized to do business in the State of California. These policies shall be primary insurance as to the City of Santa Clara so that any other coverage held by the City shall not contribute to any loss under Contractor's insurance. The minimum coverages, provisions and endorsements are as follows:

### **A. COMMERCIAL GENERAL LIABILITY INSURANCE**

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

- \$1,000,000 Each Occurrence
- \$2,000,000 General Aggregate
- \$2,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
  - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
  - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

### **B. BUSINESS AUTOMOBILE LIABILITY INSURANCE**

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at

least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned (if any), non-owned and hired autos.

#### C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

#### D. PROFESSIONAL LIABILITY

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Contractor. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

#### E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85, or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution

from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required

by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

#### G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

#### H. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.  
City of Santa Clara City Manager's Office  
P.O. Box 100085 – S2 or 1 Ebix Way  
Duluth, GA 30096 John's Creek, GA 30097

Telephone number: 951-766-2280  
Fax number: 770-325-0409  
Email address: ctsantaclara@ebix.com

#### QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.



**EXHIBIT D**  
**CONTRACTOR'S TERMS AND CONDITIONS**

**1. Contractor's Terms and Conditions**

- a. Contractor's Care Companions and social services coordinators are not licensed mental health or social services professionals and do not diagnose, assess or evaluate. No provider-patient relationship is formed by provision of services by a Care Companion. No professional, fiduciary, or other special legal relationship is formed by a Care Companion's or social services coordinator's provision of services. The Care Companions and social services coordinators are not a crisis response team.
- b. The City expressly understands and agrees that prior to providing the contact or other information to Care Solace of an Eligible User in need of mental health services as part of the Warm Handoff® process, the City employee making the Warm Handoff® must first obtain consent from the Eligible User to provide the Eligible User's contact or other information to Contractor.
- c. In instances which may involve a covered transaction under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") Contractor will only provide the Services to an Eligible User after first obtaining written consent under HIPAA and written agreement to Care Solace's Terms and Conditions. Care Solace reserves the right to deny, and will deny, any Services to Eligible Users who do not provide such consent and agreement.
- d. Care Solace and the City each agree to comply with all data privacy laws and requirements and industry standards, state and federal, to which they are each subject, which may include, without limitation, the Children's Online Privacy Protection Act, 15 U.S.C. §§ 6501-6506 (hereinafter "**COPPA**"), and the provisions of HIPAA.
- e. Care Solace and the City each agree that City personnel may have access to Protected Health Information (hereinafter "**PHI**") that is subject to the requirements of HIPAA (codified at 45 C.F.R. Parts 160, 162, and 164 and related regulations). In the event that: (i) the City is considered to be a HIPAA covered entity; (ii) Care Solace is considered to be a HIPAA business associate; and (iii) the City personnel are providing PHI to Care Solace, then Care Solace warrants that it will appropriately safeguard PHI (as that term is defined in 45 C.F.R. 160.103), and agrees that to the extent it applies, Care Solace will comply with the provisions of 45 C.F.R. 164 Subpart E regarding use and disclosure of PHI. Care Solace shall execute a Business Associate Agreement if requested by the City.
- f. The Parties agree that to the extent this Agreement is subject to any state or federal law provisions governing healthcare fraud and abuse, the Parties shall comply with applicable local, state, and federal statutes, rules, and

regulations, which may include, but not be limited to, 42 U.S.C. § 1320a-7b(b) (the Anti-Kickback Statute), 42 U.S.C. § 1395nn (the Stark Law), and the California Physician Ownership and Referral Act of 1993, to the extent applicable. This Agreement shall be interpreted and construed at all times in a manner consistent with applicable laws and regulations governing the financial relationships among individuals and entities that provide or arrange for the provision of items or services that are reimbursable by governmental health care programs or other third-party payers.

- g. The Care Match custom web link will include a privacy policy and terms of use which will comply with applicable law, and shall include a waiver or hold harmless statement regarding claims against the City.
- h. The City represents and warrants that any of City's other independent contractors that are provided with access to the Services or are otherwise responsible for transmitting PHI or other private information to Contractor are subject to the same warranties and requirements as the City pursuant to this Agreement.
- i. Care Solace reserves the right to internally monitor the City's and City personnel's usage of the Care Match custom web link and Services.
- j. Contractor will provide the City with access to the following non-personally identifiable information collected from Eligible Users: number of visitors, matches, and phone appointments. If the City desires to obtain personally identifiable information from Contractor related to a particular resident's or employee's use of the Services, the City shall obtain and deliver to Contractor a duly executed written authorization from the resident or employee, or their legal guardian if applicable, in a form that complies with applicable law.
- k. Contractor shall ensure that: (i) all data and information provided by the City is stored on files that are separate from those of other Contractor customers, or (ii) all files containing data and information provided by the City are partitioned from the information and data provided by other customers sufficient to protect the security and privacy of such information and data.

## **2. Software-as-a-Service Terms:**

- a. Contractor grants the City a non-exclusive, non-transferable, limited, revocable and royalty-free license to provide a hypertext reference link (hereinafter the "**Link**") to the initial, top-level display of the custom web link solely for the purpose of linking any website owned or controlled by the City to the custom web link.
- b. Use Restrictions. The City covenants and agrees that its use of the Services will be in a manner consistent with this Agreement and with all applicable laws and regulations, including trade secret, copyright, trademark, and export control laws. Without limiting the generality of the foregoing, the City will not,

directly or indirectly, do any of the following: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of or included in the Services or any software, documentation or data related to the Services (hereinafter "**Software**"); modify, translate or create derivative works based on the Services or any Software; or copy (except for archival purposes), distribute, pledge, assign or otherwise transfer or encumber rights to the Services or any Software; use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.

- c. The City and Eligible Users using the Services shall be solely responsible for acquiring and maintaining technology and procedures for maintaining the security of their connections to the Internet. As part of the Services, Contractor shall implement reasonable security procedures consistent with prevailing industry standards to protect information provided by the City and Eligible Users from unauthorized access. The Parties agree that Contractor shall not, under any circumstances, be held responsible or liable for situations in which: (i) data or transmissions are accessed by third parties through illegal or illicit means, or (ii) the data or transmissions are accessed through the exploitation of security gaps, weaknesses, or flaws unknown to Contractor at the time, provided Contractor complies with its obligations in this section.
- d. Unauthorized Access. Contractor will promptly report to the City any unauthorized access to data or information provided by the City upon discovery of such access by Contractor, and Contractor will use diligent efforts to promptly remedy any breach of security that permitted the unauthorized access to occur. In the event that Contractor was solely responsible for the breach and to the extent that Contractor has an obligation imposed by law or statute to notify any individuals whose information was provided to Contractor by the City, Contractor shall be solely responsible for any and all such notifications at its expense. In the event the City was solely responsible for the breach, the City shall reimburse Contractor for time and expenses incurred to assist the City with any required notifications to affected individuals. In the event that Contractor and the City are jointly responsible for the breach, the Parties will attempt to reach an informal resolution as to expenses and, if unable to do so, a dispute will be governed by the terms of the Agreement.
- e. Ownership of Proprietary Rights. Ownership of any and all rights, whether registered or unregistered, in and with respect to Contractor's patents, copyrights, confidential information, know-how, trade secrets, moral rights, contract or licensing rights, confidential and proprietary information protected under contract or otherwise under law, trade names, domain names, trade dress, logos, animated characters, trademarks, service marks, and other similar rights or interests in intellectual or industrial property (hereinafter "**Proprietary Rights**") embodied in the custom web link, the Services, and

the computer hardware, software and other tangible equipment and intangible computer code necessary to deploy and serve the Services (hereinafter the "**Technology**") shall remain exclusively vested in and be the sole and exclusive property of Contractor and its licensors. In addition, the City hereby transfers and assigns to Contractor any rights the City may have to any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by City personnel relating to the custom web link, the Services, or the Technology.

- f. Options for Infringement Claims. If any Party is enjoined from using the Technology, or if Contractor believes that the Technology may become the subject of a claim of intellectual property infringement, Contractor, at its own option and expense, may: (i) procure the right for the City to continue to use the Services; (ii) replace or modify the Technology so as to make it non-infringing; or (iii) terminate this Agreement, in which case Contractor shall provide a prorated refund to the City of any and all fees paid in advance for those Services not provided by Contractor. This section and the indemnification provisions in the Agreement set forth the entire liability of Contractor to the City for any infringement by the Technology or Services of any intellectual property right of any third party.

### 3. Representations and Warranties.

- a. The City represents and warrants, to the extent the City is aware, that: (a) any information it provides to Contractor does not and will not infringe, misappropriate, or otherwise violate any intellectual property right or right of privacy or publicity of any third party; and (b) the performance of its obligations as set forth in this Agreement and the use of the Services by the City and Eligible Users will not (i) violate any applicable laws or regulations, or (ii) cause a breach of any agreements with any third parties. In the event of any breach by the City of any of the foregoing representations and warranties set forth in this section, in addition to any other remedies available at law or in equity, Contractor will have the right to suspend immediately any Services if deemed reasonably necessary by Contractor to prevent any harm to Contractor and its business. Contractor will provide written notice of any breach of the foregoing representations and warranties to the City, and a reasonable time period to cure, if practicable, depending on the nature of the breach.
- b. Contractor represents and warrants that it will comply with all state and federal healthcare referral and anti-kickback statutes, and that it does not have an ownership interest in any of the treatment providers to whom it refers Eligible Users. In the event of any breach by Contractor of the foregoing representations and warranties set forth in this section, the City will provide written notice of the breach to Contractor, and a reasonable time period to cure, if practicable, depending on the nature of the breach.

- c. Except as expressly set forth herein, the Services are provided on an "as is" and "as available" basis, and without warranties of any kind either express or implied. Contractor hereby disclaims all warranties, express or implied. Contractor does not warrant that the services will be uninterrupted or error free or that defects will be corrected. Contractor does not offer a warranty or make any representation regarding the results or the use of the Services in terms of their correctness, accuracy, reliability, risk of injury to the City's or any resident or employee user's computer, network, market, or customer base or commercial advantage.
- d. Contractor represents and warrants that the Technology does not violate any third party's intellectual property rights. Contractor shall indemnify, defend, and hold harmless City against any and all claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising from any alleged infringement of any patent, trademark, copyright, or trade secret by any aspect of the Technology.

#### 4. **Mutual Exchange of Confidential Information.**

The Parties desire to establish terms governing the use and protection of certain confidential information one Party (hereinafter "**Owner**") may disclose to the other Party (hereinafter "**Recipient**"). For purposes of this Agreement, the term "Confidential Information" means (i) the terms and conditions of this Agreement, subject to a valid request under the applicable state's open records act (ii) non-public aspects of the custom web link and the operation thereof, the Technology, the Services, and Contractor's business and technical information and data, and (iii) the City's information or other data processed, stored or transmitted by, in or through the Services (hereinafter "**City Data**"). In addition, Confidential Information includes information which, although not related to the Services or this Agreement, is nevertheless disclosed hereunder and which is disclosed by an Owner or an affiliate to a Recipient in documentary or other tangible form bearing an appropriate label indicating that it is confidential or proprietary in nature, or which, if initially disclosed orally or visually is identified as confidential at the time of disclosure and a written summary hereof, also marked with such a label, is provided to Recipient within fifteen (15) days of the initial disclosure. Recipient may use Confidential Information of Owner only for the purposes of fulfilling the obligations contemplated in this Agreement and shall protect such Confidential Information from disclosure to others, using the same degree of care used to protect its own proprietary information of like importance, but in any case using no less than a reasonable degree of care. Recipient may disclose Confidential Information received hereunder only as reasonably required to perform its obligations under this Agreement and only to its employees who have a need to know for such purposes and who are bound by signed, written agreements to protect the received Confidential Information from unauthorized use and disclosure. The restrictions of this Agreement on use and disclosure of Confidential Information shall not apply to information that: (i) is in the possession or control of Recipient at the time of its disclosure hereunder; (ii) is, or becomes publicly known, through no wrongful act of Recipient; (iii) is received by

Recipient from a third party free to disclose it without obligation to Owner, (iv) is independently developed by a Party as evidenced by its written and dated records and without any breach of this Agreement; or (v) is the subject of a written permission to disclose provided by Owner. The Recipient may disclose Confidential Information of Owner pursuant to the requirements of a governmental agency or by operation of law, provided that such Recipient gives Owner written notice thereof as soon as practicable to allow sufficient time for Owner to object to disclosure of such Confidential Information.

5. **General Skills and Knowledge**

Notwithstanding anything to the contrary in this Agreement, the City agrees that Contractor is not prohibited from utilizing any skills or knowledge of a general nature acquired during the course of providing the Services, including information publicly known or available or that could reasonably be acquired in similar work performed for another customer of Contractor.

6. **Publicity and Branding.**

The City agrees that Contractor may (a) with City's prior review and express written permission, publicize the City's name, the fact of the custom web link, and the City's use of the Services; and (b) brand the custom web link with a "powered by Care Solace." or similar Care Solace legend and/or copyright notice.