The Agreement to furnish certain cloud computing services described herein and in the documents referenced herein (“Goods and/ or Services”), is effective **Month XX, 2025** (“Effective Date”), and is made by and between The Regents of the University of California, a California public corporation (“UC”/”Customer”) on behalf of the University of California, **Davis Health,** and Vendor Name (“Supplier”). This Agreement is binding only if it is negotiated and executed by an authorized representative with the proper delegation of authority.

**1. Statement of Work**

Supplier agrees to provide the Goods and/or Services described in the statement of work attached as Attachment A (“UC Statement of Work and or Quote”) and any other documents referenced in the Incorporated Documents section herein, at the prices set forth in the Statement of Work or Purchase Order (PO) and any other documents referenced in the Incorporated Documents section herein. Unless otherwise provided in the Agreement, UC will not be obligated to purchase a minimum amount of Goods and/or Services from Supplier.

1. **Term of Agreement/Termination**
	* 1. The initial term of the Agreement will be from **Month XX, 2025** and through **Month XX, 202X**  (Initial Term) and is subject to earlier termination as provided below and in the Terms & Conditions Article 2.
		2. UC may renew the Agreement for **five** successive one-year periods (each, a Renewal Term), by providing Supplier with at least 30 calendar days’ written notice before the end of the Initial Term or any Renewal Term.
		3. UC may terminate this Agreement for convenience in accordance with Terms & Conditions Article 2 (Term and Termination) by giving Supplier at least 30 calendar days' written notice.
		4. UC or Supplier may terminate this Agreement for cause by giving the other party at least 15 calendar days' notice to cure a breach of the Agreement (Cure Period). If the breaching party fails to cure the breach within the Cure Period, the non-breaching party may immediately terminate the Agreement.
2. **Scope of Agreement**
	1. If Supplier eliminates any functionality of any of the Goods and/or Services provided under this Agreement and subsequently offers that functionality in other or new products (whether directly or indirectly through agreement with a third party), then the portion of those other or new products that contain the functionality in question, or the entire product if the functionality cannot be separated out, will be provided to UC at no additional charge and under the terms of this Agreement, including technical support. If Supplier incorporates the functionality of the Goods and/or Services provided under this Agreement into a newer product and continues to offer both products, UC may, in its sole discretion, exercise the option to upgrade to the newer product at no additional cost. Regardless of whether the functionality of the Goods and/or Services is impacted, Supplier will notify UC of any name changes in any Goods and/or Services within the earlier of thirty (30) calendar days of such change or thirty (30) calendar days of when UC asks whether Supplier has made any name changes in the Services.
	2. UC Health and Additional UC Locations

UC Health is comprised of five academic medical centers located at the Davis, Irvine, Los Angeles, San Diego, and San Francisco campuses, as well as UC’s medical and health professional schools, health care providers, occupational health, student health, and counseling centers, UC health plans, and associated research programs (“UC Health”). UC represents that it is comprised of individual campuses and medical centers across the state of California, including Additional UC Locations, which are all part of the University of California system and none of which is a distinct legal entity. “Additional UC Location” used herein shall mean: (i) any component of UC Health as described above; (ii) any entity that, after the full execution of this Agreement, is acquired or created by any component of UC Health; and (iii) any entity that merges into or consolidates with any component of UC Health and, after such merger or consolidation, the surviving entity becomes a component of UC Health.

Supplier agrees to provide the Goods and/or Services on the same terms as set forth in the Agreement, including, but not limited to, terms of Service, pricing, and indemnification, to any Additional UC Location executing an SOW, or submitting a Purchase Order (“PO”) to Supplier. Upon entering into a SOW or PO, the UC Location and each Additional UC Location shall each be referred to as a “Customer.”

Each UC Location shall be responsible for its respective individual commitments, financial or otherwise, and neither UC nor any UC Location shall be responsible for the performance or non-performance of any other UC Location.

* 1. UC Affiliates

UC has entered, or will enter, into agreements with UC Affiliates that seek, through collaboration, to combine health care delivery services, procurement, and/or contracting activities with efforts to obtain the best value goods and services while reducing total acquisition costs. “UC Affiliate” as used herein shall mean: (i) any entity that is not a UC Location and that is, in whole or in part, owned or controlled by, or under common ownership with, UC, or that is managed, in whole or in part, by UC; (ii) any entity that, after the full execution of this Agreement, merges into or consolidates with any UC Location and which UC designates as a UC Affiliate; and (iii) any entity, other than those described above, that UC and Supplier agree in writing may be a UC Affiliate.

Supplier agrees to provide the Goods and/or Services as described and priced in this Agreement to any UC Affiliate executing a SOW. By execution of such SOW, such UC Affiliate Location on the one hand, and Supplier, on the other hand, shall be deemed, respectively, to have executed the Agreement (with changes to the appropriate signature block) as Parties, with such UC Affiliate taking on the obligations of the UC Location and Supplier taking on its obligations to such UC Affiliate. Upon entering into a SOW, each Additional UC Location shall be referred to as a “Customer.”

UC and each UC Affiliate are separate and distinct legal entities. Each UC Affiliate shall be responsible for its respective individual commitments, financial or otherwise, and neither UC nor any other UC Affiliate shall be responsible for the performance or non-performance of any other UC Affiliate. UC is not responsible for the acts or omissions of any UC Affiliate. UC Affiliates shall remain liable for each such UC Affiliate’s compliance or non-compliance with the terms of this Agreement.

* 1. Amendments

Except with respect to the type(s) of Goods and/or Services that will be provided to a Customer, no Customer shall have the authority to amend, alter or otherwise modify the terms of this Agreement applicable to UC, including the Incorporated Documents. All modifications, amendments, and alterations to this Agreement, including the Incorporated Documents, shall be mutually agreed to by the original UC Location entering into the Agreement and Supplier. In the event a Customer desires to add terms that do not amend, alter or otherwise revise any term applicable to other Customers, including the Incorporated Documents, such terms may be incorporated into the SOW or other agreement directly between the Supplier and such Customer.

* 1. Individual Commitments of each Customer

Any delay in payment or other operational issue involving one Customer shall not adversely affect any other Customer, and any breach of a Customer’s obligations will subject only such Customer to the applicable corrective action, but otherwise will have no adverse impact on any other Customer.

1. **Rights and License In and To UC Data**
	1. UC retains the right to use the Goods and/ or Services to access and retrieve Institutional Information (as defined in the UC Appendix – Data Security) stored on Supplier’s Services infrastructure at any time at UC’s sole discretion. If UC requests the Institutional Information from Supplier, Supplier will provide UC with copies within thirty days (30) hours after receipt of a request from UC, and will cooperate with UC’s reasonable requests in connection with its response.
	2. Supplier will return all Institutional Information to UC in a commonly used, non-proprietary, and mutually agreed upon format.
2. **License Restrictions**

UC understands and agrees that, except as permitted by this Agreement, it may not: (a) sell, assign, lease, license, sub-license or otherwise distribute the Software or Documentation, except for UC Business, which shall not include: a) using the Software for the purposes of providing commercial data processing services to third parties, such as commercial use in a service bureau, timesharing, remote batch, or other similar commercial operation; (b) creating or attempting to create, or permitting others to create or attempt to create, by reverse engineering or other process, the Software; and (c) exporting, re-exporting, diverting or transferring the Software or Documentation to any country that is embargoed by law.

1. **Service Levels**
	1. Supplier represents and warrants that the Goods and/or Services will be provided in a professional manner consistent with industry standards reasonably applicable to such Goods and/or Services.
	2. Supplier represents and warrants that the Goods and/or Services will be operational at least 99.99% of the time in any given month during the term of this Agreement, meaning that the outage or downtime percentage will be not more than .01%.
	3. If the Goods and/or Services’ availability falls below 99.99% in any month, Supplier will provide UC with a credit of that month’s bill for Goods and/or Services according to the table below.

|  |  |
| --- | --- |
| AVAILABILITY PERCENTAGE | PERCENTAGE OF CREDIT |
| 99.60% to 99.98% | 10% |
| 99.50% to 99.59% | 20% |
| 99.01% to 99.49% | 30% |
| 97.00% to 99.00% | 50% |
| 95.00% to 96.99% | 75% |
| Below 95.00% | 100% |

* 1. Supplier represents and warrants that ninety-five percent (95%) of all transactions will process within no more than one (1) second, and no single transaction will take longer than five (5) seconds to process.
	2. If UC has concerns regarding Supplier’s service levels, UC may escalate these concerns to the following resource: **[Buyer, insert the name of Supplier’s escalation contact, along with contact information.]**If Supplier’s system response times fall below the warranted level for two (2) or more consecutive weeks, Supplier will provide UC with a credit in the amount of twenty percent (20%) of the Goods and/or Services fees for that month. If Supplier’s system response times fall below the warranted level for six (6) out of eight (8) consecutive weeks, Supplier will be considered to be in default, and UC may terminate the Agreement without penalty.
	3. Supplier will provide UC with a refund for all unachieved service levels no later than the tenth (10th) business day of the month following the month in which the service levels was not achieved.
	4. Supplier will provide UC with monthly reports documenting its compliance with the service levels detailed herein. Reports will include, but not be limited to, providing the following information:
	5. Monthly Goods and/or Services availability by percent time, dates and minutes that Services were not available, and identification of months in which agreed upon service levels were not achieved;
	6. Average transaction processing time per week, the fastest and slowest individual transaction processing time per week, the percent of transactions processed that meet the service levels stated herein, and identification of weeks in which agreed upon service levels are not met.
	7. UC retains the right to retain a third party to validate Supplier’s performance in meeting agreed upon service levels.
1. **Technical Support**
	1. During the term of this Agreement Supplier will provide UC with ongoing technical support for the Goods and/or Services at no less than the levels and in the manner(s) specified herein.
	2. Supplier may not withdraw technical support for any Goods and/or Services without twelve (12) monthsadvance written notice to UC, and then only if Supplier is withdrawing technical support from all of its customers.
		1. UC acquires the right to access and use technical support acquired under this Agreement at any location.
		2. UC will receive at its option the general help desk technical support offered by Supplier to its other customers. Irrespective of Supplier’s general technical support offerings, Supplier will provide UC at UC’s option with the following technical support:
		3. Supplier will provide technical support to UC for the purpose of answering questions relating to the Goods and/or Services, including (a) clarification of functions and features of the Goods and/or Services; (b) clarification of any documentation; (c) guidance in the operation of the Goods and/or Services; and (d) error verification, analysis, and correction, including the failure to produce results in accordance with the Documentation.
		4. Such assistance will be provided by Supplier twenty-four (24) hours a day, seven (7) days a week via a toll-free telephone number and live, online chat staffed by help desk technicians sufficiently trained and experienced to identify and resolve most support issues and who will respond to all UC requests for support within fifteen (15) minutesafter receiving a request for assistance.
		5. Supplier will provide a current list of persons and telephone numbers for UC to contact to enable UC to escalate its support requests for issues that cannot be resolved by a help desk technician or for circumstances where a help desk technician does not respond within the time specified herein.
	3. The following provisions will be applicable to the correction of Goods and/or Services errors:
		1. If UC detects what it considers to be an error in the Goods and/or Services which causes it not to conform to, or produce results in accordance with, the Documentation, then UC will by telephone or e-mail notify Supplier of the error.
		2. Supplier will respond within two (2) hours to UC’s initial request for assistance in correcting or creating a workaround for a Goods and/or Services error. Supplier’s response will include assigning fully-qualified technicians to work with UC to diagnose and correct or create a workaround for the Goods and/or Services error and notifying UC’s representative making the initial request for assistance of Supplier’s efforts, plans for resolution of the error, and estimated time required to resolve the error.
		3. Within twenty-four (24) hours after UC first reports the error, Supplier will provide a correction or workaround acceptable to UC.
	4. The following provisions will set forth Supplier’s obligations to provide Enhancements. "Enhancements" means any improvements, modifications, upgrades, updates, fixes, revisions and/or expansions to the Goods and/or Services that Supplier may develop or acquire and incorporate into its standard version of the Goods and/or Services or that Supplier has elected to make generally available to its licensees. Enhancements will include any re-platformed Software, whether for different operating systems or hardware:
		1. Supplier will generally enhance and improve the Goods and/or Services for as long as UC elects to receive and pays for the Goods and/or Services.
		2. Supplier will provide to UC during the Agreement term, (a) any and all Enhancements which it develops with respect to the Goods and/or Services; (b) any and all Enhancements required by federal or state governmental, or professional regulatory mandates related to UC’s use of the Goods and/or Services; and (c) the Documentation associated with any Enhancements.
		3. Supplier will provide Enhancements to UC upon their general release and no later than the time when the first five percent (5%) of Supplier's customers receive those Enhancements.
		4. Except as otherwise provided in a signed addendum to this Agreement, nothing herein will obligate Supplier to enhance the Goods and/or Services in any particular respect or on any particular date. The decision as to whether and/or when, to enhance the Goods and/or Services will be within Supplier’s discretion.
	5. Supplier will provide UC with ninety (90) calendar days advance written notice of proposed product changes as well as product road maps relating to the Goods and/or Services provided to UC under this Agreement.
2. **Purchase Order**
	1. Unless otherwise provided in this Agreement, Supplier may not begin providing Goods and/ or Services until UC approves a Purchase Order for the Goods and /or Services.
3. **Pricing, Invoicing Method, Settlement Method and Terms**

Pricing

Refer to Statement of Work or Purchase Order for Pricing.

Pricing shall remain firm during the term of the agreement.

* + 1. If UC opts to renew term licenses or Support and Maintenance, the associated fee in the renewal period will be the lowest of the following, provided that the associated fee will, at all times, be equal to or less than the lowest rate Supplier charges its other licensees for similar term licenses or Support and Maintenance: i) Supplier’s then-current list price for the term licenses or Support and Maintenance as of the renewal date; ii) the immediately preceding year’s fee plus the amount of the annual increase in the Consumer Price Index-All Index; and iii) the immediately preceding year’s fee plus three percent (3%).

Invoicing Method

Notwithstanding the provisions of Article 3 of the Terms and Conditions of Purchase, Supplier will be required to use the following Invoicing Method:

All invoices must clearly indicate the following information:

 California sales tax (if applicable) as a separate line item;

 UC Purchase Order or Release Number;

 Description, quantity, catalog number and manufacturer number of the item ordered;

 Net cost of each item;

 Any pay/earned/dynamic discount;

 Reference to original order number for all credit memos issued;

Supplier will submit invoices following the designated invoice method directly to UC Accounts Payable Departments at each UC Location, unless UC notifies the Supplier otherwise by amendment to the Agreement.

Settlement Method and Terms

Notwithstanding the provisions of Article 3 of the Terms and Conditions of Purchase, the Settlement Method and Terms will be as follows: **Net 30. Prompt payment discount will be 1.5%, 20 days.**

1. If UC disputes an invoiced amount, then Supplier and UC will work to resolve the dispute. UC may suspend the payment of all disputed amounts while the dispute is pending, during which time all of Supplier’s obligations will continue unabated.
2. **Notices**

As provided in the UC Terms and Conditions of Purchase, notices may be given by email, which will be considered legal notice only if such communications include the following text in the Subject field: FORMAL LEGAL NOTICE – **VENDOR NAME**. If a physical format notice is required, it must be sent by overnight delivery or by certified mail with return receipt requested, at the addresses specified below.

To UC, regarding confirmed or suspected Breaches as defined under Appendix – Data Security and Appendix Business Associate:

|  |  |
| --- | --- |
| **Name** | UCDH Compliance Department |
| **Phone** | 916-734-8808 |
| **Email** | hs-privacyprogram@ucdavis.edu |
| **Address** | North Addition, 2335 Stockton Blvd, Sacramento, CA 95817 |
|  |  |

To UC, regarding contract issues not addressed above:

|  |  |
| --- | --- |
| **Name** | Benjamin Joseph |
| **Phone** | 916-734-4364 |
| **Email** | bmjoseph@health.ucdavis.edu |
| **Address** | Purchasing, 10850 White Rock Rd, Rancho Cordova, CA 95670 |
|  |  |

To Supplier:

|  |  |
| --- | --- |
| **Name** |  |
| **Phone** |  |
| **Email** |  |
| **Address** |  |
|  |  |

1. **Insurance**

Supplier shall deliver the PDF version of the Certificate of Insurance to UC’s buyer, by email with the following text in the Subject field: CERTIFICATE OF INSURANCE – **VENDOR NAME**

1. **Service-Specific Provisions**
	1. Specific provisions for goods/services, if any, shall be noted on executed statement of work or other documents incorporating this agreement by reference.
	2. Additional Warranties:
2. Goods and/or Services Warranty. Supplier represents and warrants that the Goods and/ or Services provided to UC under this Agreement will conform to, be performed, function, and produce results substantially in accordance with any documentation. Supplier will offer UC warranty coverage equal to or greater than that offered by Supplier to any of its customers.
3. Third Party Warranties and Indemnities. Supplier will assign to UC all third party warranties and indemnities that Supplier receives in connection with any Goods and/ or Services provided to UC. To the extent that Supplier is not permitted to assign any warranties or indemnities through to UC, Supplier agrees to specifically identify and enforce those warranties and indemnities on behalf of UC to the extent Supplier is permitted to do so under the terms of the applicable Third Party agreements.
4. Date/Time Change Warranty. Supplier represents and warrants to UC that the Goods and/ or Services provided will accurately process date and time-based calculations under circumstances of change including, but not limited to: century changes, daylight saving time changes, leap year changes and leap second changes. Supplier must repair any date/time change defects at Supplier’s sole expense.
5. **Intellectual Property, Copyright and Patents**

/\_\_\_/ The Goods and/or Services involve Work Made for Hire

/\_\_\_/ The Goods and/or Services **do not** involve Work Made for Hire

1. **Patient Protection and Affordable Care Act (PPACA)**

/\_\_\_/    Because the Services involve temporary or supplementary staffing, they are subject to the PPACA warranties in the T&Cs.

/\_X\_/    The Services do not involve temporary or supplementary staffing, and they are not subject to the PPACA warranties in the T&Cs.

1. **Prevailing Wages**

/\_X\_/    Supplier is not required to pay prevailing wages when providing the Services.

1. **Fair Wage/Fair Work**

/\_X\_/    Supplier is not required to pay the UC Fair Wage (defined as $13 per hour as of 10/1/15, $14 per hour as of 10/1/16, and $15 per hour as of 10/1/17) when providing the Services.

1. **Restriction Relating to Consulting Services or Similar Contracts –**

 **Follow-on Contracts**

Please note a Supplier that is awarded a consulting services or similar contract cannot later submit a bid or be considered for any work “required, suggested, or otherwise deemed appropriate” as the end product of the Services (*see* Public Contract Code Section 10515).

1. **Exclusions**

Vendor certifies that neither Vendor, nor its shareholders, members, directors, officers, agents, employees or members of its workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deterred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by an federal , state or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. Each Party further agrees to notify the other Party immediately after the Party becomes aware that any of the foregoing representation and warranties may be inaccurate or may become incorrect.

Notification Requirements. Vendor shall notify Hospital immediately in the event that (1) Vendor is convicted of a criminal offense related to health care and/or related to the provision of services paid for by Medicare, Medicaid, or another federal health care program; or (2) Vendor is excluded from participation in any federal health care program, including Medicare and Medicaid Termination. Hospital may terminate this Agreement immediately in the event that (1) Vendor is convicted of a criminal offense related to health care and/or related to the provision of services paid for by Medicare, Medicaid or another federal health care program; or (2) Vendor is excluded from participation in any federal health care program, including Medicare and Medicaid. Medicare Books, Documents and Records: To the extent required by applicable law, Seller shall make available, upon written request from University, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other duly authorized agent or representative, this Agreement and Seller’s books, documents and records.

1. **Incorporated Documents**

This Agreement and its Incorporated Documents contain the entire agreement between the Parties, in order of the below precedent, concerning its subject matter and shall supersede all prior or other agreements, oral and written declarations of intent and other legal arrangements (whether binding or non-binding) made by the Parties in respect thereof.

1. Master Purchase Agreement # XXXXX
2. UC Terms and Conditions
3. UC Appendix – Data Security
4. Statement of Work
5. Price Proposal
6. RFP 09192025
7. **Entire Agreement**

The Agreement and its Incorporated Documents contain the entire Agreement between the parties and supersede all prior written or oral agreements with respect to the subject matter herein. No click-through, or other end user terms and conditions or agreements (“Additional Terms”) provided with any Goods and/or Services hereunder will be binding on UC, even if use of such Goods and/or Services requires an affirmative “acceptance” of those Additional Terms before access is permitted. All such Additional Terms will be of no force and effect and will be deemed rejected by UC in their entirety.

**The Agreement can only be signed by an authorized representative with the proper delegation of authority.**

**THE REGENTS OF THE VENDOR NAME**

**UNIVERSITY OF CALIFORNIA**

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(Signature) (Signature)

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(Printed Name, Title) (Printed Name, Title)

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(Date) (Date)