

TRANSMITTAL		0150-11797-0003
TO City Council	DATE 09/04/2026	COUNCIL FILE NO.
FROM The Mayor		COUNCIL DISTRICT
Second Amended and Restated Professional Services Agreement C-139210 with PureEHS Buyer LLC, formerly known as UL Verification Services Inc., to continue providing an occupational health electronic records system including software licenses, support, and maintenance. Approved and transmitted for your consideration. The Council has 60 days from the date of the receipt to act, otherwise the Amendment will be deemed approved pursuant to Los Angeles Administrative Code Section 10.5(a). Please see the attached report from the City Administrative Officer.  MAYOR (Mitch Kamin for) MWS:KS:11270006t		

Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract
(\$25,000 or Greater and Longer than Three Months)

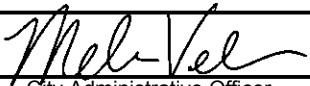
To: The Mayor	Date: 08-21-26	C.D. No. All	CAO File No.: 0150-11797-0003
Contracting Department/Bureau: Personnel Department		Contact: Richard Shirvani (213) 479-0133	
Reference: Personnel Department transmittal dated July 2, 2026; referred by Mayor for report on July 2, 2026.			
Purpose of Contract: To continue providing an occupational health electronic records system including software licenses, support, and maintenance.			
Type of Contract: () New contract (X) Amendment, C-139210		Contract Term Dates: Current: September 30, 2021 – September 29, 2026 Proposed: September 30, 2021 – September 29, 2028	
Contract/Amendment Amount: \$1,344,734			
Proposed amount \$412,506 + Prior award(s) \$932,228 = Total \$1,344,734			
Source of funds: General Fund			
Name of Contractor: PureEHS Buyer LLC			
Address: 5000 Meridian Blvd., Suite 600, Franklin, TN 37067			
	Yes	No	N/A
1. Council has approved the purpose	X		
2. Appropriated funds are available	X		
3. Charter Section 1022 findings completed	X		
4. Proposals have been requested	X		
5. Risk Management review completed	X		
6. Standard Provisions for City Contracts included	X		
7. Workforce that resides in the City: 0%			
Contractor has complied with:	Yes	No	N/A
8. Business Inclusion Program	X		
9. Equal Benefits & First Source Hiring Ordinances	X		
10. Contractor Responsibility Ordinance	X		
11. Disclosure Ordinances	X		
12. Bidder Certification CEC Form 50	X		
13. Prohibited Contributors (Bidders) CEC Form 55	X		
14. CA Iran Contracting Act of 2010*	X		

RECOMMENDATION

That the Council approve, and authorize the General Manager of the Personnel Department to execute, the Second Amended and Restated Professional Services Agreement C-139210 with PureEHS Buyer LLC, formerly known as UL Verification Services, Inc. to (i) increase the expenditure authority by \$412,506 resulting in a not to exceed compensation totaling \$1,344,734, (ii) extend the term by two years resulting in a term effective September 30, 2021 through September 29, 2028, and (iii) update the City's standard contracting provisions to include the "Standard Provisions for City Contracts (Rev.1/25)[v.2]," subject to approval as to form by the City Attorney.

SUMMARY

In accordance with Executive Directive No. 3 (Villaraigosa Series), the Personnel Department (Department) requests approval to execute the proposed Second Amended and Restated Professional Services Agreement C-139210 (Agreement) with PureEHS Buyer LLC, formerly known as UL Verification Services, Inc. (Contractor) to continue providing an electronic health records system for the Occupational Health, Safety, and Industrial Hygiene program (Services). Approval of the proposed Agreement increases the expenditure authority by \$412,506 resulting in a not to exceed compensation amount of \$1,344,734 and extends the current three-year term by two years for a

Kimberly Squire			
KS	Analyst	11270006	City Administrative Officer

revised term effective September 30, 2021 through September 29, 2028. The proposed Agreement also includes an updated fee schedule and a ratification clause to allow the Contractor to continue providing Services prior to execution of the proposed Agreement.

The scope of services includes:

- Providing cloud-hosted Occupational Health Manager (OHM) system, including the Base, Health Portal, Industrial Hygiene, and Safety Manager modules;
- Supporting occupational health functions, including employee medical tracking, medical surveillance, case management, and reporting;
- Supporting industrial hygiene and safety compliance, including exposure assessments, inspections, incident investigations, corrective actions, regulatory reporting, dashboards, and compliance alerts; and,
- Configuring system interfaces including laboratory integration, sworn Customer Relationship Management integration, secure data import/export processes, and related consulting support for the City's other internal systems.

In accordance with Charter Section 1022, the Department determined that City employees do not have expertise to perform the scope of work outlined in this Agreement because of the proprietary nature of the systems and software. The Contractor has complied with all applicable contracting requirements. In accordance with Los Angeles Administrative Code (LAAC) Section 10.5(a), City Council approval of the Agreement is required because the cumulative term exceeds three years. Pursuant to Executive Directive No. 3 (Villaraigosa Series), the approval of the Mayor is required because the total compensation exceeds \$25,000 and the term extension is longer than three months.

FISCAL IMPACT STATEMENT

Funding for the Agreement is available in the 2026-27 Budget within the Personnel Department's Contractual Services Account within the line item titled "Occupational Health Management software." There is no additional impact to the General Fund.

FINANCIAL POLICIES STATEMENT

As budgeted funds are available to support the Agreement and expenditures, and future year expenditures are limited to the appropriation of funds, the recommendation of this report complies with the City's Financial Policies.

**BOARD OF CIVIL SERVICE
COMMISSIONERS**

Room 360, PERSONNEL BUILDING

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GUY LIPA
PRESIDENT
KARLA M. GOULD
VICE PRESIDENT
JEANNE A. FUGATE
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COMMISSIONERS

CITY OF LOS ANGELES
CALIFORNIA



KAREN BASS
MAYOR

PERSONNEL DEPARTMENT

PERSONNEL BUILDING
700 EAST TEMPLE STREET
LOS ANGELES, CA 90012

—
MALAIKA BILLUPS
GENERAL MANAGER

July 2, 2026

Honorable Karen Bass
Mayor, City of Los Angeles
City Hall, Room 303
Los Angeles, CA 90012

Attention: Legislative Coordinator

**Subject: REQUEST FOR REVIEW AND APPROVAL OF PROPOSED SECOND
AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT
WITH PUREEHS BUYER LLC (C-139210) FORMERLY KNOWN AS UL
VERIFICATION SERVICES**

CONTRACTING DEPARTMENT INFORMATION

The Personnel Department, in accordance with Executive Directive No. 3, requests expedited review and approval of the Second Amended and Restated Professional Services Agreement (Agreement) with PureEHS Buyer LLC ("Contractor") formerly known as UL Verification Services to provide an Electronic Health Records (EHR) system for the Personnel Department, Medical Services Division (MSD) Occupational Health, Safety, and Industrial Hygiene program.

The Personnel Department required an EHR system for the Occupational Health Clinic to replace its paper-based record keeping system. Following a Request for Proposals (RFP), the City entered into a three-year agreement with UL Verification Services, Inc. effective September 30, 2021 to September 29, 2024. The Agreement was subsequently extended an additional two years through September 29, 2026.

During the term of the Agreement, the Employee Health and Safety (EHS) software business was acquired from UL Solutions, Inc. and was subsequently rebranded as PureEHS Buyer LLC, successor in interest to UL Verification Services, Inc. for purposes of this Agreement. The City has a continuing need for these services and now seeks to enter into a Second Amended and Restated Professional Services Agreement to extend the term an additional two years through September 29, 2028 with no change in the annual fee, increase the maximum compensation to \$1,344,734, and incorporate the latest City Standard Provisions Rev. 1/25 [v.2], under the same terms and conditions,

except as otherwise amended. During this time, the Personnel Department plans to issue a RFP for EHR services.

A rush review is required because the term of the current contract for services ends on September 29, 2026, and requires Council approval. The Second Amended and Restated Professional Services Agreement must be executed prior to the expiration date to continue to provide an EHR system without interruption.

The draft Second Amended and Restated Professional Services Agreement has been approved by the Contractor and the City Attorney.

This request was not submitted earlier because the acquisition by PureEHS Buyer LLC and negotiations between the Contractor and the Office of the City Attorney recently concluded at the end of June 2026.

CONTRACTOR INFORMATION

PureEHS Buyer LLC
5000 Meridian Blvd., Suite 600
Franklin, TN 37067

SCOPE OF SERVICES

Under the terms of the Agreement, the Contractor provides the following services:

- Provide a cloud-hosted Occupational Health Manager (OHM) system, including the Base, Health Portal, Industrial Hygiene, and Safety Manager modules for the Occupational Health Clinic.
- Configure and implement the system, including process discovery, system setup, security configuration, and administrator training.
- Support occupational health functions, including employee medical tracking, medical surveillance, case management, encounter logging, and electronic reporting.
- Support industrial hygiene and safety compliance, including exposure assessments, inspections, incident investigations, corrective actions, Cal/OSHA reporting, dashboards, and compliance alerts.
- Provide implementation support and training, including on-site training, go-live assistance, and post-implementation follow-up.
- Configure system interfaces, including laboratory integration, sworn Customer Relationship Management (CRM) integration, secure data import/export processes, and related consulting support.

TERM

1. Initial Contract – September 30, 2021 to September 29, 2024 (3 years)
2. First Amended and Restated Professional Services Agreement – Increase the maximum compensation by \$61,300 from \$473,700 to \$535,000 to provide for training, interface build-outs, as-needed consulting services
3. First Amendment to the First Amended and Restated Professional Services

- Agreement – September 30, 2021 to September 29, 2026 (Total 5 years)
4. Second Amended and Restated Professional Services Agreement – September 30, 2021 to September 29, 2028 (Total 7 years)

COMPENSATION

- Initial Contract (3 years) - \$473,700
- First Amended and Restated Professional Services Agreement - \$535,000 (increase of \$61,300)
- First Amendment to the First Amended and Restated Professional Services Agreement (5 years) - \$932,228 (increase of \$397,228)
- Second Amended and Restated Agreement Professional Services Agreement (7 years) - \$1,344,734 (increase of \$412,506; no change in annual fee from the First Amendment to the First Amended and Restated Professional Services Agreement)
- Funding for this Agreement is provided in the Personnel Department, Contractual Services Account No. 003040

	Yes	No	N/A		Yes	No	N/A
Council has approved the purpose	X			Contractor Responsibility Ordinance	X		
Charter Section 1022 findings completed	X			Disclosure Ordinances	X		
Standard Provisions for City Contracts included	X			Bidder Certification CEC Form 50	X		
Business Inclusion Program	X			Prohibited Contributors (Bidders) CEC Form 55	X		
Equal Benefits & First Source Hiring Ordinances	X			California Iran Contracting Act of 2010	X		
Workforce that resides in the City: 0 %							

RECOMMENDATION:

That the City Council authorize the General Manager of the Personnel Department, or designee, to execute the Second Amended and Restated Professional Services Agreement (C-139210) with PureEHS Buyer LLC to provide an Electronic Health Records system for the Personnel Department, Medical Services Division Occupational Health, Safety, and Industrial Hygiene program, commencing on September 30, 2021 and ending on September 29, 2028 (total 7-year term), with a total maximum compensation not to exceed \$1,344,734 over the term of the Agreement, and incorporating the latest City Standard Provisions Rev. 1/25 [v.2].

Please contact Richard Shirvani at (213) 473-0133 with any additional questions.

Respectfully submitted,



Malaika Billups
General Manager

Attachments

Cc: Kimberly Squire, CAO

SECOND AMENDED AND RESTATED
PROFESSIONAL SERVICES AGREEMENT

Contractor: PUREEHS BUYER LLC

**Regarding: Electronic Health Records system for
Occupational Health, Safety, and
Industrial Hygiene**

Said Agreement is Number: C-139210

**Second Amended and Restated Professional Services Agreement
PUREEHS BUYER LLC**

[Table of Contents](#)

ARTICLE A – SCOPE OF WORK..... 3

ARTICLE B – NOTICES AND TERM..... 3

ARTICLE C – DATA SECURITY AND PRIVACY 4

ARTICLE D – PAYMENT AND INVOICING 8

ARTICLE E – REPRESENTATIONS AND WARRANTIES 10

ARTICLE F – STANDARD PROVISIONS FOR CITY CONTRACTS 10

ARTICLE G – MISCELLANEOUS 16

ATTACHMENTS

- Attachment A – Business Associate Agreement
- Attachment B – Standard Provisions for City Contracts (Rev. 1/25 [v.2])
- Attachment C – [Intentionally Omitted]
- Attachment D – Scope of Work
- Attachment E – Fee Schedule

**SECOND AMENDED AND RESTATED
PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF LOS ANGELES AND
PUREEHS BUYER LLC**

THIS SECOND AMENDED AND RESTATED PROFESSIONAL SERVICES AGREEMENT (Contract No. C-139210) is made and entered into by and between the City of Los Angeles ("City"), a municipal corporation, acting by and through its Personnel Department ("Department") and PureEHS Buyer LLC, formerly known as UL Verification Services, Inc. ("Contractor"), a Delaware corporation, with reference to the following:

RECITALS

1. WHEREAS, City requires an Electronic Health Record ("EHR") system for the Occupational Health Clinic to replace the current paper-based record keeping system of pre-employment examinations, return to work evaluations, medical surveillance, drug testing and work fitness examinations;
2. WHEREAS, pursuant to Charter Section 1022, it was determined that City employees do not have the expertise to perform the work; and
3. WHEREAS, City, pursuant to Charter Section 372, issued a Request for Proposals ("RFP") on November 20, 2019, seeking firms that can provide the required EHR system and found Contractor satisfied the required qualifications and experience to provide the type of service required by City; and
4. WHEREAS, Contractor has represented that it has the necessary equipment and staff possessing sufficient knowledge, expertise, and experience required to provide the necessary services and is available and willing to perform the services required by City; and
5. WHEREAS, on or about October 19, 2021, City and Contractor entered into City of Los Angeles Contract Number C-139210 ("Original Contract"), pursuant to which Contractor agreed, for consideration and upon the terms and conditions provided in the Original Contract, to perform the above-referenced work and furnish deliverables; and
6. WHEREAS, effective February 9, 2024, City and Contractor entered into the First Amended and Restated Professional Services Agreement to (i) update City's Standard Provisions for City Contracts to adhere to new City contracting requirements, (ii) update City's representatives, (iii) amend Attachment D – Scope of Work regarding interface configuration, (iv) amend Attachment E – Fee Schedule regarding additional training and build-out fees, and (v) raise the compensation ceiling to \$535,000; and

7. WHEREAS, effective November 14, 2024, City and Contractor entered into the First Amendment to the First Amended and Restated Professional Services Agreement to (i) amend Attachment D – Scope of Work regarding implementation and training; (ii) amend Attachment E – Fee Schedule to include pricing for a two-year renewal; (iii) extend the Contract for two additional years through September 29, 2026 and (iv) increase the maximum payable to Contractor from \$535,000 to \$932,228; and
8. WHEREAS, effective April 2, 2026, the Employee Health and Safety software business was acquired from UL Verification Services, Inc., and Contractor, formerly known as UL Verification Services, Inc., was rebranded as PureEHS Buyer LLC; and
9. WHEREAS, City has a continuing need for Contractor's professional services; and
10. WHEREAS, City and Contractor now wish to enter into this Second Amended and Restated Professional Services Agreement to (i) update City's Standard Provisions for City contracting requirements (ii) amend Attachment E – Fee Schedule to include pricing for a two-year renewal, (iii) extend the Contract for two additional years through September 29, 2028, (iv) increase the maximum payable to Contractor from \$932,228 to \$1,344,734 and (v) make certain other changes deemed necessary by the Parties.

NOW, THEREFORE, in consideration of the promises, covenants, representations, and agreements set forth herein, the parties hereby covenant, represent, and agree as follows:

ARTICLE A – SCOPE OF WORK

1. Software Licenses. Contractor hereby grants City a license to access and use the EHR System and all constituent components.
2. Hosting, Maintenance and Support Services. Contractor shall provide hosting, maintenance and support services in accordance with this Agreement.
3. License and Grant of Rights. Subject to payment of applicable license fees, Contractor grants City a non-exclusive and non-transferable license to use the Software and accompanying Supporting Resources, according to the terms and conditions of this Agreement.

ARTICLE B – NOTICES AND TERM

1. Representatives of the Parties and Service of Notices

- 1.1 The representatives of the respective parties authorized to administer this Agreement, and to whom formal notices, demands, and communications will be given are as follows:

- 1.1.1 The representative of City will be, unless otherwise stated in the Agreement:

Malaika Billups
General Manager
Personnel Department
700 E. Temple Street, Room 305
Los Angeles, California 90012

With copies to:

Contract Administrator
Joanne O'Brien, Medical Services Administrator
Personnel Department, Medical Services Division
520 East Temple Street
Los Angeles, CA 90012
(213) 473-7037
joanne.obrien@lacity.org

- 1.1.2 The representative of Contractor will be:

Julie Leet
Sr. Account Executive - Software
PureEHS Buyer, LLC
5000 Meridian Blvd., Suite 600
Franklin, TN 37067
M: 503 961-2327
W: www.pureehs.com

Copy to: Legal Department

- 1.2 Formal notices, demands, and communications required hereunder by either party will be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and will be deemed communicated as of the date of mailing.
 - 1.3 If the name of the person designated to receive the notices, demands, or communications, or the address of such person is changed, written notice will be given, in accordance with Article I, within five (5) business days of said change.
2. Time of Performance. The term of this Agreement will commence on September 30, 2021 and will end on September 29, 2028, or at such time as all funding provided herein has been expended, whichever occurs first, subject to the termination provisions herein and availability of City budgeted funds.

Ratification Clause. Due to the need for Contractor's services to be provided continuously on an ongoing basis, Contractor may have provided services prior to the execution of this Agreement. To the extent that said services were performed in accordance with the terms and conditions of this Agreement, those services are hereby ratified.

ARTICLE C – DATA SECURITY AND PRIVACY

1. Data Ownership. As between the parties, City is the sole and exclusive owner of all data and information provided to Contractor by or on behalf of City pursuant to this Agreement and any and all updates or modifications thereto or derivatives thereof made by Contractor ("City Data"), and all intellectual property rights in the foregoing, whether or not provided to any other party under this Agreement. City Data is Confidential Information for the purposes of this Agreement. Contractor shall not use City Data for any purpose other than that of rendering the services under this Agreement, nor sell, assign, lease, dispose of or otherwise exploit City Data. Contractor shall not possess or assert any lien or other right against, or to City Data. City may request an export of City Data stored within the systems or held by Contractor in any form or format at no charge to City. City warrants that (a) it will comply with all applicable laws in providing City Data to Contractor, (b) it is authorized under such laws to provide Contractor with City Data and has obtained any necessary consents or other requirements for Contractor to process the City

Data, including all personal data, and (d) the City Data and materials provided by City to Contractor ("City Materials") do not infringe the intellectual property rights of any third party.

Subject to the restrictions articulated elsewhere in this Agreement, City grants Contractor a non-transferable, non-exclusive, terminable at-will license, solely for the term of this Agreement, to use City Data solely for purposes of performing the services pursuant to this Agreement for City's benefit.

2. Data Protection

2.1 Contractor shall use best efforts, but in no event less than information security industry standard protections, to prevent unauthorized use, disclosure, or exposure of City Data. To this end, Contractor shall safeguard the confidentiality, integrity, and availability of City Data.

3. Compliance with Privacy Laws. Contractor shall ensure that Contractor's performance of Contractor's obligations under this Agreement complies with all applicable local, state, and federal privacy laws and regulations. If this Agreement or any practices which could be, or are, employed in performance of this Agreement are inconsistent with or do not satisfy the requirements of any of these privacy laws and regulations, City and Contractor shall in good faith execute an amendment to this Agreement sufficient to comply with these laws and regulations and Contractor shall complete and deliver any documents necessary to compliance.
4. Confidential Information. The parties acknowledge that by reason of their relationship under this Agreement, they may receive or have access to (such party being a "**Recipient**") certain information and materials concerning the other party's (such party being a "**Discloser**") business, technology, and/or products (including the Services and all terms and conditions and pricing set forth in this Agreement and any SOW) that is confidential and of substantial value to the other party, which value would be impaired if such information were disclosed to third parties ("**Confidential Information**"). Except as provided herein, the Recipient agrees that it will not use in any way for its own account or the account of any third party, nor disclose to any third party, any such Confidential Information, except as needed to provide the contracted Services under this Agreement, and will protect the confidentiality of such information with the same degree of care which it uses to protect its own confidential information, using no less than a reasonable degree of care. Such use and non-disclosure obligations shall not apply to information which (a) was already rightfully known to Recipient prior to the Discloser disclosing it; (b) is in or has entered the public domain through no breach of this Agreement or other wrongful act of Recipient; (c) has been rightfully received from a third party not under obligation of confidentiality; (d) has been approved for release by Discloser's written authorization; (e) is required to be disclosed by law (in which case Recipient shall give notice to Discloser before releasing any information and provide an opportunity for Discloser to Object); or (f) was independently developed by Recipient, as evidenced by documentation, without reference to or reliance on Discloser's Confidential Information. Upon expiration or termination of this Agreement or an

SOW, Recipient shall promptly destroy all documents and information, however recorded, which contain Discloser's Confidential Information; provided that Recipient shall be permitted to maintain one (1) copy in an encrypted archived computer system backup that was made in accordance with its corporate business continuity or disaster recovery procedures. The provisions in this Section 4 shall survive termination or expiration of the Agreement.

5. Provision of Data. Upon termination of this Agreement for any cause or reason (including City's breach), Contractor shall provide delete, or upon request, provide City with a copy of all City Data in Contractor's possession in a mutually agreeable machine-readable format. Contractor may retain a copy of City Data on its encrypted back-up tapes created in accordance with Contractor's disaster recovery and business continuity policies for no more than sixty (60) days after termination or expiration of the Contract.
6. Data, Development, and Access-Point Location. Storage of City Data shall be located in the continental United States of America. Contractor shall not allow its personnel or contractors to store City Data on portable devices, including personal computers, except for devices that are used and kept only at Contractor's continental United States of America headquarters or data centers. Contractor shall neither access, nor allow a third party to access systems housing City Data from any location outside of the continental United States of America. Notwithstanding anything to the contrary in this Agreement, and only after obtaining prior written approval of City, Contractor may grant personnel and contractors located outside the continental United States remote read-only access to City Data only as required to provide proctoring and other technical support in relation to the services contemplated herein. Contractor shall designate the employees who will perform the Services under this Agreement ("Authorized Persons"). Contractor warrants that Authorized Persons shall have the appropriate qualifications and training to perform the Services. In the event that City has concerns about the performance of any Authorized Person, Contractor shall, at City's request, meet with City to attempt to resolve such concerns. Contractor shall at all times cause such Authorized Persons to abide strictly by Contractor's obligations under this Agreement and the industry standards for information security. Contractor hereby agrees that only Authorized Persons who are bound in writing by confidentiality and other obligations sufficient to protect City Data in accordance with the terms and conditions of this Agreement will access City Data, and will do so only for the purpose of enabling Contractor to perform its obligations under this Agreement.
7. Data Breach. Contractor shall protect City Data in compliance with all the terms of this Agreement, using technology that is consistent with industry standards for data security for the type of information at issue. Contractor shall notify City as soon as reasonably feasible, but in any event, within forty eight (48) hours, in writing of Contractor's discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. Contractor shall begin remediation immediately. Contractor shall

provide daily updates, or more frequently if required by City, regarding findings and actions performed by Contractor until the Data Breach or Security Incident has been effectively resolved to City's satisfaction. Contractor shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with City. At City's sole discretion, City and/or its authorized agents shall have the right to participate in the investigation. Contractor shall cooperate fully with City, its agents and law enforcement.

- 7.1 Data Breach Liability. If City is subject to liability for any Data Breach or Security Incident, Contractor shall fully indemnify and hold harmless City and defend against any resulting actions, provided that such indemnification is subject to the limitation of liability set forth in Section PSC-18.

8. Firewalls and Access Controls

- 8.1 Access Precautions. Contractor shall use precautions, including, but not limited to, physical software and network security measures, employee screening, training and supervision, and appropriate agreements with employees to:

- 8.1.1 Prevent anyone other than City, Contractor, and authorized City or Contractor personnel from monitoring, using, gaining access to, or learning the import of City Data;
- 8.1.2 Protect appropriate copies of City Data from loss, corruption, or unauthorized alteration; and
- 8.1.3 Prevent Contractor's disclosure of passwords in Contractor's possession.

- 8.2 Security Best Practices. Contractor shall implement the following practices that are consistent with security industry standards with respect to any service provided:

- 8.2.1 Least Privilege: Contractor shall authorize access only to the minimum amount of resources required for a function.
- 8.2.2 Separation of Duties: Contractor shall divide functions among its staff members to reduce the risk of one person committing fraud undetected.
- 8.2.3 Role-Based Security: Contractor shall restrict access to authorized users and base access control on the role a user plays in an organization.

- 8.3 Access Restrictions. Contractor shall restrict the use of, and access to, administrative credentials for City accounts and Contractor's systems to only those of Contractor's employees and other agents whose access is essential for the purpose of providing the services of this Agreement. Contractor shall

- require these personnel to log on using an assigned user-name and password when administering City accounts or accessing City Data. These controls must enable Contractor to promptly revoke or change access in response to terminations or changes in job functions, as applicable. Contractor shall encrypt all passwords, passphrases, and PINs, using solutions that are certified against U.S. Federal Information and Processing Standard 140-2, Level 2, or equivalent industry standard, and verify that the encryption keys and keying material are not stored with any associated data. Contractor will implement any City request to revoke or modify user access within twenty-four (24) hours or the next business day of receipt of City's request. Contractor will disable user accounts after at most ten (10) consecutive invalid authentication attempts.
9. Right of Audit by City. Without limiting any other audit rights of City, upon reasonable advance notice of at least thirty (30) days, during standard business hours and no more than once per calendar year, City may review Contractor's data privacy and data security program prior to the commencement of this Agreement and from time to time during the term of this Agreement. During the performance of this Agreement, upon reasonable advance notice of at least thirty (30) days, and no more than once per calendar year, City, may, by itself or by retaining a certified public accounting firm or information security professional, perform, or have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, at City's discretion and upon request by City, and no more than one (1) time per calendar year, Contractor agrees to complete, within fourteen (14) days of receipt, an audit questionnaire provided by City regarding Contractor's data privacy and information security program. City acknowledges that certain reports required under this Section 9 may need to be provided as high level summaries in order to protect the information of Contractor's other clients.
 10. Written Information Security Policy. Contractor shall establish and maintain a formal, documented, mandated, company-wide information security program, including security policies, standards, and procedures (collectively "Information Security Policy"), and communicate the Information Security Policy to all of its respective employees and contractors in a relevant, accessible, and understandable form. Contractor shall regularly review and evaluate the Information Security Policy to ensure its operational effectiveness, compliance with all applicable laws and regulations, and to address new threats and risks. Upon execution of this Agreement and thereafter within five (5) business days of City's request but no more than one (1) time per calendar year, Contractor shall make available for City's review Contractor's most recent SOC 2 Type2 audit report and annual pen test report.
 11. Change in Service. Contractor shall notify City of any changes, enhancement, and upgrades to Contractor's systems, or changes in other related software services, as applicable, which would impact the security of the City Data.

ARTICLE D – PAYMENT AND INVOICING

1. Payment Terms and Deliverables. City's total obligation under this Agreement shall not exceed \$1,344,734 for the term of this Agreement for complete and satisfactory

performance of the terms of this Agreement as provided in **Attachment E, Fee Schedule**.

2. Limitation of City's Obligation to Make Payments to Contractor. Notwithstanding any other provision of this Agreement, including any exhibits or attachments incorporated therein, and in order for City to comply with its governing legal requirements, City shall have no obligation to make any payments to Contractor unless City shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in said Agreement. In the event that City does not have funding available to make payments to Contractor, City shall have the right to terminate the Contract upon written notice.

3. Invoicing

- 3.1 Invoicing

- 3.1.1 Invoices must be submitted to:

Joanne O'Brien
Medical Services Administrator
Personnel Department, Medical Services Division
520 E. Temple Street,
Los Angeles, California 90012

- 3.1.2 If indicated on the written work order, invoices shall be submitted to the specified City Department for payment.
 - 3.1.3 To ensure that services provided under personal services contracts are measured against services as detailed in the Agreement, the Controller of the City of Los Angeles has developed a policy requiring that specific supporting documentation be submitted with invoices.
 - 3.1.4 Contractor shall submit invoices that conform to City standards and include, at a minimum, the following information:
 - i. Name and address of Contractor
 - ii. Name and address of City department being billed
 - iii. Date of invoice and date service was completed
 - iv. Agreement number or authority (purchase order) number
 - v. Task Order or Notice to Proceed
 - vi. Description of completed task and amount due for task, including:
 - a) Name of personnel working on task
 - b) Hours spent on task and timesheet supporting charges (if applicable)
 - c) Rate per hour and total due
 - vii. Original manufacturer's invoice for items where the cost or cost plus is supported by the contract

- viii. Discount and terms (if applicable)
- ix. Remittance Address (if different from Contractor's address)

3.1.5 All invoices must be submitted on Contractor's letterhead, contain Contractor's official logo, or other unique and identifying information such as the name and address of Contractor. Invoices must be submitted within thirty (30) days of service, or monthly, and will be payable to Contractor no later than 30 calendar days after acknowledged receipt of a complete invoice. Invoices are considered complete when appropriate documentation or services provided are signed off as satisfactory by City's Fiscal Officer. Nevertheless, City will not pay any late charges, penalties, costs, fees, or interest as a result of any late payment by City. Client acknowledges that the Service may cease functioning if Client has not renewed its license to the Service.

3.1.6 Invoices and supporting documentation must be prepared at the sole expense and responsibility of Contractor. City shall not compensate Contractor for costs incurred in invoice preparation. City may request, in writing, supporting documentation at any time. City reserves the right to request additional supporting documentation to substantiate costs at any time.

3.1.7 ***Failure to adhere to these policies may result in nonpayment or non-approval of demands, pursuant to Charter Section 262(a)***, which requires the Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any City office or department, and to approve demands before they are drawn on the Treasury.

ARTICLE E – REPRESENTATIONS AND WARRANTIES

1. Responsibility to Provide Services in Accordance with Applicable Standards and Requirement to Possess All Valid Permits and Licenses. Contractor represents and warrants that the work performed hereunder shall be completed in a manner consistent with professional standards among those firms in Contractor's profession, doing the same or similar work, under the same or similar circumstances. Contractor must possess and maintain any valid licenses and permits that are required to perform the services described herein.
2. Compliance with Statutes and Regulations. Contractor, in the performance of this Agreement, shall comply with all applicable statutes, rules, regulations, and orders of the United States, the State of California, the County and City of Los Angeles. Contractor shall comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

ARTICLE F – STANDARD PROVISIONS FOR CITY CONTRACTS

1. Standard Provisions for City Contracts. Contractor agrees to, and shall comply with, the **Standard Provisions for City Contracts (Rev. 1/25 [v.2])**, which are attached hereto as **Attachment B** and made a part hereof as though fully set forth herein, except for the following:

- A. **PSC-2, Applicable Law, Interpretation and Enforcement**, is hereby removed in its entirety and replaced with the following:

PSC-2, Applicable Law, Interpretation and Enforcement. Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, data protection, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with applicable new, amended, or revised laws, or regulations, or policy that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

- B. **PSC-6, Excusable Delays**, is hereby removed in its entirety and replaced with the following:

PSC-6, Excusable Delays. Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

- C. **PSC-8, Suspension**, is hereby removed in its entirety.

D. PSC-9, Termination, is modified as follows

1. Section PSC-9(A), Termination for Convenience, is removed in its entirety.
2. Section PSC-9(B)(1), Termination for Breach of Contract, is removed in its entirety and replaced with the following.
(B)(1) Termination for Breach of Contract. Except as provided in PSC-6, if a **party** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **the other party** may give **such party** written notice of the default. **The** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **the asserting party**. Additionally, **the** default notice may offer **the party** an opportunity to provide **the asserting party** with a plan to cure the default, which shall be submitted to **such party** within the time period allowed by **CITY**. At **CITY'S** sole discretion, if the default cannot be cured or if **the notified party** fails to cure within the period allowed by **CITY**, then **the party asserting the breach** may terminate this Contract due to **the notified party's** breach of this Contract.
3. All remaining provisions of PSC-9, Termination, remain in full force and effect.

E. PSC-11 is removed in its entirety and replaced with the following:

PSC-11, Contractor's Personnel. **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CONTRACTOR** warrants that Authorized Persons shall have the appropriate qualifications and training to perform the Services. In the event that **CITY** has concerns about the performance of any Authorized Person, **CONTRACTOR** shall at **CITY'S** request, meet with **CITY** to attempt to resolve such concerns. Notwithstanding the fact that **CONTRACTOR** may use subcontractors, **CONTRACTOR** may utilize subcontractors to assist in performance of this Agreement. **CONTRACTOR** shall remain responsible for performing all aspects of this Agreement.

F. PSC-12, Assignment and Delegation, is removed in its entirety and replaced with the following:

PSC. 12, Assignment and Delegation. This Agreement may not be assigned or transferred by either party (by operation of law or otherwise) without the prior written consent of the other party; provided, however, that either party may, without the prior consent of the other, assign all of its rights under this Agreement to (i) an Affiliate, (ii) a purchaser of all or substantially all of its stock or assets, or (iii) a third party participating in a merger or other corporate reorganization in which the assigning party is a constituent corporation. This Agreement will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

G. PSC-18, Indemnification, is removed in its entirety and replaced with the following:

PSC-18, Indemnification and Limitation of Liability. Except for the negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of (a), claims relating to death or bodily injury to any person, (b) intellectual property rights infringement, (c) Contractor's negligence or willful misconduct, or (d) Contractor's violation of applicable laws. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

City shall defend, indemnify and hold harmless Contractor and its Affiliates, and their respective directors, officers, employees and agents for any and all claims, damages or liability whatsoever, including payment of reasonable attorneys' fees and costs, suffered or incurred by Contractor in connection with: (i) any claim that City Data or materials provided by City infringe the intellectual property rights of any third party; and (ii) any claims or actions brought by third parties arising out of, or related to, City's own occupational health measures, programs or initiatives except to the extent that any claims are attributable to the negligence or willful misconduct of Contractor.

Nothing in this Agreement shall operate to limit or exclude Contractor's liability, for fraud and fraudulent misrepresentation, or for any matter for which it would be illegal to exclude or to attempt to limit or exclude liability. Except for claims of intellectual property rights infringement, in no event shall a party be liable for any loss of profits, sales, business (in each case whether direct or indirect) or any indirect, special, exemplary, incidental, or consequential damages, or any claims or demands brought against the other party, even if the party has been advised of the possibility of such claims or demands. Except for claims arising from (i) intellectual property rights infringement, (ii) gross negligence, (iii) willful misconduct or (iv) data breach ("Data Breach Claims") for which a separate cap is set forth below, the aggregate liability of Contractor to City for all claims related to the Services and this Agreement, including any cause of action sounding in contract, tort, or strict liability, shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000). The aggregate liability of Contractor to City for all Data Breach Claims, including any cause of action sounding in contract, tort or strict liability, shall not exceed Five Million Dollars (\$5,000,000).

- H. **PSC-19, Intellectual Property Indemnification**, is hereby removed and replaced in its entirety with the following:

PSC-19, Intellectual Property Indemnification. **CONTRACTOR**, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all

lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Agreement. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

- I. **PSC-21, Ownership and License**, is hereby removed in its entirety and replaced by the following:

PSC- 21, Ownership and License. The IP Rights in and to the services and Service Content are and shall remain the property of Contractor and its licensors. **"IP Rights"** means all intellectual and industrial property rights of any kind whatsoever including patents, supplementary protection certificates, rights in know-how, trademarks, designs, models, design rights, rights to prevent passing off or unfair competition and copyright (whether in drawings, plans, specifications, designs and computer software or otherwise), database rights, any rights in any invention, discovery or process, and applications for and rights to apply for any of the foregoing, together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions. **"Service Content"** means the computer code, operating instructions, graphics, designs, proprietary scripts, underlying technology, third party content, information and/or other material (whether in written, graphical, or other form) comprised in the services provided by Contractor under this Agreement.

In consideration for payment to Contractor of applicable license or service fees, Contractor grants to City and Affiliates a non-exclusive, non-transferable License to access and use the services listed in Attachments D and E in accordance with the terms and conditions of this Agreement. **"Affiliate"** means an entity that, directly or indirectly, controls, is controlled by, or is under common control with, another entity where **"control"** means the power to direct or cause the direction of an entity's affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise (and **"controls"** and **"controlled"** will be construed accordingly). The terms of this Agreement will apply to Affiliates to the extent they access and/or use the services.

City may not modify, copy (except for disaster recovery purposes), provide to any non-Affiliate third party (except for contractors), sell or transfer, the services and any Service Content, in whole or in part. City shall not decompile, disassemble, reverse engineer, or in any way derive source code from the services or Service Content. Unless otherwise provided in a statement of work: (i) on payment of the applicable fees, only Client, Affiliates and its or their employees and contractors may access

and use the services; and (ii) no rights to use the services in a time-sharing, service bureau or reseller capacity are granted.

The parties agree that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **a party** irreparable harm. **A party** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **a party** from seeking or obtaining any other relief to which **such party** may be entitled.

J. PSC-22 is removed in its entirety and replaced with the following:

PSC-22. Data Protection:

- A. **CONTRACTOR** shall protect, using practices that are consistent with security industry standards, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the "City Data"). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within forty-eight (48) hours, of **CONTRACTOR'S** discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY'S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY'S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.
- B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions subject to the limitation of liability set forth in Clause PSC-18.

K. PSC-23 is deleted in its entirety and replaced with the following:

PSC-23. Insurance. During the term of this Contract and without limiting **CONTRACTOR'S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and

types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto). **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

L. PSC-24, Best Terms, is hereby removed in its entirety.

2. Disclosure of Border Wall Contracting. Contractor shall comply with Los Angeles Administrative Code ("LAAC") Section 10.50 et seq., "Disclosure of Border Wall Contracting." City may terminate this Agreement at any time if City determines that Contractor failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

ARTICLE G – MISCELLANEOUS

1. Insurance. Contractor shall maintain the level of insurance required in the completed Form Gen. 146, Required Insurance and Minimum Limits, which is attached as [Exhibit 1] to **Attachment B, Standard Provisions for City Contracts (Rev. 1/25 [v.2])**. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered to Client in accordance with the policy provisions. Upon request, Contractor shall provide to City a memorandum of insurance which provides evidence of PureEHS's coverages and amounts.
2. Separation Assistance. In the event of separation, Contractor shall provide commercially reasonable separation assistance to City to facilitate separation. Contractor shall further guarantee elimination from Contractor's services of all City Data upon separation.
3. Contractor's Personnel & Subcontractors. Except as expressly provided in Subsection 3.1 below, Contractor shall use its own employees to perform the services described in this Agreement. City shall have the right to review any personnel who are assigned to work under this Agreement.
 - 3.1 Subcontractors. Contractor may utilize subcontractors to assist in performance of this Agreement. Notwithstanding the fact that Contractor may utilize subcontractors, Contractor shall remain responsible for performing all aspects of this Agreement. City does not have any obligation to pay subcontractors and nothing herein creates any privity between City and the subcontractors. Nothing herein is intended to create a third-party beneficiary in any subcontractor.
4. Non-Exclusive Agreement. Contractor understands and agrees that this is a non-exclusive Agreement to provide services to City and that City has entered into contracts with other contractors and will continue to do so. City may terminate this Agreement and use any of the contractors with whom City has current or future

contracts and, therefore, City cannot estimate nor guarantee the volume or amount of work to be received by Contractor under this Agreement.

5. Contractor's Interaction with the Media; Publicity. Contractor shall refer all inquiries from the news media to City, shall immediately contact City to inform City of the inquiry, and shall comply with the procedures of City's Public Affairs staff regarding statements to the media relating to this Agreement or Contractor's services hereunder.
6. Ambiguity. No ambiguity in this Agreement may be interpreted against any one party by virtue of that party being drafter of the Agreement. The parties acknowledge that they have read and understood this Agreement and had the opportunity to consult with counsel of their choosing regarding this Agreement.
7. Amendments to Agreement. Any changes in the terms of this Agreement, including changes in the services to be performed by Contractor, extension of the term, and any increase or decrease in pricing, must be incorporated into this Agreement by a written amendment properly executed by both parties.
8. Notice of Delays. Except as otherwise provided under this Agreement, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within five (1) business days, give notice thereof, including all relevant information with respect thereto, to the other party.
9. Entire Agreement. This Agreement, including all Attachments and documents incorporated herein by inclusion or by reference, contains the full and complete Agreement between the parties. No verbal agreement or conversation with any officer or employee of either party will affect or modify any of the terms and conditions of this Agreement.
10. Order of Precedence. In the event of any inconsistency between the provisions in the body of this Second Amended and Restated Agreement and the attachments hereto, the inconsistency will be resolved by giving precedence to the documents in the following order:
 - A. The provisions in the body of this Second Amended and Restated Professional Services Agreement;
 - B. The provisions in the body of the First Amendment to the First Amended and Restated Agreement;
 - C. The provisions of the First Amended and Restated Agreement;
 - D. The provisions of the Original Agreement;
 - E. Standard Provisions for City Contracts (Rev. 1/25 [v.2]);
 - F. Any other exhibits or attachments to the Original Agreement in the order in which they are attached.

This Agreement may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original

but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by City) and sent by e-mail shall be deemed original signatures.

(Signature Page to Follow)

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

CITY OF LOS ANGELES,

a Municipal Corporation

By signing below, the signatory attests that they have no personal, financial, beneficial, or familial interest in this contract.

PUREEHS BUYER LLC*

*Approved Signature Methods:

1) *Two signatures: One of the Chairman of the Board of Directors, President, or Vice-President, and one of the Secretary, Assistant Secretary, Chief Financial Officer, Or Assistant Treasurer.*

2) *One signature of a Corporate-designated individual together with a properly attested resolution of the Board of Directors authorizing the individual to sign.*

By: _____

MALAIKA BILLUPS
General Manager
Personnel Department

By: _____

TERI HALE
VP, Customer Operations
PureEHS Buyer, LLC

Date: _____

Date: _____

APPROVED AS TO FORM:

ATTEST:

HYDEE FELDSTEIN SOTO, City Attorney

PATRICE Y. LATTIMORE, City Clerk

By: _____

City Attorney

By: _____

Deputy City Clerk

Date: _____

Date: _____

City Business License Number: _____

Internal Revenue Service Taxpayer Identification Number: _____

Agreement Number:

C-139210

BUSINESS ASSOCIATE AGREEMENT

This **Business Associate Agreement** (the “Agreement”), is made upon contract execution (the “Effective Date”), by and between **PUREEHS BUYER LLC.**, on behalf of itself and its subsidiaries and affiliates, (the “Business Associate”) and **CITY OF LOS ANGELES, PERSONNEL DEPARTMENT, MEDICAL SERVICES DIVISION** (“Covered Entity”) (collectively the “Parties”) to comply with the privacy and security standards required under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), adopted by the U.S. Department of Health and Human Services and as amended January 25, 2013, [45 C.F.R. Parts 160, 162 and 164; Volume 78 Fed. Reg. No. 17, Pages 5566 through 5702, January 23, 2013] and, in order to satisfy the electronic storage requirements of the Health Information Technology for Economic and Clinical Health Act as incorporated in the American Recovery and Reinvestment Act of 2009 (hereinafter referred to as “HITECH”), and any applicable state confidentiality laws.

RECITALS

WHEREAS, Business Associate will provide electronic health records software and hosting services and infrastructure for occupational health, electronic medical records and related implementation, configuration, training and customization services as stipulated in the Professional Services Agreement between the Parties effective upon contract execution (the “Contract”);

WHEREAS the Covered Entity and Business Associate have entered into the Contract under which the Covered Entity will need to disclose to Business Associate certain “Protected Health Information” (“PHI”) that is subject to protection under HIPAA and HITECH;

WHEREAS, HIPAA requires that Covered Entity receive adequate assurances that Business Associate will comply with certain obligations with respect to the PHI received in the course of providing services to or on behalf of Covered Entity;

WHEREAS, this Business Associate Agreement is incorporated into and made a part of the Professional Services Agreement (including all attachments thereto) between the parties;

NOW THEREFORE, in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. **DEFINITIONS**

Terms used in this Agreement, but not otherwise defined, shall have the meanings ascribed by the Final HIPAA Regulations and the HITECH Act, as amended as of January 23, 2013.

1. **Breach** means the acquisition, access, use, or disclosure of protected health information in a manner not permitted under subpart E of 45 C.F.R. Part 164.
2. **Business Associate** (“BA”) shall have the meaning ascribed in 45 C.F.R. § 160.103 and refers to **PUREEHS BUYER LLC** for purposes of this Agreement.

3. **Contract** means the Professional Services Agreement effective upon contract execution by and between the City of Los Angeles and **PUREEHS BUYER LLC** which includes performing the activities related to providing electronic health records software, licensing of software and hosting services.
4. **Covered Entity** (“CE”) means the **CITY OF LOS ANGELES PERSONNEL DEPARTMENT, MEDICAL SERVICES DIVISION.**
5. **Designated Record Set** means a group of records maintained by or for a Covered Entity that are: (i) medical records about individuals maintained by or for a covered health care provider; (ii) the enrollment, payment, claims adjudication, and case or medical management record system maintained by or for a health plan; and/or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. For purposes of this definition, the term “record” means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a Covered Entity.
6. **Health Care Component** (“HCC”) means those portions of the Hybrid Entity that perform HIPAA-related activities. The **CITY OF LOS ANGELES PERSONNEL DEPARTMENT, MEDICAL SERVICES DIVISION, which performs operations associated with the provision of medical services** became a HCC by the Los Angeles City Council action which adopted the recommendation of the Personnel Committee meeting on July 30, 2010 [Council File No. 10-1181] or as modified [Council File No. R3-0240; Aug. 16, 2013].
7. **HITECH Act** (“HITECH”) means the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery and Reinvestment Act, and any amendments, regulations, rules and guidance issued thereto and the relevant dates for compliance.
8. **HIPAA Final Regulations** means 45 C.F.R. Parts 160, 162 and 164 as amended on January 23, 2013 and effective on March 23, 2013 but only to the extent it applies to a Covered Entity, Hybrid Entity and/or Business Associate.
9. **Hybrid Entity** (“HE”) means, for purposes of this Agreement, the City of Los Angeles, a single legal municipal entity that is (i) a Covered Entity; (ii) whose business activities include both covered and non-covered HIPAA functions; and (iii) that has designated **CITY OF LOS ANGELES PERSONNEL DEPARTMENT, MEDICAL SERVICES DIVISION** along with other portions of the City of Los Angeles, as a HCC pursuant to 45 C.F.R. § 160.103.

10. **Individual** means the person who is the subject of the Protected Health Information as defined in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
11. **Protected Health Information** (“PHI”) means the Individually Identifiable Health Information (“IIHI”) described in 45 C.F.R. § 160.103 that is transmitted electronically; maintained electronically; or transmitted or maintained in any other form or medium.
12. **Required by Law** means mandate contained in law that compels a use or disclosure of PHI under 45 C.F.R. § 164.512(a)(1) and (2).
13. **Secretary** means the Secretary of the Department of Health and Human Services or their designee under 45 C.F.R. § 160.103.
14. **Security Incident means** any use or disclosure of information not provided for by this “Agreement” of which the BA becomes aware, including breaches of unsecured protected health information as defined by 45 C.F.R. § 164.402.
15. **Subcontractor** means a person or entity that, creates, receives, maintains or transmits PHI on behalf of the Business Associate. (45 C.F.R. 160.103(3)(iii))

B. DISCLOSURE OF PHI TO BUSINESS ASSOCIATE

In connection with the services provided by BA to or on behalf of CE, described in this Agreement, CE may disclose PHI to BA for the purpose of electronic health records software and hosting services and infrastructure for occupational health, electronic medical records and related implementation, configuration, training and customization services.

BA shall comply with its obligations under this Agreement and with all obligations of a BA under HIPAA, HITECH, and other related laws and any implementing regulations, as they exist at the time this Agreement is executed and as they are amended, for so long as this Agreement is in place. Specifically, the BA will comply with all the obligations and assume the liability for failure to do so as provided for in the Final Rules reflected in the Federal Register, Vol. 78, No. 17, commencing at Page 5677, dated, January 25, 2013 which implements among other things Section 13401 of HITECH.

C. OBLIGATIONS OF COVERED ENTITY

1. Covered Entity shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of Protected Health Information.

2. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
3. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.
4. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA if done by Covered Entity. [45 C.F.R. § 164.504(e)(2)(i)]
5. Covered Entity will make a determination as to whether a use or disclosure of Protected Health Information by Business Associate is a Breach within the meaning of 45 C.F.R. 164.402 necessitating notification under 45 C.F.R. 164.404, 164.406 and 164.408.

D. OBLIGATIONS OF BUSINESS ASSOCIATE

Business Associate agrees to comply with applicable federal and state privacy and security laws, specifically the provisions of the HIPAA Administrative Simplification to the extent applicable to business associates.

1. Use and Disclosure of PHI. Except as otherwise permitted by this Agreement or applicable law, Business Associate shall not use or disclose PHI other than as permitted or required by the Agreement or as Required By Law, except as necessary to provide electronic health records software and hosting services and infrastructure for occupational health, electronic medical records and related implementation, configuration, training and customization services_as described in this Agreement and the Contract. These activities include a review of selected records and may include the transmitting or receiving of PHI, as may be required from time to time, to other business associates or covered entities on behalf of Covered Entity. Business Associate shall not use or disclose PHI that would violate the HIPAA Rules if used or disclosed by Covered Entity. Provided, however, Business Associate may use and disclose PHI as necessary for the proper management and administration of Business Associate, or to carry out its legal responsibilities. Business Associate shall in such cases:

- (a) Provide information to members of its workforce using or disclosing PHI regarding the confidentiality requirements of the HIPAA Final Rules
 - (b) Obtain reasonable assurances from the person or entity to whom the PHI is disclosed that: (i) the PHI will be held confidential and further used and disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity; and (ii) the person or entity will notify Business Associates of any instances of which it is aware in which confidentiality of the PHI has been breached; and
 - (c) **Notification to Covered Entity.** Agree to notify the designated Privacy Officer of Covered Entity of any instances of which it is aware that PHI is used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the HIPAA Rules within 72 hours of discovery of the improper use or disclosure. The determination as to whether a use or disclosure for a purpose not provided for by this Agreement is a Breach within the meaning of 45 C.F.R. 164.402 shall be made by the Covered Entity using the criteria in 45 C.F.R. 164.402 (2)(i)-(iv) after Business Associate notifies covered entity of the use or disclosure of the Protected Health Information.
 - (d) **Breach Notification.** Business Associate agrees to follow 45 C.F.R. 164.410 after first notifying Covered Entity of the use or disclosure not provided by this agreement and Covered Entity makes a determination that a breach has occurred pursuant to paragraph C(5) of this Agreement.
 - (e) For purposes of the Breach Notification provision in 45 C.F.R. 164.410, Business Associate, in this Agreement is not the agent of Covered Entity.
2. **Data Aggregation.** In the event that Business Associate works for more than one Covered Entity, Business Associate is not permitted to use and disclose PHI for data aggregation purposes, but may analyze data for permitted health care operations to the extent that such use is permitted under the HIPAA Administrative Simplification.
3. **De-identified Information.** Business Associate may use and disclose de-identified health information if (i) the use is disclosed to Covered Entity in writing and permitted in writing by Covered Entity in its sole discretion and (ii) the de-identification is in compliance with 45 CFR §164.502(d), and the de-identified health information meets the standard and implementation specifications for de-identification under 45 CFR §164.514(a) and (b).

4. Safeguards. Business Associate shall maintain appropriate safeguards to ensure that PHI is not used or disclosed other than as provided by this Agreement or as required by law. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI (“ePHI”) it creates, receives, maintains, or transmits on behalf of Covered Entity.
5. Minimum Necessary. Business Associate shall attempt to ensure that all uses and disclosures of PHI which pertain to the billing or operations of the CE are subject to the principle of “minimum necessary use and disclosure,” i.e., that only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request is used or disclosed.
6. Disclosure to Agents and Subcontractors. If Business Associate discloses PHI received from Covered Entity, to agents, including a subcontractor, Business Associate shall require the agent or subcontractor to agree to restrictions and conditions no less restrictive as apply to Business Associate under this Agreement. Business Associate shall ensure that any agent, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity. Business Associate shall be liable to Covered Entity for any acts, failures or omissions of the agent or subcontractor in providing the services as if they were Business Associate’s own acts, failures or omissions, to the extent permitted by law. Business Associate further expressly warrants that its agents or subcontractors will be advised of their obligations under HIPAA and relevant business associate agreements.
7. Individual Rights Regarding Designated Record Sets. If Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate agrees as follows:
 - (a) Individual Right to Copy or Inspection. Business Associate agrees that if it maintains a Designated Record Set for Covered Entity that is not maintained by Covered Entity, it will, in the event any Individual delivers directly to Business Associate a request for access to PHI, in order for Covered Entity to respond to such Individual, forward such request to Covered Entity in order to meet the requirements of 45 CFR §164.524(a)(1). Under the HIPAA Final Rules Covered Entity is required to take action on such requests as soon as possible, but not later than 30 days following receipt of the request. [45 C.F.R. § 164.524(b)(2).] Business Associate agrees to make reasonable efforts to assist Covered Entity in meeting this deadline. The information shall be provided in the form or format requested if it is readily producible in such form or format; or in summary, if the Individual

has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying health information may be charged. If Covered Entity maintains the requested records, Covered Entity, rather than Business Associate shall permit access according to its policies and procedures implementing the HIPAA Administrative Simplification.

- (b) Individual Right to Amendment. Business Associate agrees, if it maintains PHI in a Designated Record Set, to make the Designated Record Set available to Covered Entity for amendments to PHI pursuant to 45 CFR §164.526.
 - (c) Accounting of Disclosures. Business Associate agrees to maintain documentation of the information required to provide an accounting of disclosures of PHI in accordance with 45 CFR §164.528, and to make this information available to Covered Entity upon Covered Entity's request, in order to allow Covered Entity to respond to an Individual's request for accounting of disclosures. Under the HIPAA Final Rules, Covered Entity is required to take action on such requests as soon as possible but not later than 60 days following receipt of the request. Business Associate agrees to use its best efforts to assist Covered Entity in meeting this deadline. Such accounting must be provided without cost to the Individual or Covered Entity if it is the first accounting requested by an Individual within any 12-month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Covered Entity in advance of the fee and is afforded an opportunity to withdraw or modify the request. Such accounting is limited to disclosures that were made in the **six (6)** years prior to the request (not including disclosures prior to the compliance date of the HIPAA Administrative Simplification and shall be provided for as long as Business Associate maintains the PHI).
8. Internal Practices, Policies and Procedures. Except as otherwise specified herein, Business Associate shall make available its internal practices, policies and procedures relating to the use and disclosure of PHI, received from or on behalf of Covered Entity to the Secretary or his or her agents for the purpose of determining Covered Entity's compliance with the HIPAA Rules, or any other health oversight agency. Records requested that are not protected by an applicable legal privilege will be made available in the time and manner specified by the Secretary. Business Associate shall provide Covered Entity a copy of any such material furnished to the Secretary.
9. Notice of Privacy Practices. Business Associate shall abide by the limitations of Covered Entity's Notice of which it has knowledge. Any use or disclosure permitted by this Agreement may be amended by changes to Covered Entity's Notice; provided, however, that the amended Notice shall not affect permitted uses

and disclosures on which Business Associate relied prior to receiving notice of such amended Notice.

10. Withdrawal of Authorization. If the use or disclosure of PHI in this Agreement is based upon an Individual's specific authorization for the use or disclosure of his or her PHI, and the Individual revokes such authorization, the effective date of such authorization has expired, or such authorization is found to be defective in any manner that renders it invalid, Business Associate shall, if it has notice of such revocation, expiration, or invalidity, cease the use and disclosure of the Individual's PHI except to the extent it has relied on such use or disclosure, or if an exception under the HIPAA Administrative Simplification expressly applies.
11. Knowledge of HIPAA Rules. Business Associate agrees to review and understand the HIPAA Rules as they apply to Business Associate, and to comply with the applicable requirements of the HIPAA Rules, as well as any applicable amendments.
12. Security Incident. Business Associate agrees to immediately report to the Covered Entity any security incident of which Business Associate becomes aware within 72 hours of discovery of the security incident. The parties agree that this section satisfies any notices necessary by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Covered Entity shall be required. "Unsuccessful Security Incidents" means, without limitation, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service attacks and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of Covered Entity's PHI.

E. TERM AND TERMINATION

1. Term. The Term of its Agreement shall be effective as of the Effective Date of the Contract, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
2. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- (a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Contract if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity; Immediately terminate this Agreement and the Contract if Business Associate has breached a material term of this Agreement and cure is not possible; or
- (b) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

3. Effect of Termination.

- (a) Except as provided in paragraph (b) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information and shall confirm, upon Covered Entity's request, in writing, to the Covered Entity that all Protected Health Information has been returned to the Covered Entity or destroyed and the method of destruction.

F. MISCELLANEOUS

1. Indemnification.

- (a) To the extent permitted by law, Business Associate agrees to indemnify and hold harmless Covered Entity from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney's fees, defense costs, and equitable relief), for any damage or loss incurred by Covered Entity arising out of, resulting from, or attributable to any acts or omissions or other conduct of Business Associate or its agents in connection with the performance of Business Associate's or its agents' and/or subcontractor's duties under this Agreement. This indemnity shall not be construed to limit Covered Entity's rights, if any, to common law indemnity.

Covered Entity shall have the option, at its sole discretion, to employ attorneys selected by it to defend any such action described in F(1)(a) above, the costs and expenses of which shall be the responsibility of Business Associate. Covered Entity shall provide Business Associate with timely notice of the existence of such proceedings and such information, documents and other cooperation as reasonably necessary to assist Business Associate in establishing a defense to such action. In no event shall Covered Entity agree to any settlement for an indemnified claim in connection with this Section F (1) without Business Associate's prior written consent."

These indemnities shall survive termination of this Agreement, and Covered Entity reserves the right, at its option and expense, to participate in the defense of any suit or proceeding through counsel of its own choosing.

2. Mitigation. If Business Associate violates this Agreement or the HIPAA Rules, Business Associate agrees to mitigate any damage caused by such breach, and bear any such related costs.
3. Rights of Proprietary Information. Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.
4. Survival. The respective rights and obligations of Business Associate under Section E. 3 (Effect of Termination) of this Agreement shall survive the termination of this Agreement.
5. Notices. Any notices pertaining to this Agreement shall be given in writing and shall be deemed duly given when personally delivered to a Party or a Party's authorized representatives as listed below or sent by means of a reputable overnight carrier, or sent by means of certified mail, return receipt requested, postage prepaid. A notice sent by certified mail shall be deemed given on the date of receipt or refusal of receipt. All notices shall be addressed to the appropriate Party as follows:

If to Covered Entity:

Joanne O'Brien, Medical Services Administrator
City of Los Angeles Personnel Department,
Medical Services Division
520 E Temple Street
Los Angeles, California 90012
(213) 473-7037
(213) (213) 473-3776 Fax

And:

Patrice Y. Lattimore, City Clerk
Office of the City Clerk
200 N. Spring Street, Room 360
Los Angeles, California 90012
(213) 978-1020
(213) 978-1027 Fax

If to Business Associate:

PureEHS Buyer LLC
5000 Meridian Blvd., Suite 600
Franklin, TN 37067
Legal Department
Phone: 615-367-4404
Fax: 615-367-3887

6. Amendments. This Agreement may not be changed or modified in any manner except by an instrument in writing signed by a duly authorized officer of each of the Parties hereto. The Parties, however, agree to amend this Agreement from time to time as necessary, in order to allow Covered Entity to comply with the requirements of the HIPAA Rules.
7. Choice of Law. This Agreement and the rights and the obligations of the Parties hereunder shall be governed by and construed under the laws of the State of Illinois, without regard to applicable conflict of laws principles.
8. Assignment of Rights and Delegation of Duties. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns. However, neither party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding any provisions to the contrary; however, Covered Entity retains the right to assign or delegate any of its rights or obligations hereunder to any City department or office in a manner consistent with the HIPAA Rules and Business Associate retains the right to assign its rights or obligations hereunder to any affiliate without prior written consent. Assignments made in violation of this provision are null and void.
9. Nature of Agreement. Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the Parties or any of their affiliates, (ii) any fiduciary duty owed by one Party to another party or any of its affiliates, or (iii) a relationship of employer and employee between the Parties.

10. No Waiver. Failure or delay on the part of either Party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. No provision of this Agreement may be waived by either Party except by a writing signed by an authorized representative of the Party making the waiver.
11. Equitable Relief. Any disclosure or misappropriation of PHI by Business Associate in violation of this Agreement will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain. Business Associate therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining Business Associate from any such further disclosure or breach, and for such other relief as Covered Entity shall deem appropriate. Such rights are in addition to any other remedies available to Covered Entity at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate, and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Covered Entity.
12. Severability. The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.
13. No Third Party Beneficiaries. Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not party to this Agreement nor imposing any obligations on either Party hereto to persons not a party to this Agreement.
14. Headings. The descriptive headings of the articles, sections, subsections of this Agreement are inserted for convenience only, do not constitute a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.
15. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA rules and any applicable state confidentiality laws. The provisions of this Agreement shall prevail over the provisions of any other agreement that exists between the Parties that may conflict with, or appear inconsistent with, any provision of this Agreement or the HIPAA Rules.
16. Regulatory References. A citation in this Agreement to the Code of Federal Regulations shall mean the cited section as that section may be amended from time to time.

SIGNATURE PAGE ON NEXT PAGE

BUSINESS ASSOCIATE AGREEMENT

Page 14 of 14

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

THE CITY OF LOS ANGELES

By: _____
MALAIKA BILLUPS
General Manager
Personnel Department

Date: _____

PUREEHS BUYER LLC.*

By: _____
TERI HALE
VP, Customer Operations
PureEHS Buyer LLC

Date: _____

APPROVED AS TO FORM:

HYDEE FELDSTEIN-SOTO, City Attorney

By: _____
BRENT NICHOLS
Deputy City Attorney

Date: _____

ATTEST:

PATRICE Y. LATTIMORE, City Clerk

By: _____
Deputy City Clerk

Date: _____

City Business License Number: _____

Internal Revenue Service Taxpayer Identification Number: _____

Agreement Number: _____

ATTACHMENT B

Standard Provisions for City Contracts (Rev. 1/25 [v.2])

STANDARD PROVISIONS FOR CITY CONTRACTS

TABLE OF CONTENTS

PSC-1	<u>Construction of Provisions and Titles Herein</u>	1
PSC-2	<u>Applicable Law, Interpretation and Enforcement</u>	1
PSC-3	<u>Time of Effectiveness</u>	1
PSC-4	<u>Integrated Contract</u>	2
PSC-5	<u>Amendment</u>	2
PSC-6	<u>Excusable Delays</u>	2
PSC-7	<u>Waiver</u>	2
PSC-8	<u>Suspension</u>	2
PSC-9	<u>Termination</u>	3
PSC-10	<u>Independent Contractor</u>	5
PSC-11	<u>Contractor's Personnel</u>	5
PSC-12	<u>Assignment and Delegation</u>	6
PSC-13	<u>Permits</u>	6
PSC-14	<u>Claims for Labor and Materials</u>	6
PSC-15	<u>Current Los Angeles City Business Tax Registration Certificate Required</u>	6
PSC-16	<u>Retention of Records, Audit and Reports</u>	6
PSC-17	<u>Bonds</u>	7
PSC-18	<u>Indemnification</u>	7
PSC-19	<u>Intellectual Property Indemnification</u>	7
PSC-20	<u>Intellectual Property Warranty</u>	8
PSC-21	<u>Ownership and License</u>	8
PSC-22	<u>Data Protection</u>	9
PSC-23	<u>Insurance</u>	9

TABLE OF CONTENTS (Continued)

PSC-24	<u>Best Terms</u>	9
PSC-25	<u>Warranty and Responsibility of Contractor</u>	10
PSC-26	<u>Mandatory Provisions Pertaining to Non-Discrimination in Employment</u>	10
PSC-27	<u>Child Support Assignment Orders</u>	10
PSC-28	<u>Living Wage Ordinance</u>	11
PSC-29	<u>Service Contractor Worker Retention Ordinance</u>	11
PSC-30	<u>Access and Accommodations</u>	11
PSC-31	<u>Contractor Responsibility Ordinance</u>	12
PSC-32	<u>Business Inclusion Program</u>	12
PSC-33	<u>Slavery Disclosure Ordinance</u>	12
PSC-34	<u>First Source Hiring Ordinance</u>	12
PSC-35	<u>Local Business Preference Ordinance</u>	12
PSC-36	<u>Iran Contracting Act</u>	12
PSC-37	<u>Restrictions on Campaign Contributions in City Elections</u>	12
PSC-38	<u>Contractors' Use of Criminal History for Consideration of Employment Application</u>	13
PSC-39	<u>Limitation of City's Obligation to Make Payment to Contractor</u>	13
PSC-40	<u>Compliance with Identity Theft Laws and Payment Card Data Security Standards</u>	14
PSC-41	<u>Compliance with California Public Resources Code Section 5164</u>	14
PSC-42	<u>Possessory Interests Tax</u>	14
PSC-43	<u>Confidentiality</u>	15
PSC-44	<u>Contractor Data Reporting</u>	15
Exhibit 1	<u>Insurance Contractual Requirements</u>	16

STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

PSC-3. Time of Effectiveness

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-4. Integrated Contract

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

PSC-5. Amendment

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

PSC-6. Excusable Delays

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

PSC-7. Waiver

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-8. Suspension

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services

suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

PSC-9. Termination

A. Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.
4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.
5. Acts of Moral Turpitude
 - a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").
 - b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.
 - c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.
 - d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

- e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.
- 6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.
- 7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.
- 8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

PSC-10. Independent Contractor

CONTRACTOR is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

PSC-11. Contractor's Personnel

Unless otherwise approved by **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CITY** has the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** shall remove personnel from performing work under this Contract if requested to do so by **CITY**.

CONTRACTOR shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

PSC-12. Assignment and Delegation

CONTRACTOR may not, unless it has first obtained the written permission of **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-13. Permits

CONTRACTOR and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

PSC-14. Claims for Labor and Materials

CONTRACTOR shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

PSC-15. Current Los Angeles City Business Tax Registration Certificate Required

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

PSC-16. Retention of Records, Audit and Reports

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

PSC-17. Bonds

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from time to time.

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR**, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-20. Intellectual Property Warranty

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

CONTRACTOR agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

PSC-22. Data Protection

- A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the “City Data”). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR’S** discovery or reasonable belief of any unauthorized access of City Data (a “Data Breach”), or of any incident affecting, or potentially affecting City Data related to cyber security (a “Security Incident”), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY’S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY’S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.
- B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

PSC-23. Insurance

During the term of this Contract and without limiting **CONTRACTOR’S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY’S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-24. Best Terms

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR’S** customers for similar goods and services provided under this Contract.

PSC-25. Warranty and Responsibility of Contractor

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-27. Child Support Assignment Orders

CONTRACTOR shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-28. Living Wage Ordinance

CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-29. Service Contractor Worker Retention Ordinance

CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

- A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-31. Contractor Responsibility Ordinance

CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

PSC-32. Business Inclusion Program

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Regional Alliance Marketplace for Procurement ("RAMP") at <https://www.rampla.org/s/>, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through RAMP. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

PSC-33. Slavery Disclosure Ordinance

CONTRACTOR shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-34. First Source Hiring Ordinance

CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-35. Local Business Preference Ordinance

CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-36. Iran Contracting Act

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections

Unless otherwise exempt, if this Contract is valued at \$100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR'S** principals, and **CONTRACTOR'S** Subcontractors expected to receive at least \$100,000 for performance

under the Contract, and the principals of those Subcontractors (the “Restricted Persons”) shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this Contract:

“Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract # _____ . Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles (“**CITY**”) officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

PSC-38. Contractors’ Use of Criminal History for Consideration of Employment Applications

CONTRACTOR shall comply with the City Contractors’ Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-39. Limitation of City’s Obligation to Make Payment to Contractor

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

PSC-40. Compliance with Identity Theft Laws and Payment Card Data Security Standards

CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act (“FACTA”), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards (“PCI DSS”). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

PSC-41. Compliance with California Public Resources Code Section 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR’S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

PSC-42. Possessory Interests Tax

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

PSC-43. Confidentiality

All documents, information, City Data (as that term is defined in PSC-22), and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively “Confidential Information”) are confidential. **CONTRACTOR** shall not provide, and shall prohibit its employees and subcontractors from providing or disclosing, any Confidential Information or their contents or any information therein either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

PSC-44. Contractor Data Reporting

If Contractor is a for-profit, privately owned business, Contractor shall, within 30 days of the effective date of the Contract and on an annual basis thereafter (i.e., within 30 days of the annual anniversary of the effective date of the Contract), report the following information to City via the Regional Alliance Marketplace for Procurement (“RAMP”) or via another method specified by City: Contractor’s and any Subcontractor’s annual revenue, number of employees, location, industry, race/ethnicity and gender of majority owner (“Contractor/Subcontractor Information”). Contractor shall further request, on an annual basis, that any Subcontractor input or update its business profile, including the Contractor/Subcontractor Information, on RAMP or via another method prescribed by City.

EXHIBIT 1

INSURANCE CONTRACTUAL REQUIREMENTS

CONTACT For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at www.lacity.org/cao/risk. The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low-cost alternative for contractors who are unable to obtain City-required insurance.

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

1. Additional Insured/Loss Payee. The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

2. Notice of Cancellation. All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

3. Primary Coverage. CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

4. Modification of Coverage. The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

5. Failure to Procure Insurance. All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

6. Workers' Compensation. By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

7. California Licensee. All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

8. Aggregate Limits/Impairment. If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

9. Commencement of Work. For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-3, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Required Insurance and Minimum Limits

Name: UL Verification Services Inc.

Date: _____

Agreement/Reference: Professional Services Agreement

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

☒ **Workers' Compensation (WC) and Employer's Liability (EL)**
WC StatutoryEL 1,000,000

Longshore & Harbor Workers

~~Jones Act~~
☒ **General Liability** 2,000,000 per event / 4,000,000 in aggregate for Products/Completed Operations

Products/Completed Operations

☐ Sexual Misconduct

Fire Legal Liability _____

☐ **Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work)

☐ **Professional Liability** (Errors and Omissions)

Discovery Period _____

☐ **Property Insurance** (to cover replacement cost of building - as determined by insurance company)

All Risk Coverage

Boiler and Machinery

Flood

Builder's Risk

Earthquake _____

☐ **Pollution Liability**
☐ **Surety Bonds** - Performance and Payment (Labor and Materials) Bonds

☐ **Crime Insurance**

Other: _____

**SECOND AMENDED AND RESTATED
Professional Services Agreement
PUREEHS BUYER LLC**

Attachment D – Scope of Work

1. Contractor shall:

1.1. Provide Cloud-Hosted Professional Services - The initial configuration and setup for the Occupational Health Manager (OHM) Base Module, Health Portal Module, Industrial Hygiene Module, and Safety Manager Module:

1.1.1. Initial Setup includes process discovery where the Contractor will conduct an on-site evaluation of current business processes, to identify the unique requirements necessary to ensure success. Management of the implementation, configuration, setup and security for the OHM Base, installation of the OHM software and all its components, is the responsibility of the Contractor.

1.1.2. OHM Base Module and Health Portal Module includes:
An ability to create records of and track Employee Demographics, Appointments, Drug & Alcohol Screenings, Vaccinations, Wellness/Health Promotion, Absentee/RTW & FMLA, Hepatitis B, Tuberculosis, Hearing Conservation, Pulmonary Function Testing, Respirator Fit Testing, and generate an Encounter Log, as well as provide a mechanism for Case/Claims Management and Medical Surveillance. As part of configuration, PureEHS will train the OHM administrator on how to create OHM electronic forms and questionnaires. The City is responsible for creation of all custom OHM electronic forms and questionnaires.

1.1.3. Industrial Hygiene (IH) Module includes:
An ability to create records of quantitative and qualitative exposure assessments, and links to employee medical surveillance. The IH Module will also have (custom/pre-built) forms, questionnaires, and checklists, enabling the City to perform on-site IH risk assessments, compliance audits, self-assessments, corrective actions, and allow to schedule and view IH related activities. This module will allow the City to record and report IH related documents/metrics on various topics such as hearing conservation, respiratory, lead, asbestos, indoor air quality, and others including assign tasks, reminder events, inspections, corrective actions, observations, recordkeeping, and training. With mobile/desktop inspections app, the City will be able to conduct field inspections, upload photos with or without internet access. This Module will serve as a compliance calendar alerting the Department of upcoming and overdue IH related items and be able to

set up escalating email notifications as needed. As part of configuration, PureEHS will train the OHM (Safety/IH) administrator on how to create OHM electronic custom forms, checklists, and questionnaires.

1.1.4. Safety Manager Module includes:

An ability to perform in-depth risk and root cause analysis on accidents/incidents/near miss investigations/ergonomics. It will be able to conduct trend analysis and generate both custom and standard safety reports/metrics. It will be able to perform job safety analysis, provide reporting and tracking on incidents, inspections, corrective actions, unsafe conditions, unsafe acts, and safety training. It will provide City an interactive safety dashboard with the ability to slice safety data visualize trends, monitor status in real time. The module will allow City to record, prepare, and submit work related injury and illness reports and forms such as Cal/OSHA Log 300, 300A, 301. The Safety Manager Module will also have (custom/pre-built) forms and checklists that will enable the City to perform risk assessments, compliance audits, self-assessments, corrective actions, and schedule and view all of their related safety activities. This module will allow the City to record and report incidents/near-misses, behavior based safety observations, upload safety related documents, including assign tasks, reminder events, inspections, corrective actions, observations, recordkeeping, and training. With mobile/desktop inspections app, the City will be able to conduct field inspections, upload photos with or without internet access. This Module will serve as a compliance calendar alerting the Department to upcoming and overdue safety items and be able to set up escalating email notifications as needed. As part of configuration, PureEHS will train the OHM Safety Administrator on how to create OHM electronic custom forms, checklists, and questionnaires.

1.2. Contractor shall provide implementation and training as follows:

- 121.** OHM Base – Up to 3 day class focusing on system functionality, use, and operation with a maximum of 8 users at 1 location in each class. Training on-site for a maximum of 8 users at 1 physical location unless parties mutually agree to remote training.
- 122.** Go Live Support for 1 day.
- 123.** Implementation Support Follow-Up & Status Checks for 60 Days Following Training.
- 124.** Additional Training on-site for a maximum of 10 users at 1 physical location (unless parties mutually agree to remote training).
- 125.** Additional Training Day at no additional cost subject to statement of work

agreed to by both parties.

1.3. Consulting services

- 1.3.1.** Up to 16 hours of Implementation Engineering consulting services. Up to 2 hours of Infrastructure Engineering consulting services. Additional consulting services available at a rate of \$250/hr. DOES NOT include any historical data conversion - Data conversion for client-hosted data is the responsibility of the City.

1.4. Interface configuration

- 1.4.1.** Configure an interface with three existing outside laboratories including Pacific Toxicology, Quest Diagnostics, and Psychometrics. Includes assistance loading one scheduled background job into UAT and Production environments. All work will be completed during PureEHS's normal business hours of Mon-Fri, 8:00AM to 5:00PM CST. Customer to provide sample result files of each lab test to be imported for each of the labs. Client will provide a HL7 sample file that contains all panels and tests. Lab Import files must be in HL7 version 2 format. The customer will be responsible for populating import documents with appropriate data.
- 1.4.2.** Configure an interface with the CRM program. Medical status will be imported into the Medical status screen. Any data in the file that cannot be imported will be ignored. PureEHS will provide consulting assistance to the customer in executing the imports and resolving issues that may arise. A PureEHS Professional Services Project Manager will be assigned to this project. Quote includes assistance loading unto UAT and Production environments. All work will be done in the PureEHS environment during PureEHS's normal business hours of Mon-Fri, 8:00AM to 5:00PM CST.
- 1.4.3.** Schedule client specific background job to include script to import or export encrypted data files via Secure FTP server. More complex jobs will be priced quoted based upon standard IT Consulting rates.

2. City shall:

- 2.1.** Provide necessary resources for equipment and environment according to Contractor's specifications.

**SECOND AMENDED AND RESTATED
Professional Services Agreement
PUREEHS BUYER LLC**

Attachment E – Fee Schedule

1. City shall compensate Contractor, within the first 30 days from the start of each year of the contract, for completed services as follows:

Product	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	TOTAL
OHM SaaS Base Module (Cloud-Hosted) Up to 50,000 Records	\$31,895.00	\$174,797.00	\$174,797.00	\$174,797.00	\$188,780.76	\$188,780.76	\$188,780.76	\$1,122,628.28
OHM Health Portal Module Up to 50,000 Records	\$3,155.00	\$16,178.00	\$16,178.00	\$16,178.00	\$17,472.24	\$17,472.24	\$17,472.24	\$104,105.72
OHM Safety Module Up to 30,000 Users	Included	Included	Included	Included	Included	Included	Included	Included
OHM Industrial Hygiene Module Up to 1,000 Users	Included	Included	Included	Included	Included	Included	Included	Included
OHM Cloud-Hosted – Required Setup, Configuration, and Training	\$56,700.00	\$10,000	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$66,700.00
OHM User Interface Build-outs and As-Needed Consulting	\$51,300.00							\$51,300.00
OHM Additional Training Day 1-Day	-	-	-	Included	-	-	-	Included
							TOTAL:	\$1,344,734.00

2. Any other Contractor personnel and their hourly rates not listed herein shall be subject to City's pre-approval.