

ELECTRONIC DATA EXCHANGE AGREEMENT
WITNESSETH:

Based upon the following recitals, the **Oklahoma Health Care Authority** (hereinafter referred to as “OHCA”), the **Gainwell Technologies, LLC** F.E.I. #, (hereinafter referred to as “Gainwell”), and the Contractor, _____, F.E.I.# _____, (hereinafter referred to as “Contractor”), enter into this Agreement.

ARTICLE I. PURPOSE

- 1.0 The OHCA, in its capacity as the Single State Medicaid Agency in the State of Oklahoma, must operate a Medicaid Management Information System (MMIS). The MMIS system contains online information regarding claims adjudication, eligibility verification, prior authorizations, and other information that allows Oklahoma’s Medicaid providers to discern that persons in the community are eligible under Oklahoma Medicaid, known as SoonerCare.
- 1.1 Gainwell is the OHCA MMIS fiscal agent. While OHCA owns data in the MMIS, Gainwell operates the MMIS system in which the claims and eligibility data flow. Contractors provide the pipeline network for the transmission of electronic data; including the transport of MMIS data to and from Gainwell and SoonerCare providers so that SoonerCare providers may discern the eligibility status of persons they serve. SoonerCare providers also use the transported data to determine claim status as well as prior authorization status.
- 1.2 The purpose of this Agreement is to delineate the responsibilities of OHCA, Gainwell, and the Contractor in exchanging MMIS data for OHCA in its operation of the Oklahoma SoonerCare Program.

ARTICLE II. PARTIES

- 2.0 **GAINWELL TECHNOLOGIES, LLC**
2401 NW 23rd Street, Suite 11
Oklahoma City, Oklahoma 73107
- 2.1 **OKLAHOMA HEALTH CARE AUTHORITY**
Oklahoma Health Care Authority
2401 NW 23rd Street, Suite A-1
Oklahoma City, Oklahoma 73107

2.2 CONTRACTOR

Name: _____

Address: _____

E-Mail/Telephone Number: _____

2.3 DEFINITIONS

- 2.3.1 Telecommunications Service Vendor means an entity that requires a real-time connection to the SoonerCare MMIS.
- 2.3.2 Billing Agent Service Vendor means an entity that performs billing functions for a provider, including the exchange of data with SoonerCare.
- 2.3.3 Clearinghouse Service Contractor means an entity that exchanges data with SoonerCare on behalf of a provider, clearing house, or billing agent without changing the content of the data. This entity may translate data between formats and/or reject submissions based on established edits.
- 2.3.4 Provider refers to providers who render services under a SoonerCare health plan (i.e., Traditional, Choice, Insure Oklahoma, SoonerPlan, etc.).
- 2.3.5 Network Address Translation (NAT) is used to provide One-to-One IP address translation where bi-directional communications need to be established.
- 2.3.6 Port Address Translation (PAT) sometimes referred to as Hide NAT, may be used to translate Many-to-One IPs when uni-directional communications need to be established.
- 2.3.7 State Agency means an entity that requires connection to the SoonerCare MMIS to perform functions and exchanges data with the SoonerCare MMIS as defined in the interagency agreement with OHCA.

2.4 CONTRACTOR SERVICE TYPE

Please initial all that apply below:

- _____ By initialing here, the Contractor states that it functions as a Telecommunications Service Vendor and agrees to adhere to all provisions stated in Section 4.0 of this Agreement.
- _____ By initialing here, the Contractor states that it functions as a Billing Agent Service Vendor and agrees to adhere to all provisions stated in Section 4.1 of this Agreement.
- _____ By initialing here, Contractor states that it functions as a Clearinghouse Service Vendor and agrees to adhere to all provisions stated in Section 4.1 of this Agreement.
- _____ By initialing here, Contractor states that it functions as a State Agency Contractor and agrees to adhere to all provisions stated in Section 4.2 of this Agreement.

ARTICLE III. GENERAL PROVISIONS

3.0 TERM OF AGREEMENT

The term of this Agreement shall begin on July 1, 2022 and end on June 30, 2023.

3.1 AMENDMENTS

This Agreement contains all of the agreements of the parties, and no oral representations by either party are binding. Any amendments to this Agreement must be in writing and signed by all parties prior to the effective date of the amendment.

3.2 ASSIGNMENT

Contractor shall not assign nor transfer any rights or obligations under this Agreement without prior written consent of OHCA.

ARTICLE IV. SCOPE OF WORK & OTHER TERMS AND CONDITIONS

4.0 TELECOMMUNICATIONS SERVICE VENDORS

The following provisions are applicable to all Telecommunications Service Vendors.

4.0.1 System Access: Gainwell agrees to provide Contractor with computer telecommunication access to the MMIS system in order to obtain SoonerCare member and provider information. Contractor shall transfer this information to and from authorized SoonerCare providers, or their authorized designee's computer system for purposes of establishing online SoonerCare transactions. Contractor agrees to transmit MMIS information, via its network, without alteration or retention during the normal operational hours of the system. Normal operational hours are from 0500 to 0100, Sunday through Friday, and from 0500 to 2300, Saturday Military Time/Central Standard Time (MT/CST). No transactions will be processed during Gainwell daily scheduled maintenance periods from 0100 to 0500, nor on Saturdays from 2300-0500 MT/CST. Gainwell reserves the right to modify the normal operational hours and the scheduled maintenance periods at any time during the term of this agreement, and will provide notification of its intent to make such changes at least 72 hours prior to the change.

4.0.2 Prior Approval for Issuance of Messages: All timeout and outage messages sent from the Contractor to the transaction requestor must state that the Contractor's help desk is to be called for assistance. Contractor agrees to receive Gainwell approval of all messages concerned with the transmission of data issued by Contractor to their authorized SoonerCare providers, or their authorized designee, prior to the transmission of any messages. All changes to the language of messages must also be submitted to, and approved by, Gainwell prior to the changes becoming effective. Failure to comply with both provisions may result in immediate termination of this Agreement.

4.0.3 Connectivity:

- (a) Dedicated Secure Channel between customer's site and Gainwell must have a minimum line speed of 56 KBS on a dedicated, secure channel from the Contractor's data center to the Gainwell facility. Contractor is free to choose type of channel and ultimate speed above 56 KBS. Contractor's equipment must encrypt all data end-to-end, and maintain full compatibility with Gainwell equipment. The Contractor must coordinate with Gainwell on any equipment changes to ensure the changes will be compatible with the installed equipment at the Gainwell facility. Contractor is responsible for all costs including, but not limited to, installation, equipment, and line charges.
- (b) LAN-to-LAN - a VPN tunnel between customer's site and the Gainwell site will be established via an internet connection. Customer's device must be internet facing, and meet at least the minimum Gainwell encryption standards. Customer IP addressing may be publicly registered IPs or private. If utilizing private IP addressing, the range must not conflict with any other Gainwell customer ranges, or the customer must NAT/PAT as necessary to present usable IPs to Gainwell.

- 4.0.4 Protocol Standards: The parties agree that all connections to and from Gainwell and Contractor will be TCP/IP protocol unless specifically agreed to in writing by the parties. Gainwell will disconnect all lines not meeting this standard.
- 4.0.5 Data Access: Contractor must access the MMIS system to verify eligibility of SoonerCare members to ensure the most current and accurate information is given to SoonerCare providers who are requesting eligibility data.
- 4.0.6 Reporting: Gainwell will define the detailed record format, file structure, and media and provide to Contractor. Contractor agrees to provide performance reports for its network, and its connection to the MMIS as directed by Gainwell. All reports will contain Oklahoma specified data, including network response times.
- 4.0.7 Charges and Credit Provisions: Contractor will be charged and agrees to pay \$0.01, per atomic transaction on all data entering into the MMIS. Contractor will be charged, and agrees to pay \$0.01 per atomic transaction on all data returning from the MMIS. OHCA defines an atomic transaction as the most elemental component. For example, a single billing (B1) submission can contain up to four transactions per transmission, except for compound billings. Only one transaction per transmission is allowable when billing for a multi-ingredient prescription. The most elemental component would be the claim level transaction ('07' in 111-AM segment). If one transmission contains four claim segments, OHCA defines this as four (4) atomic transactions that translates into a \$0.04, charge for that transmission. Transactions for which charges apply are as follows:
- (a) Healthcare claim or equivalent encounter transactions as defined by 45 CFR§ 162.1102 shall count and report atomic transactions for each health care claim at the service line level at the rate specified in subsection 4.0.7 above.
 - (b) Eligibility for a provider transaction as defined by 45 CFR§ 162.1202 shall count and report atomic transactions for each inquiry transaction at the patient benefit level; and, each corresponding eligibility response transaction shall count and report atomic transactions at the patient level benefit level at the rate specified in subsection 4.0.7 above.
 - (c) Referral, certification, and authorization transactions as defined by 45 CFR§ 162.1302 shall count and report atomic transactions for each referral request at the benefit inquiry level; and, each corresponding response transaction shall count and report atomic transactions at the benefit information level at the rate specified in subsection 4.0.7 above.
 - (d) Health care claim status transactions as defined by 45 CFR § 162.1402 shall count, and report atomic transactions for each inquiry transaction at the claim service data level; and, each corresponding response transaction shall count and report atomic transactions at the claim level status information level at the rate specified in subsection 4.0.7 above.
 - (e) Enrollment and dis-enrollment in a provider transaction as defined by 45 CFR § 162.1502 shall count, and report atomic transactions for each member entry level at the rate specified in subsection 4.0.7 above.

- (f) Health care payment and remittance advice transaction as defined by 45 CFR § 162.1602 shall count, and report each claim payment information level at the rate specified in subsection 4.0.7.
- (g) Health care provider premium payment transactions as defined by 45 CFR § 162.1702 shall count and report atomic transactions for organization summary remittance detail level at the rate specified in subsection 4.0.7 above.

4.0.8 Gainwell agrees to track and invoice Contractor on a monthly basis for all data entering and returning from the MMIS. Contractor's failure to pay Gainwell within forty-five (45) days may constitute cause for immediate termination of the Agreement.

4.0.9 Gainwell shall receive twenty percent (20%) of all collections for overhead and administration expenses; and, the remaining eighty percent (80%) will be issued to OHCA, via a credit on the next month's operation invoice, upon remittance from Contractor. Gainwell shall submit documentation with each monthly operation invoice, (accounting for 100% of collections).

4.1 BILLING AGENT & CLEARINGHOUSE SERVICE VENDORS

The following provisions are applicable to all Billing Agent Service Vendors, Clearinghouse Service Vendors, and State Agency Contractors.

4.1.1 Contractor shall provide service to SoonerCare providers whereby the Contractor transmits Electronic Data Interchange (EDI) claims or related data to the MMIS on behalf of the SoonerCare provider or its agent. Contractor shall abide by the policies affecting EDI submissions and submitters as published in the Provider Billing and Procedures Manual. These transactions must be in accordance with the accredited standards of the American National Standards Institute (ANSI), and in compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996, CFR§ 45, Parts 160 and 162, Standards for Electronic Transactions, published in the Federal Register August 17, 2000, 42 C.F.R. Part 2 and all subsequent updates.

4.1.2 Contractor agrees to report all billing information as directed by the SoonerCare provider to Gainwell; and, will not modify the billing information in any way, except with the express written consent of the SoonerCare provider. If Contractor is functioning as a Clearinghouse Service Contractor, the Contractor attests that the transactions sent to Gainwell do not alter the data stated in the original claim.

4.1.3 Authorizations: The Contractor warrants and represents that it has a legally binding contract between itself and all SoonerCare providers or their agent(s), or between itself and third party contractors acting on behalf of SoonerCare providers for whom it is submitting data, or that the Contractor is itself a SoonerCare provider authorized to submit claims and receive health care information for SoonerCare beneficiaries.

4.2 OTHER TERMS & CONDITIONS

The following provisions are applicable to all Contractors (Service Vendors) to this Agreement:

- 4.2.1 Testing Protocol: Contractor shall execute a contract with all SoonerCare providers, or their authorized designee, for submitting and receiving MMIS data. Said contract must stipulate that SoonerCare providers, or their authorized designee, must utilize software tested and approved by Contractor as being in the proper format and compatible with the MMIS system. Contractor agrees to submit test transactions to Gainwell prior to the submission of initial transactions of each individual transaction type to the MMIS production system, to determine that the transactions and responses comply with all requirements and specifications approved by the State of Oklahoma. The parties agree that Gainwell and OHCA will make the sole determination that test data is acceptable. This capability to submit test transactions will be maintained by Contractor throughout the term of this Agreement. Furthermore, Contractor agrees to submit only those individual transaction types that Gainwell has previously approved. Contractor agrees that prior to the submission of any additional transaction types to the MMIS production system, or as a result of making changes to an existing transaction type or system, to submit test transactions to Gainwell. Additionally, Contractor shall release MMIS transmitted data only to authorized parties who have signed contracts with the Contractor. Successful testing means the ability to pass all HIPAA compliance standards, and to process electronic healthcare information transmitted by Contractor to Gainwell.
- 4.2.2 OHCA is under federal mandate to use only formats specified under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA dictates the formats used and the timetable that all payors and submitters must meet in implementing system changes. Contractor shall comply with HIPAA mandated EDI formats on the timelines mandated by either federal law, published in the CFR, or indicated by an OHCA written directive. Contractor shall abide by the policies affecting EDI submissions and submitters as published in the Provider Billing and Procedures Manual, as well as those standards in the Oklahoma Companion Documents as published on the OHCA website. These standards are mandated by OHCA, and will be the only standards allowed unless otherwise specified in writing.
- 4.2.3 Contractor agrees to apply all editing criteria listed in the Provider Billing and Procedures Manual and the Oklahoma Companion Documents for the appropriate transaction type, and to report transactions with errors to the SoonerCare provider, or their authorized designee, within 48 hours of transaction processing with the errors explained.
- 4.2.4 Factoring: Contractor shall not charge SoonerCare providers a percentage of the charges billed, or of the amount collected for Medicaid reimbursable services. Factoring is strictly prohibited under 42 CFR § 447.10(h). Payments to business agents are regulated by 42 CFR § 447.10(f) (1) (3). Contractor shall fully comply with the CFR regulations stated herein. Failure to abide by these provisions shall result in immediate termination of this Agreement. This provision shall survive termination or expiration of this Agreement.
- 4.2.5 Reduction in Scope: It is understood and agreed by the parties that OHCA may, at its option, reduce the scope of services required under its prime contract with Gainwell. In the event OHCA exercises this right, the scope of this Agreement

shall be reduced to be consistent with the scope of work stated in the Gainwell prime contract.

- 4.2.6 Right to Suspend Operations: Should the OHCA determine that its best interest would be served by temporarily suspending all processing operations, or any part thereof (including payments to SoonerCare providers), such suspension shall be communicated to Contractor in a written notice by Gainwell. Contractor shall cease all processing operations for the period specified in the notice immediately upon receipt of said notice.
- 4.2.7 Waiver: It is agreed that no delay nor omission by either party to exercise any right or power shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of any responsibility, condition, or agreement to be performed by the other party, or any breach thereof, shall not be construed as a waiver of any succeeding breach thereof, or of any responsibility, condition, or agreement herein. No change, waiver, or discharge shall be valid unless in writing and signed by an authorized representative of the party against which such change, waiver or discharge is sought.
- 4.2.8 Indemnity & Liability
- (a) The parties intend that each shall be responsible for its own intentional and negligent acts or omissions to act. OHCA shall be responsible for the acts and omissions to act of its officers and employees while acting within the scope of their employment according to the Governmental Tort Claims Act, Title 51 Okla.Stat. Section 151 et seq. The parties intend that this Agreement fully comply with all applicable laws and regulations. This provision shall survive termination or expiration of this Agreement.
 - (b) Contractor shall be responsible for, and agrees to reimburse Gainwell for any liquidated damages, actual damages or charges assessed, incurred or required to be paid by Gainwell to the State of Oklahoma, any regulatory entity or third party as a result of Contractors' failure or inadequacy in performing any of its services or obligations hereunder. In such event, Gainwell shall have the right to discontinue Contractors' access to the MMIS and will provide written explanation of the circumstances and conditions prompting such action. This provision shall survive termination or expiration of this Agreement.
 - (c) Gainwell liability to the Contractor for any damages arising out of or related to this Agreement, regardless of the form of action that imposes liability, whether in contract, equity, negligence, intended conduct, tort, or otherwise, will be limited to and will not exceed, in the aggregate for all claims, actions, and causes of action of every kind and nature, the sum of ten thousand dollars (\$10,000). In no event will the measure of damages payable by Gainwell include, nor will Gainwell be liable for any amounts for loss of income, profit, or savings or indirect, incidental, consequential, exemplary, punitive or special damages of any party, including third parties, even if such party has been advised of the possibility of such damages in advance, and all such damages are expressly disclaimed. No claim, demand, or cause of action that arose out of an event or events that occurred more than two (2) years prior to the filing suit alleging a claim or cause of action may be asserted by either

party against the other. The provisions of this paragraph will survive the expiration or termination of this Agreement for any reason.

ARTICLE V. CONFIDENTIALITY, PRIVACY and SECURITY

5.0 Contractor may use Electronic PHI and PHI (collectively, "PHI") solely to perform its duties and responsibilities under this Contract and only as provided in this Contract. Contractor acknowledges and agrees that PHI is confidential and shall not be used or disclosed, in whole or in part, except as provided in this Contract or as Required by Law. Specifically, Contractor agrees he/she/it will and will require his/her/its employees, agents, vendors, and subcontractor to:

- i. Use or further disclose PHI only as permitted in this Contract or as Required by Law, including, but not limited to HIPAA.
- ii. Ensure that SoonerCare member information is confidential and is not to be released pursuant to 42 U.S.C § I 396a(a)(7). 42 C.F.R. §§431.300-431.306 and 63 O.S. § 5018. Contractor agrees not to release the information governed by these SoonerCare member requirements to any other person or entity without the approval of OHCA, or as required by law or court order.
- iii. Ensure that SoonerCare member and provider information, or any derivative data cannot be re- marketed, summarized, distributed, or sold to any other organization without the express written approval of OHCA.
- iv. Implement and document appropriate technical, physical, and administrative safeguards and comply with Subpart C of 45 C.F.R. Part I 64 and applicable CMS controls with respect to electronic PHI to prevent use or disclosure of PHI other than as provided for by this Contract. and to protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains, or transmits for or on behalf of OHCA in accordance with HIPAA, including, but not limited, to training all employees, agents, and subcontractors in HIPAA to protect OHCA's PHI and prevent, detect, contain, and correct Security violations in accordance with HIPAA; applying security patches and performing vulnerability assessments on a regular basis, and using encryption for all electronic transmission of PHI including forced TLS connections for email.
- v. Not use or disclose or otherwise make available OHCA's PHI to any entity or individual who is not subject to the laws of the United States.
- vi. Not receive remuneration from a third party in exchange for disclosing PHI received from or on behalf of OHCA.
- vii. First report to OHCA any use or disclosure of PHI that is not permitted under this Contract as soon as reasonably practicable upon discovery but no later than three (3) hours from discovery and then provide no later than ten (10) business days a finalized risk assessment report. Contractor shall mitigate, to the extent practicable and in cooperation with OHCA, any harmful effects
- viii. Report potential known violations of 21 O.S. §1953 to OHCA Legal Division without delay and in no event later than three (3) hours after discovery of a prohibited act and then provide no later than ten (10) business days a finalized risk assessment report. In general, this criminal statute makes it a crime to willfully and without authorization gain access to, alter, modify, disrupt, or threaten a computer system.
- ix. Report to OHCA any security incident upon discovery within three (3) three hours of knowledge of the incident, as defined in the Security Rule, with respect to electronic PHI, as well as any breaches of unsecured PHI

as required by 45 C.F.R. § 164 and applicable CMS incident reporting requirements. A Security Incident shall include, but is not limited to, unwanted disruption or denial of service, unauthorized use of a system for processing or storing ePHI, or changes to system hardware, firmware, or software without Contractor's consent. Reports shall include both attempted or successful Security Incidents. Contractor shall provide no later than ten (10) business days from discovery a finalized risk assessment report.

- x. With the exception of law enforcement delays that satisfy the requirements of 45 C.F.R. § 164.412, notify OHCA promptly, in writing and without unreasonable delay and in no case later than three (3) hours, upon the discovery of a breach of unsecured PHI as reasonable in the HITECH Act or accompanying regulations, pursuant to the terms of 45 C.F.R. § 164.410. Such notice shall include, to the extent possible, the name of each individual whose unsecured PHI has been, or is reasonably believed by Contractor to have been accessed, acquired, or "disclosed during such breach. Contractor shall also, to the extent possible, furnish OHCA with any other available information that OHCA is required to include in any notification to individuals under 45 C.F.R. § 164.404(c) at the time of Contractor's notification to OHCA or promptly thereafter as such information becomes available. Contractor shall cooperate in OHCA's breach analysis procedures, including risk assessment, if requested. No later than ten (10) business days after the initial notice, Contractor shall provide a finalized risk assessment report.
- xi. Mitigate, to the extent practicable, any harmful effect that is known to Contractor in connection with a use or disclosure of PHI by Contractor in violation of the requirements of this Contract.
- xii. Provide encrypted e-mail communication when PHI is transmitted to OHCA. No direct connection or Virtual Private Network (VPN) to OHCA will be used for this purpose nor will OHCA use individual e-mail certificates for its staff. Such encrypted e-mail will require a X.509 certificate that can be collected by the existing OHCA e-mail encryption system, so that e-mails can be decrypted automatically by OHCA. OHCA shall provide no additional hardware/software to Contractor for this purpose nor accept any Contractor provided hardware/software.
- xiii. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 164.308(6)(2), if applicable, ensure that any subcontractors, vendors, and agents to whom he/she/it provides PHI or who create, receive, use, disclose, maintain, transmit, or have access to OHCA's PHI agree to the same restrictions, conditions, and requirements that apply to Contractor under this Contract, including but not limited to implementing reasonable and appropriate safeguards to protect PHI. Contractor must obtain satisfactory written assurance of this from the subcontractor and make this assurance available to OHCA upon request.
- xiv. Contractor will make available PHI in a Designated Record Set to OHCA as necessary to satisfy OHCA's obligations under 45 C.F.R. § 164.524.
- xv. Contractor will make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by OHCA pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy OHCA's obligations under 45 C.F.R. § 164.526.
- xvi. Any disclosure of OHCA data must be approved in advance by OHCA and then only to individuals expressly authorized to review such information

under applicable Federal or State laws. If Contractor, employees, or subcontractors disclose(s) or attempt(s) to disclose OHCA data, an injunction may be sought to prevent that disclosure as well as any other remedies of law that may be available. Participants shall provide written notice to OHCA of any use or disclosure of OHCA data not provided for by this Contract of which Contractor becomes aware within five (5) calendar days of its discovery.

- xvii. Notwithstanding anything to the contrary herein, Contractor shall promptly provide written notice to OHCA upon receipt of a subpoena or other legal process that seeks disclosure of OHCA data, so that OHCA may have the opportunity to seek a protective order, on his/her/their own behalf, with respect to such data. Contractor will, to the extent allowed by law, fully cooperate with any attempt by OHCA to seek such a protective order, including, but not limited to, withholding from production any data before OHCA has had a reasonable opportunity to seek such an order or to seek review of the denial of such an order or the issuance of an order that OHCA deems insufficiently protective.
- xviii. Contractor will maintain and make available the information required to provide an accounting of disclosures to OHCA as necessary to satisfy OHCA's obligations under 45 C.F.R. § 164.528.
- xix. To the extent Contractor is to carry out one or more of OHCA's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s).
- xx. Contractor will make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.
- xxi. To the extent allowed by law, Contractor shall indemnify and hold OHCA harmless from all claims, liabilities, costs, and damages arising out of or in any manner related to the unauthorized use or disclosure by Contractor, its employees, subcontractors, vendors, and agents of any PHI or related to the Breach by Contractor, its employees, subcontractors, vendors, and agents of any obligation related to PHI.
- xxii. Provide access in a timely manner to PHI maintained by Contractor in a Designated Record Set to OHCA, or if directed by OHCA to an Individual in order to meet the requirements of 45 C.F.R. 164.524. In the event that any Individual requests access to PHI directly from Contractor, Contractor shall promptly forward such request to OHCA. Any denials of access to the PHI requested shall be the responsibility of OHCA.
- xxiii. Make PHI available in a timely manner to OHCA for amendment and incorporate any amendments to PHI in accordance with 45 C.F.R. § 164.526.
- xxiv. Document disclosure of PHI and information related to such disclosure as would be required for OHCA to respond to a request by an Individual for an accounting of disclosures of PHI, in accordance with 45 C.F.R. § 164.528, and within five (5) calendar days of receiving a request from OHCA, make such disclosure documentation and information available to OHCA. In the event the request for an accounting is delivered directly to Contractor, Contractor shall promptly forward such request to OHCA.
- xxv. Make its internal policies, procedures, practices, books, and records related to the use and disclosure of PHI received from or created or received by Contractor on behalf of OHCA available to the Secretary of HHS, authorized governmental officials, and OHCA for the purpose

of determining Contractor's compliance with HIPAA. Contractor shall give OHCA advance written notice of requests from DHHS or government officials and provide OHCA with a copy of all documents he/she/it makes available.

- xxvi. Respond to OHCA's request for confirmation and certification of Contractor's ongoing compliance with HIPAA, including but not limited to conducting regular security assessments as necessary to evaluate its Security and Privacy practices.

ARTICLE VI. AUDIT AND INSPECTION

- 6.0 Contractor shall keep records as are necessary to disclose fully the extent of service provided under this Contract, and shall furnish records and information regarding any claim for providing such service to OHCA, the State Auditor & Inspector (SAI), Office of Management and Enterprise Services Central Purchasing Division (CPD), General Accounting Office (GAO), Oklahoma Attorney General's Medicaid Fraud Control Unit (MFCU), and the U.S. Secretary of the Department of Health and Human Services (hereinafter referred to as Secretary) at any time and for a period of seven (7) years from the date of service including dates of service under any renewal options. Contractor shall not destroy or dispose of records, which are under audit, review or investigation when the seven- year limitation is met. Contractor shall maintain such records until informed in writing by the auditing, reviewing or investigative agency that the audit, review or investigation is complete.
- 6.1 Authorized representatives of OHCA, SAI, CPD, GAO, MFCU,, and the Secretary shall have the right to make physical inspection of the Contractor or such other places where duties under this Agreement are being performed to inspect, monitor, or otherwise evaluate (including periodic systems testing) the work being performed. Contractor and all subcontractors must provide reasonable access to all facilities and assistance to the State and Federal representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work.
- 6.2 Pursuant to 74 Okla. Stat. § 85.41, OHCA and the Oklahoma State Auditor and Inspector shall have the right to examine the Contractors' books, records, documents, accounting procedures, practices, or any other items relevant to this Contract.
- 6.3 In compliance with 42 CFR § 455.100 et. seq., the Contractor shall furnish ownership information to OHCA via Attachment A, "Disclosure of Ownership and Control Interest Statement" to this Agreement. This Agreement shall not be effective until OHCA receives the ownership information. Ownership information shall also be provided to OHCA within twenty (20) days of any change in ownership. Ownership information is critical for determining whether a person with an ownership interest has been convicted of a program-related crime under Titles V, XVIII, XIX, or XX of the Federal Social Security Act, 42 U.S.C. § 301 et seq.
- 6.4 The Contractor shall submit, within thirty-five days of a request by OHCA, MFCU, or the Secretary, all documents, as defined by 12 Okla. Stat. § 3234, in its possession, custody, or control concerning the ownership of any subcontractor with whom the Contractor has had business transactions totaling more than twenty-five thousand dollars (\$25,000) during the twelve months preceding the date of the request.

ARTICLE VII. LEGAL COMPLIANCE

- 7.0 The parties to this Agreement acknowledge and expect that over the term of this Agreement laws may change. Specifically, the parties acknowledge and expect (i) federal Medicaid statutes and regulations, (ii) state Medicaid statutes and rules, (iii) state statutes and rules governing practice of health care professions, and (iv) any other laws cited in this contract may change. The parties shall be mutually bound by such changes.
- 7.1 As applicable, CONTRACTOR shall comply with and certifies compliance with:
- a. Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.*;
 - b. Rehabilitation Act, 29 U.S.C. § 70 I *et seq.*;
 - c. Drug-Free Workplace Act, 41 U.S.C. § 8101 *et seq.*;
 - d. Title XIX and Title XXI of the Social Security Act, 42 U.S.C. § 1396 *el seq.* and 210 I § *el seq.*;
 - e. Civil Rights Act, 42 U.S.C. § 2000d *et seq.* and § 2000e *et seq.*;
 - f. Age Discrimination Act, 42 U.S.C. § 6101 *et seq.*;
 - g. Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*;
 - h. Oklahoma Anti-Discrimination Act, 25 O.S. § 1101 *et seq.*;
 - i. Oklahoma Worker's Compensation Act, 85A O.S. § I *et seq.*;
 - j. J. Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*;
 - k. Equal Pay Act, 29 U.S.C. § 206(d);
 - l. 31 U.S.C. § 1352 and 45 C.F.R. § 93.100 *et seq.*, which (1) prohibit the use of Federal funds paid under this Contract to lobby Congress or any Federal official to enhance or protect the monies paid under this Contract, and (2) require disclosures to be made if other monies are used for such lobbying;
 - m. Presidential Executive Orders 11141, 11246, 11375, and 11478, and Amendments thereto, and 5 U.S.C. § 350 I, and as supplemented in the Department of Labor regulations at 41 C.F.R. Chapter 60, which together require certain Federal contractors and subcontractors to institute affirmative action plans to ensure absence of discrimination for employment because of age, race, color, religion, sex, sexual orientation, gender identity, disability, or national origin;
 - n. The Federal Privacy Regulations and the Federal Security Regulations as contained in 45 C.F.R. Parts 160 through 164 that are applicable to such party as mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Health Information Technology for Economic and Clinical Health Act ¹ (HITECH) (42 U.S.C. § 300jj *et seq.* and § 17921 *et seq.*);
 - o. Vietnam Era Veterans' Readjustment Assistance Act, 38 U.S.C. § 4212 and 41 C.F.R. Part 60-300;
 - p. Protective Services for Vulnerable Adults Act, 43A O.S. § 10-101 *et seq.*;
 - q. Nonprocurement, debarment, and suspension, 2 C.F.R. Part 376;
 - r. 74 O.S. § 85.44(8) and (C) and 45 C.F.R. §§ 75.320, 75.439, and 75.465 (as defined by 45 C.F.R. § 75.2);
 - s. Anti-Kickback Act of 1986, 41 U.S.C. § 870 I *et seq.*;
 - t. Oklahoma Anti-Kickback Act of 1974, 74 O.S. § 3401 *et seq.*;
 - u. Federal False Claims Act, 31 U.S.C. §§ 3729-3733 and § 380 I *et seq.*;
 - v. Oklahoma Medicaid False Claims Act, 63 O.S. § 5053 *et seq.*; and
 - w. Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. § 1313 and participation in the Status Verification System. The Status Verification System

is defined at 25 O.S. § 1312 and includes, but is not limited to, the free Employment Verification Program (e-Verify) available at www.dhs.gov/E-Verify.

- 7.2 The explicit inclusion of some statutory and regulatory duties in this Agreement shall not exclude other statutory or regulatory duties.
- 7.3 All questions pertaining to validity, interpretation, and administration of this Agreement shall be determined in accordance with the laws of the State of Oklahoma, regardless of where any service is performed or product is provided.
- 7.4 The venue for legal actions arising from this Agreement shall be Oklahoma County, State of Oklahoma. For the purpose of Federal jurisdiction, in any action in which the State of Oklahoma is a party, venue shall be in the United States District Court for the Western District of Oklahoma.
- 7.5 If any portion of this Contract is found to be in violation of State or Federal statutes, that portion shall be struck from this Contract and the remainder of the Contract shall remain in full force and effect.

ARTICLE VIII. TERMINATION AND/OR REDUCTION IN SCOPE

- 8.0 This Agreement may be terminated by all parties for cause with a thirty (30) day written notice to the other party. Either party may terminate without cause with a sixty (60) day written notice to the other party. All notices of termination must be in writing. This Agreement may be terminated immediately upon written notice by Gainwell to Contractor in the event of a breach of confidentiality, security violation of HIPAA, or other Federal or State regulations and laws. OHCA must prior approve any termination notification issued by Gainwell to the Contractor, which such approval will not be unreasonably denied and/or delayed. If Gainwell believes that there is cause for immediate termination due to a breach of confidentiality, security violation of HIPAA, or other Federal or State regulation or law, Gainwell may take immediate steps to protect such information without the prior approval of OHCA.
- 8.1 In the event funding of the SoonerCare Program from the state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to the anticipated Agreement expiration date, this Contract will be terminated immediately by OHCA.

ARTICLE IX. AGREEMENT EXECUTION

- 9.0 The Parties agree that this Agreement is accepted as final and fully executed by OHCA and Gainwell upon completion of the first successful transactions described herein.

9.1 Signatures:

CONTRACTOR

Print Name

Signature

Title

Date

SoonerCare Provider or Fiscal Agent Disclosure of Ownership and Control Statement

PRIVACY ACT STATEMENT: THIS PROVIDES INFORMATION AS REQUIRED BY THE PRIVACY ACT OF 1974.

The primary use of the Disclosure of Ownership and Controlling Interest Form is to meet federal requirements for the screening of entities wishing to participate in the Medicaid program. Accurate completion of this form is a requirement of receiving or renewing a SoonerCare provider agreement and receiving reimbursement from any SoonerCare program.

GENERAL INSTRUCTIONS

Please answer all questions as of the current date. If additional space is needed, please attach additional sheets and reference the item number that you're continuing on another sheet.

Please read the definitions in each section carefully to ensure correct completion of this form. More detailed information can be found in the Code of Federal Regulations, Title 42, Subpart B – Disclosure of Information by Providers and Fiscal Agents, Sections 455.100 through 455.106.

Throughout this document, “**Entity**” means the organization, institution, business, or agency that is requesting a SoonerCare provider agreement in the application of which this Disclosure is a part. The “**Entity**” may also be a fiscal agent or managed care organization.

Government-Owned Entities: If the Entity is owned by a unit of government, for example, a state agency or university or college, county health department, or public school, only Part 1 of this disclosure must be completed.

All other entities, non-profit or for-profit, must complete all parts of this form.

SOCIAL SECURITY NUMBERS

OHCA understands that individuals and entities may have concerns about supplying Social Security numbers (SSNs). Collection of SSNs is required by federal regulations as a critical part of the Medicaid provider screening process to prevent fraud and misuse of taxpayer funds. SSNs are handled by a limited number of enrollment staff who are trained to keep the information confidential. Our treatment of SSNs is akin to our treatment of member and provider identification numbers which are not disclosed to the public. OHCA's computer system is highly secure and meets HIPAA requirements for the handling of personal health information. OHCA conducts regular security tests and audits of the system. In addition, only a limited number of OHCA staff can view SSNs in the system.

Failure to submit Social Security numbers means that OHCA must decline to contract with the Entity and/or terminate existing contracts.

PART 1: ENTITY INFORMATION

(a) Name of Entity: _____
(b) DBA Name if any: _____
(c) Federal Tax Identification Number (TIN) OR: _____
(d) Check the type that best describes the structure of the Entity. Check only one box.
<input type="checkbox"/> For-Profit Corporation <input type="checkbox"/> Non-Profit Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Government Owned <input type="checkbox"/> LLC

PART 2: PERSONS WITH AN OWNERSHIP OR CONTROL INTEREST

“Person with an ownership or control interest” means a person or corporation that:

- (a) Owns 5% or more of the Entity
- (b) Indirectly owns 5% or more of the Entity (for example, a person who owns 10% of a corporation that owns 50% of the Entity)
- (c) Has a combination of direct and indirect ownership interests totaling 5% or more in the Entity
- (d) Owns an interest of 5% or more in any mortgage, deed of trust, note, or other obligation secured by the Entity if that interest equals at least 5 % of the value of the property or assets of the Entity
- (e) If the Entity is organized as a corporation, is an officer or director of that corporation
- (f) If the Entity is organized as a partnership, is a general or limited partner in the Entity.

If this Entity has corporate owners, be sure to list the owning corporation below, as well as any individuals whose ownership in the owning corporation would give them an indirect ownership in the Entity of more than 5%. (For example, if the Entity is “Good Hospital” and it’s 50% owned by “Great Corporation”, list “Great Corporation” in Part 2, and also list any individual or corporation that owns 10% or more of “Great Corporation” because that person would have a 5% or greater indirect ownership of Good Hospital.

If you list any corporations below, you must include as applicable: the primary business address; the address of every business location and any P.O. Box addresses.

If you need more information about direct and indirect ownership or calculating percentage interests, please see the Code of Federal Regulations site above.

You must list ALL direct and indirect owners that meet the 5% test in in (a),(b), (c) or (d) above.

You must list ALL corporate officers and directors and all general and limited partners regardless of whether they meet the 5% test.

Attach additional sheets of paper as necessary and note on the sheet that it’s a continuation of Part 2.

PERSONS WITH AN OWNERSHIP OR CONTROL INTEREST, INCLUDING ALL GENERAL AND LIMITED PARTNERS, AND ALL CORPORATE OFFICERS AND DIRECTORS

Name	Address	SSN/TIN	Date of Birth	Type of Interest (a-f above)

PART 3: OWNER/CONTROL RELATIONSHIPS

List those persons named in Part 2 that are related to each other (spouse, parent, child, or sibling). You only have to list each relationship pair once. For example, if you’ve listed John Smith and Mary Smith as owners, just list John Smith related to Mary Smith as husband. You don’t need to also list Mary Smith related to John Smith as wife.

Name	Related to:	Relationship

PART 4: SUBCONTRACTORS

“Subcontractor” means an individual, agency, or organization to which the Entity has contracted or delegated some of its management functions or responsibilities of providing medical care to its patients;
 For fiscal agents only: A “subcontractor” also means an individual, agency, or organization with which a fiscal agent has entered into a contract, agreement, purchase order, or lease (or leases of real property) to obtain space, supplies, equipment, or services provided under the Medicaid agreement.

If the Entity has a 5% or more interest in any Subcontractor, list the information below for each Person with an ownership or controlling interest” (see definition in Part 2) in the Subcontractor

Name	Address	SSN/TIN	Date of Birth	Type of Interest (a-f above)

PART 5: SUBCONTRACTOR RELATIONSHIPS

List any persons named in Part 2 that is related to a person listed in Part 4 as spouse, parent, child or sibling. You only have to list each relationship pair once. For example, if you've listed John Smith in Part 2 and Mary Smith in Part 4, just list John Smith related to Mary Smith as husband. You don't need to also list Mary Smith related to John Smith as wife.

Name	Related to:	Relationship

PART 6: OTHER DISCLOSING ENTITIES

"Other Disclosing Entity" means:

- (a) an organization, agency or business that is a Medicaid provider or a Medicaid fiscal agent, OR
- (b) any hospital, skilled nursing facility, home health agency, independent clinical laboratory, renal disease facility, rural health clinic, or health maintenance organization that participates in Medicare, OR
- (c) any Medicare intermediary or carrier, OR
- (d) any other entity (other than an individual practitioner or group or practitioners) that furnishes, or arranges for the furnishing of, health-related services for which it claims payment under any plan or program established under Title V or Title XX of the Social Security Act.

List the information below for any person listed in Part 2 who is also a "Person With an Ownership or Control Interest" (as defined in Part 2) for any Other Disclosing Entity.

Person or Corp. Name (from Part 2)	Other Disclosing Entity Name and Address

PART 7: MANAGING EMPLOYEES

“**Managing Employee**” means a general manager, business manager, administrator, director or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of the Entity.

List the information below for all Managing Employees of the Entity.

Name	Address	SSN/TIN	Date of Birth

PART 8: CRIMINAL CONVICTIONS

“**Agent**” means any person who has been delegated the authority to obligate or act on behalf of the Entity.

List the information below for anyone who has been convicted of a criminal offense related to that person’s involvement in any program under Medicare, Medicaid or the Title XX services program since the inception of the program AND is listed in Parts 2 or 7 or is an Agent of the Entity.

Name	Address	SSN/TIN	Date of Birth