

## HISTORICAL AUTOMOBILE CLAIM SERVICES AGREEMENT

**THIS AGREEMENT**, hereinafter "Agreement", made and entered into this 10th day of September, 2020 ("Agreement Effective Date"), by and between Pinellas County Emergency Medical Services Authority, dba Sunstar EMS, a political subdivision of the State of Florida with principal offices located at 12490 Ulmerton Road, Largo, FL 33774, hereinafter referred to as the "Client", "Pinellas County", or the "County", and Gulfstream Outsourcing and Specialized Billing, a Florida Limited Liability Corporation with principal offices located at 5730 Corporate Way, Suite 214, West Palm Beach, FL 33407, hereinafter referred to as "GoSB", the "Supplier" or the "Vendor" (the Client and the GoSB each a "Party" and together, the "Parties").

**WHEREAS**, Client is requesting GoSB to provide the required services; and

**WHEREAS**, the Parties wish to enter into this Agreement for Historical Auto Liability Claim services, pursuant to which GoSB will render those professional services in connection with said Program as hereinafter provided.

**NOW THEREFORE**, in consideration of the promises and representations, warranties, covenants, and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## 1. TERM

- 1.1 The term of this agreement (the "Term") shall commence on the Agreement Effective Date and continue for eighteen (18) consecutive months, unless extended or terminated as set forth in this Agreement.

## 2. TERMINATION

- 2.1 Either Party may terminate this Agreement either for convenience or for default by providing the other Party sixty (60) days written notice; or
  - 2.1.1 Less than sixty (60) days, upon the mutual written agreement of the Parties; or
  - 2.1.2 Immediately if either Party or their owner(s) are convicted of Medicare or Medicaid fraud or abuse; or
  - 2.1.3 Immediately if either Party is subject to a Health Information Portability and Accountability Act (HIPAA) related data breach; or
  - 2.1.4 The Local Government Prompt Payment Act per Exhibit D.
- 2.2 For cases of default, GoSB shall be given opportunity to cure the default within the allotted period following such written notice. In the event the acts constituting default are a violation of law, GoSB shall be subject to immediate termination of Agreement.
- 2.3 Upon termination for any cause, GoSB shall submit an invoice(s) to the Client in an amount(s) representing fees for services performed or obligations incurred to the date of effective termination for which GoSB has not been previously compensated. Upon payment of all sums found due, the Client shall be under no further obligation to GoSB, financial or otherwise.
- 2.4 For purposes of this section, the notice period begins when the receiving Party of the termination receives written notice from the other Party.

## 3. SERVICES

- 3.1 GoSB shall perform or cause to be performed for Client certain revenue cycle management (RCM) support services, as set forth in the Scope of Services attached hereto as Exhibit A and incorporated herein by reference.
- 3.2 Client reserves the right to request changes in the Services within the general scope of the Agreement. Upon mutual agreement by the Parties, any Services added shall be executed in compliance with all other applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized unless contained in a duly executed change order.

#### 4. FEES

- 4.1 Client shall pay GoSB for Services on a monthly basis, at the rates set forth in the Pricing Terms hereto as Exhibit B and incorporated herein by reference.
- 4.2 GoSB will submit an invoice to Client once a month at the end of the month, for that month's Services. Invoices will reflect Fees due for Services provided in the preceding month, pursuant to Florida's Prompt Payment Act per in Exhibit D – Payment and Invoicing as incorporated herein by reference.

#### 5. INDEMNIFICATION

Contractor agrees to indemnify, pay the cost of defense, including attorney's fees, and hold harmless the County, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Contractor; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; except only such injury or damage as shall have been occasioned by the sole negligence of the County.

## 6. INSURANCE

- 6.1 GoSB shall procure and maintain for the duration of the Agreement, insurance coverage per Exhibit F.
- 6.2 GoSB shall furnish the Client with certificates of insurance and with original endorsements effecting coverage required by this clause if requested. The certificates and endorsements for each insurance policy will be signed by a person authorized by that insurer to bind coverage. All certificates and endorsements will be received and approved by the Client before work commences. The Client reserves the right to require complete, certified copies of all required insurance policies at any time.

## 7. CONFIDENTIALITY

- 7.1 The terms and conditions of this Agreement are confidential and neither Party shall release any of the terms hereof to any third party without the prior written consent of the other Party, except to the extent necessary to comply with Florida's Public Records law, the valid order of a court of competent jurisdiction, or the valid order or requirement of a governmental agency. Notwithstanding the foregoing, either Party may, without the prior written consent of the other Party, disclose the existence of a contractual relationship between the Parties.
- 7.2 The Parties mutually agree that the equipment, computer hardware and software, billing and collection processing, and other related systems and equipment are the property and trade secrets of the Parties, and that both Parties will not release any information regarding such trade secrets to any third party without the prior written consent of the other Party.

## 8. NON-SOLICITATION

Each Party agrees that, during the term of this Agreement and for a period of one (1) year after its termination, it will not: (a) solicit any employee or contractor of the other Party (or any Affiliate of the other Party) to terminate his or her employment or contractor relationship with such Party; (b) employ or engage, directly or indirectly, any employee or contractor of the other Party (or any Affiliate of the other Party); or (c) knowingly solicit any customer of the other Party to provide medical billing and collection services without the others prior written consent.

## 9. OWNERSHIP OF THE DOCUMENTS

GoSB agrees that any and all documents, records, disks, and electronic data produced in the performance of this Agreement shall be the sole property of the Client.

## 9.1 PUBLIC RECORDS

- 9.1.1 GoSB acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas County public records policies. GoSB agrees that prior to providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies, including but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, GoSB agrees to charge the County, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes, and County policy for locating and producing public records during the term of this Agreement.
- 9.1.2 If GoSB has questions regarding the application of Chapter 119, Florida Statutes, to GoSB's duty to provide public records relating to this contract, contact the Pinellas County Board of County Commissioners, Purchasing and Risk Management Department, Operations Manager custodian of public records at 727-464-3311, [purchase@pinellascounty.org](mailto:purchase@pinellascounty.org), Pinellas County Government, Purchasing and Risk Management Department, Operations Manager, 400 S. Ft. Harrison Ave, 6<sup>th</sup> Floor, Clearwater, FL 33756.

## 10. EXHIBITS

The following named Exhibits are made an integral part of this Agreement:

- A. Exhibit A, Scope of Services
- B. Exhibit B, Pricing Terms
- C. Exhibit C, Business Associates Agreement
- D. Exhibit D, Payment and Invoicing
- E. Exhibit E, Pinellas County Dispute Resolution
- F. Exhibit F, Insurance Requirements

## 11. UNCONTROLLABLE FORCES

Neither Party shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing Party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a Party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing Party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, terrorism, and governmental actions.

## 12. JURISDICTION, VENUE AND ARBITRATION

All questions pertaining to the validity and interpretations of this Agreement shall be determined in accordance with the laws of Florida. Any legal action by either Party against the other concerning this Agreement shall be filed in Pinellas County, Florida which shall be deemed proper jurisdiction and venue for the action.

### 13. REPRESENTATIONS

The Parties agree that this Agreement constitutes a legal, valid and binding obligation for each Party, enforceable against such Party in accordance with its terms (subject always to applicable bankruptcy, insolvency, receivership and other similar laws relating to or affecting the enforcement of creditor's rights generally and to general principles of equity). Further, the Parties warrant and represent to each other:

- 13.1 That each (i) is duly formed and organized and validly existing under the laws of the jurisdiction of its formation, (ii) is properly qualified to do business and is in good standing under the laws of each jurisdiction in which it does business, (iii) has all necessary corporate or similar power and authority to execute and deliver this Agreement and to consummate the transaction contemplated hereby; and
- 13.2 That this Agreement, its execution and the fulfillment and compliance with the terms and conditions hereof, do not violate or conflict with any provision of or result in any breach of or default under any (i) organizational documents of each Party, (ii) law or judicial, award, or similar decree, or (iii) agreement, to which either Party's representations and warranties are bound.

### 14. ASSIGNMENT

Except to a parent, subsidiary, affiliate, or in the case of a change in ownership, GoSB shall not sell, transfer, assign or otherwise dispose of this Agreement or any part thereof or work provided therein, or of its right, title or interest therein, unless otherwise provided in the Agreement, without express prior written consent by the Client.

### 15. NOTICES

Any notice given or required to be given under this Agreement shall be in writing and shall be addressed to the Parties hereto at the addresses below. Any such notices shall be deemed to have been given (i) if mailed, then three (3) days following the date such notice is placed in the United States mail in a postage paid wrapper, registered or certified with return receipt requested, addressed to the appropriate Party at the address set forth above for such Party, or to the last address provided in writing to the other Party by the addressee, or (ii) if by any other method, when actually received. Either Party may change its address for the purpose of this Agreement by notice in writing to the other Party in accordance herewith.

**To Client:**

Jodie Sechler  
Division, Director, Ambulance Billing & Financial  
Services  
Safety & Emergency Services Department  
12490 Ulmerton Road  
Largo, FL 33774  
[jsechler@pinellascounty.org](mailto:jsechler@pinellascounty.org)

**To GoSB:**

Jack Donahue  
Chief Operating Officer  
5730 Corporate Way, Suite 214  
West Palm Beach, FL 33407  
Jack.Donahue@go-sb.com

**16. SEVERABILITY**

Should any part, term or provision of this Agreement be by the courts decided to be illegal or in conflict with any law of Florida, the validity of the remaining portions or provisions shall not be affected thereby.

**17. ENTIRE AGREEMENT**

This Agreement contains the entire agreement between the Parties. GoSB represents that in entering into this Agreement it has not relied on any previous oral and/or implied representations, inducements or understandings of any kind or nature.

**[signature page to follow]**

IN WITNESS OF THE FOREGOING, the Parties executing this Agreement on behalf of the Client and GoSB do hereby represent and warranty that they respectively are duly authorized to execute the Agreement and hereto have executed this Agreement as of the Effective Date.

**Client:**

By: Pat Gerard  
Name **Pat Gerard**  
Title **Chair, Board of County Commissioners**  
Date: **September 10, 2020**

**GoSB:**

By: Rick Fossier  
Rick Fossier  
President  
Date: 8/5/2020

APPROVED AS TO FORM

Jacina Haston  
JACINA HASTON  
OFFICE OF THE COUNTY ATTORNEY

ATTEST: KEN BURKE, CLERK

By: Jacina Haston  
Deputy Clerk





## EXHIBIT A

### Scope of Services

#### 1. GoSB RESPONSIBILITIES

- a. Create accounts based on the data file received from the Client.
- b. Attach medical records to accounts based on the medical record images received from the Client.
- c. Conduct research to find the patient and/or responsible Party demographic and insurance information.
- d. File claims to automobile insurance companies.
- e. Provide the Client with information on claims filed once a week through a secure medium.
- f. Process payer correspondence based on the correspondence received from insurance companies and images received from the Client.
- g. Post payments and denials based on the posting information received from the Client.
- h. Mail any payments and associated payment documentation received by GoSB to Client's designated pay to location every week.
- i. Reconcile posting information received from GoSB's clearinghouse and the Client, working with the Client to resolve any discrepancies.
- j. Send demand letters to the insurance company in accordance with statutory requirements.
- k. Provide the Client with information on closed claims once a week through a secure medium.
- l. Provide monthly reports:
  - i. Accounts Receivable (AR) Report – including opening AR, monthly activity (payments, new accounts), and ending AR.
  - ii. Monthly Activity Report – including new accounts (Client account # and charges), payments (Client account # and payments), and closed accounts (Client account # and remaining balance).
  - iii. Monthly Invoice – including gross collections, service fee percentage, and service fee amount.

#### 2. CLIENT RESPONSIBILITIES

- a. Ensure proper ambulance services code/ charges are applied to each account.
- b. Send all incidents meeting the below criteria below to GoSB via a secure medium.
  - i. Related to an automobile accident (include all pay classes).
  - ii. Dates of service (DOS) 61 months from the go-live date as determined by when GoSB begins to process claims.
  - iii. Coding complete.
  - iv. Charges on claims exceed \$0. Do not include voided or duplicate incidents.
  - v. Automobile insurance claim has not been filed within the last 50 days.
  - vi. Amount already Paid to Client is less than Gross Charges.
  - vii. Patient or responsible Party has at least one of the below:
    1. SSN
    2. Driver's license #
    3. Last Name and DOB

- c. Provide GoSB with medical record images for each incident sent via a secure medium. Each medical record will be a distinct document and include a unique identifier to facilitate linking it to the incident.
- d. Receive and create payer correspondence images.
- e. Provide GoSB with payer correspondence images once a week via a secure medium. Each correspondence will be a distinct document and include a unique identifier to facilitate linking it to the incident.
- f. Post payments and denials.
- g. Provide GoSB with posting information (payments and denials) once a week via a secure medium.
- h. Place accounts sent to GoSB on hold and perform no activity on those accounts, with the exception of posting payments and denials, until receiving an indication that GoSB's processing is complete.
- i. Provide view only access to Client's RCM platform for automobile accounts sent to GoSB to GoSB designated users. Please note that this is not a requirement but may provide helpful processing information.

**EXHIBIT B**  
**Pricing Terms**

GoSB will invoice the Client a percentage of Collections received from performing the Services. "Collections" are defined as all monies collected by GoSB less refunds from automobile insurance companies.

**% of Collections**      22%

**Payment Terms:**      30 Days from receipt of invoice

**Late Payment Terms:**      After forty-five (45) days of the date of the invoice, Client shall incur interest at the rate of 1% per month of any unpaid balance.

**Disputes:**      Disputes shall be addressed as outlined in Exhibits D and E contained herein, in accordance with Florida's "Local Government Prompt Payment Act".

**EXHIBIT C**

**Business Associate Agreement**

**SEE ACCOMPANYING ATTACHMENT A FOR FULLY EXECUTED BUSINESS ASSOCIATE AGREEMENT**

**EXHIBIT D**

**PAYMENT AND INVOICING**

**PAYMENT/INVOICES:**

SUPPLIER shall submit invoices for payment due as provided herein with such documentation as required by Pinellas County and all payments shall be made in accordance with the requirements of Section 218.70 *et. seq.*, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Division Accounts Payable

Pinellas County Board of County Commissioners

P. O. Box 2438

Clearwater, FL 33757

Each invoice shall include, at a minimum, the Supplier's name, contact information and the standard purchase order number. In order to expedite payment, it is recommended the Supplier also include the information shown in below. The County may dispute any payments invoiced by SUPPLIER in accordance with the County's Dispute Resolution Process for Invoiced Payments, established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

**INVOICE INFORMATION:**

Supplier Information    Company name, mailing address, phone number, contact name and email address as provided on the PO

Remit To                      Billing address to which you are requesting payment be sent

Invoice Date                Creation date of the invoice

Invoice Number            Company tracking number

Shipping Address         Address where goods and/or services were delivered

Ordering Department    Name of ordering department, including name and phone number of contact person

PO Number                 Standard purchase order number

Ship Date                  Date the goods/services were sent/provided

Quantity                    Quantity of goods or services billed

Description                Description of services or goods delivered

Unit Price	Unit price for the quantity of goods/services delivered
Line Total	Amount due by line item
Invoice Total	Sum of all of the line totals for the invoice

Pinellas County offers a credit card payment process (ePayables) through Bank of America. Pinellas County does not charge Suppliers to participate in the program; however, there may be a charge by the company that processes your credit card transactions. For more information please visit Pinellas County purchasing website at [www.pinellascounty.org/purchase](http://www.pinellascounty.org/purchase).

## EXHIBIT E

### DISPUTE RESOLUTION FOR PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS IN MATTERS OF INVOICE PAYMENTS:

Payment of invoices for work performed for Pinellas County Board of County Commissioners (County) is made, by standard, in arrears in accordance with Section 218.70, et. seq., Florida Statutes, the Local Government Prompt Payment Act.

If a dispute should arise as a result of non-payment of a payment request or invoice the following Dispute Resolution process shall apply:

- A. Pinellas County shall notify a Vendor in writing within ten (10) days after receipt of an improper invoice, that the invoice is improper. The notice should indicate what steps the Vendor should undertake to correct the invoice and resubmit a proper invoice to the County. The steps taken by the Vendor shall be that of initially contacting the requesting department to validate their invoice and receive a sign off from that entity that would indicate that the invoice in question is in keeping with the terms and conditions of the agreement. Once sign off is obtained, the Vendor should then resubmit the invoice as a "Corrected Invoice" to the requesting department which will initiate the payment timeline.
  - 1.) Requesting department for this purpose is defined as the County department for whom the work is performed.
  - 2.) Proper invoice for this purpose is defined as an invoice submitted for work performed that meets prior agreed upon terms or conditions to the satisfaction of Pinellas County.
- B. Should a dispute result between the Vendor and the County about payment of a payment request or an invoice then the Vendor should submit their dissatisfaction in writing to the Requesting Department. Each Requesting Department shall assign a representative who shall act as a "Dispute Manager" to resolve the issue at departmental level.
- C. The Dispute Manager shall first initiate procedures to investigate the dispute and document the steps taken to resolve the issue in accordance with section 218.76 Florida Statutes. Such procedures shall be commenced no later than forty-five (45) days after the date on which the payment request or invoice was received by Pinellas County, and shall not extend beyond sixty (60) days after the date on which the payment request or invoice was received by Pinellas County.

- D. The Dispute Manager should investigate and ascertain that the work, for which the payment request or invoice has been submitted, was performed to Pinellas County's satisfaction and duly accepted by the Proper Authority. Proper Authority for this purpose is defined as the Pinellas County representative who is designated as the approving authority for the work performed in the contractual document. The Dispute Manager shall perform the required investigation and arrive at a solution before or at the sixty (60) days timeframe for resolution of the dispute, per section 218.76, Florida Statutes. The County Administrator or his or her designee shall be the final arbiter in resolving the issue before it becomes a legal matter. The County Administrator or his or her designee will issue their decision in writing.
- E. Pinellas County Dispute Resolution Procedures shall not be subject to Chapter 120 of the Florida Statutes. The procedures shall also, per section 218.76, Florida Statutes, not be intended as an administrative proceeding which would prohibit a court from ruling again on any action resulting from the dispute.
- F. Should the dispute be resolved in the County's favor interest charges begin to accrue fifteen (15) days after the final decision made by the County. Should the dispute be resolved in the Vendor's favor the County shall pay interest as of the original date the payment was due.
- G. For any legal action to recover any fees due because of the application of sections 218.70 et. seq., Florida Statutes, an award shall be made to cover court costs and reasonable attorney fees, including those fees incurred as a result of an appeal, to the prevailing party. If it is found that the non-prevailing party held back any payment that was the reason for the dispute without having any reasonable lawful basis or fact to dispute the prevailing party's claim to those amounts.



## EXHIBIT F

### Insurance Requirements

The recommended Vendor must provide a certificate of insurance and endorsement in accordance with the insurance requirements listed below, prior to award of contract

The Contracted Vendor shall obtain and maintain, and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth.

Submittals should include, the Vendor's current Certificate(s) of Insurance in accordance with the insurance requirements listed below. If Vendor does not currently meet insurance requirements, Vendor shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place prior to the award of contract.

- a) The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). A copy of the endorsement(s) referenced in paragraph d) for Additional Insured shall be attached to the certificate(s) referenced in this paragraph.
  - b) No work shall commence at any project site unless and until the required Certificate(s) of Insurance are received and approved by the County. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement.
  - c) All policies providing liability coverage(s), other than professional liability and workers compensation policies, obtained by the Vendor and any subcontractors to meet the requirements of the Agreement shall be endorsed to include Pinellas County a Political subdivision of the State of Florida as an Additional Insured.
  - d) If any insurance provided pursuant to the Agreement expires or cancels prior to the completion of the work you will be notified by CTrax, the authorized Vendor of Pinellas County. Upon notification, renewal certificate(s) of Insurance and endorsement(s) should be furnished to Pinellas County Risk Management at [InsuranceCerts@pinellascounty.org](mailto:InsuranceCerts@pinellascounty.org) and to CTrax c/o JDi Data at [PinellasSupport@jdidata.com](mailto:PinellasSupport@jdidata.com) by the Vendor or their agent prior to the expiration date.
- (1) Vendor shall also notify County within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Vendor from its insurer. Notice shall be given by email to Pinellas County Risk Management at [InsuranceCerts@pinellascounty.org](mailto:InsuranceCerts@pinellascounty.org). Nothing contained herein shall absolve Vendor of this requirement to provide notice.

- (2) Should the Vendor, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement, or at its sole discretion may purchase such coverages necessary for the protection of the County and charge the Vendor for such purchase or offset the cost against amounts due to Vendor for services completed. The County shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the County to purchase such insurance shall in no way be construed to be a waiver of any of its rights under the Agreement.
- e) The County reserves the right, but not the duty, to review and request a copy of the Contractor's most recent annual report or audited financial statement when a self-insured retention (SIR) or deductible exceeds \$50,000.
- f) The Prime Vendor shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; *but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.*
- (1) All subcontracts between Vendor and its subcontractors shall be in writing and are subject to the County's prior written approval. Further, all subcontracts shall (1) require each subcontractor to be bound to Vendor to the same extent Vendor is bound to the County by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor; (2) provide for the assignment of the subcontracts from Vendor to the County at the election of Owner upon termination of the Contract; (3) provide that County will be an additional indemnified party of the subcontract; (4) provide that the County will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability; (5) provide waiver of subrogation in favor of the County and other insurance terms and/or conditions as outlined below; (6) assign all warranties directly to the County; and (7) identify the County as an intended third-party beneficiary of the subcontract. Vendor shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Section C and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.
- g) Each insurance policy and/or certificate shall include the following terms and/or conditions:
- (1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County. If Vendor is a Joint Venture per Section A. titled Joint Venture of this Bid, Certificate of Insurance and Named Insured must show Joint Venture Legal Entity name and the Joint Venture must comply with the requirements of Section C with regard to limits, terms and conditions, including completed operations coverage.
- (2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Contractor.

- (3) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
- (4) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County or any such future coverage, or to County's Self-Insured Retentions of whatever nature.
- (5) All policies shall be written on a primary, non-contributory basis.
- (6) Any Certificate(s) of Insurance evidencing coverage provided by a leasing company for either workers compensation or commercial general liability shall have a list of covered employees certified by the leasing company attached to the Certificate(s) of Insurance. The County shall have the right, but not the obligation to determine that the Vendor is only using employees named on such list to perform work for the County. Should employees not named be utilized by Vendor, the County, at its option may stop work without penalty to the County until proof of coverage or removal of the employee by the contractor occurs, or alternatively find the Vendor to be in default and take such other protective measures as necessary.

**INSURANCE POLICIES, OTHER THAN PROFESSIONAL LIABILITY, SHALL INCLUDE WAIVERS OF SUBROGATION IN FAVOR OF PINELLAS COUNTY FROM BOTH THE VENDOR AND SUBCONTRACTOR(S).**

- h) The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for two (2) years beyond final acceptance for projects with a Completed Operations exposure, are as follows:
  - (1) **Commercial General Liability Insurance** including, but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury. There shall be no Explosion, Collapse or Underground exclusion; nor shall there be a crane weight, jig or boom exclusion.

Limits

Combined Single Limit Per Occurrence	\$ 1,000,000
Products/Completed Operations Aggregate	\$ 2,000,000
Personal Injury and Advertising Injury	\$ 1,000,000
General Aggregate	\$ 2,000,000

- (2) **Cyber Risk Liability (Network Security/Privacy Liability) Insurance** including cloud computing and mobile devices, for protection of private or confidential information whether electronic or non-electronic, network security and privacy; privacy against liability for system attacks, digital asset loss, denial or loss of service, introduction, implantation or spread of malicious software code, security breach, unauthorized access and use; including regulatory action expenses; and notification and credit monitoring expenses with at least minimum limits as follows:

Limits	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 1,000,000

For acceptance of Cyber Risk Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Cyber Risk Liability and other coverage combined.

- (3) **Property Insurance** Vendor will be responsible for all damage to its own property, equipment and/or materials.

## ATTACHMENT A

### HIPAA BUSINESS ASSOCIATE AGREEMENT

This Agreement (“Agreement”) is entered into by and between Gulfstream Outsourcing and Specialized Billing, LLC, (“Business Associate”) and Pinellas County and the Pinellas County Emergency Medical Services Authority, d/b/a SUNSTAR EMS (“Covered Entity”).

#### RECITALS

**WHEREAS**, Business Associate performs functions, activities, or services for, or on behalf of Covered Entity, and Business Associate may receive, have access to or creates Health Information in order to perform such functions, activities or services;

**WHEREAS**, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations promulgated thereunder (“HIPAA”), including but not limited to, the Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of Electronic Protected Health Information found at 45 Code of Federal Regulations Parts 160, 162 and 164;

**WHEREAS**, the Health Information Technology for Economic and Clinical Health Act (“HITECH”), part of the American Recovery and Reinvestment Act of 2009 (“ARRA”), amended provisions of HIPAA widening the scope of privacy and security protections available under HIPAA, increases the potential for legal liability and provides for more enforcement; and

**WHEREAS**, HIPAA requires Covered Entity to enter into a contract with Business Associate to provide for the protection of the privacy and security of Health Information, and HIPAA prohibits the disclosure to or use of Health Information by Business Associate if such a contract is not in place; and

**WHEREAS**, on March 26, 2013, the Department of Health and Human Services (“HHS”) HIPAA Omnibus Final Rule became effective, modifying the requirements for Business Associates and Business Associates Agreements.

#### AGREEMENT

**NOW, THEREFORE**, in consideration of the foregoing which are hereby acknowledged and incorporated herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

#### ARTICLE I DEFINITIONS

1.1 Catch-all definition: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

1.2 “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Gulfstream Outsourcing and Specialized Billing, LLC.

1.3 “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Pinellas County and the Pinellas County Emergency Medical Services Authority, d/b/a SUNSTAR EMS.

1.4 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

1.5 “Privacy Regulations” means the Standards for Privacy of Covered Individually Identifiable Health Information, 45 Code of Federal Regulations Parts 160 and 164, promulgated under HIPAA.

1.6 “Services” means the services provided by Business Associate pursuant to the Underlying Agreement(s), or if no such agreement(s) are in effect, the services Business Associate performs with respect to the Covered Entity.

1.7 “Underlying Agreement” means the **Historical EMS claims resulting from MVA incidents (for the previous 5 years beginning with May, 2015 through April, 2020)** Agreement executed by the Covered Entity and Business Associate, if any.

## **ARTICLE II OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE**

2.1 Business Associate agrees to:

2.1.1 Not Use or Disclose Protected Health Information other than as permitted or required by the Agreement or as required by law;

2.1.2 Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent use or disclosure of Protected Health Information other than as provided for by the Agreement;

2.1.3 Report to Covered Entity any Use or Disclosure of Protected Health Information not provided for by the Agreement of which it becomes aware, including breaches of unsecured Protected Health Information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

2.1.3.1 The initial report shall be made by telephone call to the Covered Entity within two (2) business days from the time the Business Associate becomes aware of the non-permitted Use or Disclosure, followed by a written report to the Covered Entity no later than five (5) business days from the date the Business Associate becomes aware of the non-permitted Use or Disclosure; and

2.1.3.2 Business Associate will handle breach notifications to individuals, the HHS Office for Civil Rights (OCR), and potentially the media, on

behalf of the Covered Entity only when so directed by the Covered Entity or required by law.

- 2.1.4 In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;
- 2.1.5 Make available protected health information in a designated record set to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524;
  - 2.1.5.1 Requests received by the Business Associate directly from an individual seeking access to protected health information in a designated record set will be forwarded to the Covered Entity within two (2) business days to allow the Covered Entity to process the request.
- 2.1.6 Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;
  - 2.1.6.1 Requests for amendment that the Business Associate receives directly from the individual will be forwarded to the Covered Entity within two (2) business days to allow the Covered Entity to process the request.
  - 2.1.6.2 Business Associate shall seek to incorporate any amendments to the information in the designated record set within two (2) business days.
- 2.1.7 Maintain and make available the information required to provide an accounting of disclosures to the Covered Entity within five (5) business days, as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528 regardless of whether the Business Associate received the request for an accounting of disclosures directly from the individual, or the Covered Entity made the Business Associate aware of such a request received by the Covered Entity;
  - 2.1.7.1 For each Disclosure that requires an accounting, Business Associate shall track the information required by the Privacy Regulations and shall securely maintain the information for six (6) years from the date of the Disclosure.
- 2.1.8 To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and
- 2.1.9 Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.
- 2.2 Initial Effective Date of Performance. The obligations created under this Agreement shall become effective immediately upon execution of this Agreement or the agreement to which it is appended.
- 2.3 Permitted Uses and Disclosures of Protected Health Information.
  - 2.3 Business Associate may only:

- 2.3.1.1 Use and Disclose Protected Health Information as necessary to perform Services for, or on behalf of Covered Entity, including **the billing of Historical EMS claims resulting from MVA incidents (for the previous 5 years beginning with May, 2015 through April, 2020)** in accordance with the Underlying Agreement;
  - 2.3.1.2 Use Protected Health Information to create aggregated or de-identified information (in accordance with the requirements of the Privacy Regulations);
  - 2.3.1.3 Use or Disclose Protected Health Information (including aggregated or de-identified information) as otherwise directed by Covered Entity consistent with Covered Entity's minimum necessary policies and procedures, provided that Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in a manner that would not be permissible if done by Covered Entity;
  - 2.3.1.4 Use or Disclose Protected Health Information as required by law;
  - 2.3.1.5 Business Associate shall not Use Health Information for any other purpose, except that if necessary, Business Associate may Use Health Information for the proper management and administration of Business Associate or to carry out its legal responsibilities; provided that any Use or Disclosure described herein will not violate the Privacy Regulations or Florida law if done by Covered Entity.
  - 2.3.1.6 Except as otherwise limited in this Agreement, Business Associate may Disclose Health Information for the proper management and administration of the Business Associate, provided that with respect to any such Disclosure either (a) the Disclosure is required by law (within the meaning of the Privacy Regulations) or (b) the Disclosure would not otherwise violate Florida law and Business Associate obtains reasonable written assurances from the person to whom the information is to be Disclosed that such person will hold the information in confidence and will not Use or further Disclose such information except as required by law or for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- 2.4 Adequate Safeguards for Health Information. Business Associate warrants that it shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Health Information in any manner other than as permitted by this Agreement.
- 2.5 Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Health



Information by Business Associate in violation of the requirements of this Agreement.

### **ARTICLE III OBLIGATIONS OF COVERED ENTITY**

3.1 Privacy Notice. Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's notice of privacy practices to the extent such limitation(s) may affect Business Associate's Use or Disclosure of Health Information.

### **ARTICLE IV TERM AND TERMINATION**

4.1 Term. Subject to the provisions of Sections 4.2 and 4.3, the term of this Agreement shall be the term of the Underlying Agreement(s).

4.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, Covered Entity shall either:

a. notify Business Associate of the breach in writing, and provide an opportunity to cure the breach or end the violation within ten (10) business days of such notification; provided that if Business Associate fails to cure the breach or end the violation within such time period to the satisfaction of Covered Entity, Covered Entity shall have the right to immediately terminate this Agreement and the Underlying Agreement(s) upon written notice to Business Associate;

b. upon written notice to Business Associate, immediately terminate this Agreement and the Underlying Agreement(s) if Covered Entity determines that such breach cannot be cured; or

c. if Covered Entity determines that neither termination nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

4.3 Termination for Breach of Section 5.2. Covered Entity may terminate the Underlying Agreement(s) and this Agreement upon thirty (30) days written notice in the event (a) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to Section 5.2 or (b) Business Associate does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of Health Information that the Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA.

4.4 Disposition of Health Information Upon Termination or Expiration. Upon termination or expiration of this Agreement, Business Associate shall either return or destroy, in Covered Entity's sole discretion and in accordance with any instructions by Covered Entity, all Protected Health Information in the possession or control of Business Associate and its agents and subcontractors. In such event, Business Associate shall retain no copies of such Protected Health Information. However, if the Business Associate determines that neither return nor destruction of Protected Health Information is feasible, Business Associate shall notify Covered

Entity of the conditions that make return or destruction infeasible, and may retain Protected Health Information provided that Business Associate (a) continues to comply with the provisions of this Agreement for as long as it retains Protected Health Information, and (b) further limits Uses and Disclosures of Protected Health Information to those purposes that make the return or destruction of Protected Health Information infeasible.

4.5 Survival. The obligations of Business Associate under this Article IV shall survive the termination of this Agreement.

## **ARTICLE V MISCELLANEOUS**

5.1 Indemnification. Notwithstanding anything to the contrary in the Underlying Agreement(s), at Business Associate's expense, Business Associate agrees to indemnify, defend and hold harmless Covered Entity and Covered Entity's employees, directors, officers, subcontractors or agents (the "Indemnities") against all damages, losses, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) and all liability to third parties arising from any breach of this Agreement by Business Associate or its employees, directors, officers, subcontractors, agents or other members of Business Associate's workforce. Business Associate's obligation to indemnify the Indemnitees shall survive the expiration or termination of this Agreement for any reason.

5.2 Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA and other applicable laws relating to the security or confidentiality of Health Information. The parties understand and agree that Covered Entity must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all Health Information that it receives or creates on behalf of Covered Entity. Upon Covered Entity's request, Business Associate agrees to promptly enter into negotiations with Covered Entity, concerning the terms of any amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA or other applicable laws.

5.3 Relationship to Underlying Agreement(s) Provisions. In the event that a provision of this Agreement is contrary to a provision of an Underlying Agreement(s), the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of such Underlying Agreement(s), and shall be considered an amendment of and supplement to such Underlying Agreement(s).

5.4 Modification of Agreement. No alteration, amendment, or modification of the terms of this Agreement shall be valid or effective unless in writing and signed by Business Associate and Covered Entity.

5.5 Non-Waiver. A failure of any party to enforce at any time any term, provision or condition of this Agreement, or to exercise any right or option herein, shall in no way operate as a waiver thereof, nor shall any single or partial exercise preclude any other right or option herein. In no way whatsoever shall a waiver of any term, provision or condition of this Agreement be valid unless in writing, signed by the waiving party, and only to the extent set forth in such writing.

5.6 Agreement Drafted By All Parties. This Agreement is the result of arm's length negotiations between the parties and shall be construed to have been drafted by all parties such that any ambiguities in this Agreement shall not be construed against either party.

5.7 Severability. If any provision of this Agreement is found to be invalid or unenforceable by any court, such provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions hereof.

5.8 Section Headings. The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

5.9 No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement.

5.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

5.11 Notices. Any notices required or permitted to be given hereunder by either party to the other shall be given in writing: (1) by personal delivery; (2) by electronic facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (3) by bonded courier or by a nationally recognized overnight delivery service; or (4) by United States first class registered or certified mail, postage prepaid, return receipt requested, in each case, addressed to:

If to Business Associate: Gulfstream Outsourcing and Specialized Billing  
Attn: Jack Donahue, COO  
5730 Corporate Way, Suite 214  
West Palm Beach, FL 33407

If to Covered Entity: Pinellas County EMSA  
c/o Pinellas County Safety and Emergency Services  
Attn: HIPAA Compliance Officer  
12490 Ulmerton Road  
Largo, FL 33774-2700

or to such other addresses as the parties may request in writing by notice given pursuant to this Section 5.12. Notices shall be deemed received on the earliest of personal delivery; upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was

completed; twenty-four (24) hours following deposit with a bonded courier or overnight delivery service; or seventy-two (72) hours following deposit in the U.S. Mail as required herein.

5.12 Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Florida (without regard to principles of conflicts of laws). The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state courts located in Pinellas County, Florida or federal court (if permitted by law and a party elects to file an action in federal court) in the Tampa Division of the Middle District of Florida. This choice of venue is intended by the parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this Section 5.12. Each party waives any right it may have to assert the doctrine of *forum non conveniens* or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this Section 5.12.

5.13 Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Regulations.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective as of the date stated above.

**COVERED ENTITY**

**BUSINESS ASSOCIATE**

By: Pat Gerard

By: Rick Fossier

Print Name: Pat Gerard

Print Name: Rick Fossier

Title: Chair, Pinellas County Board of County Commissioners

Title: President

Dated: September 10, 2020

Dated: April 20, 2020

APPROVED AS TO FORM

Jacina Haston  
JACINA HASTON  
OFFICE OF THE COUNTY ATTORNEY

ATTEST: KEN BURKE, CLERK  
By: Ken Burke  
Deputy Clerk

