



CAHSAH

Shaping the Future of Home Care

GPO PROGRAM
Employment Screening
Request for Proposal

February, 2010

California Association for Health Services at Home
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CAHSAH Request for Proposal

Employment Screening



Table of Sections

	<u>Page #</u>
Section 1: Overview	
1.1 CAHSAH Overview	1
1.2 Member Profile	1
Section 2: GPO Programs	
2.1 Overview	2
2.2 Purpose	2
Section 3: Replacement GPO Program – Employment Screening	2
Section 4: Request for Proposal	
4.1 Qualifications and Minimum Criteria for Participation	3
4.2 Proposed Employment Screening Program Global Specifications	4
4.3 Proposed Employment Screening Program Detailed Specifications	4
Section 5: RFP Process	
5.1 Timeline	6
5.2 Announcement of Intent to Respond	6
5.3 RFP Formats & Sections	7
5.4 Changes, Cancellations & Modifications	7
5.5 Instructions for Pricing	7
5.6 Proposed Submittal	8
Section 6: Program Review/Post Selection	8
Section 7: Contract Summary	
7.1 GPO Vendor(s) Responsibility	9
7.2 Royalty	9
7.3 CAHSAH's Responsibility	10
7.4 Breach of Performance	10
Appendices:	
A. GPO Template	

**CALIFORNIA ASSOCIATION FOR
HEALTH SERVICES AT HOME
(CAHSAH)**



**GPO Program / Employment Screening
Request for Proposal
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SECTION 1 - Overview

1.1 CAHSAH Overview

The California Association for Health Services at Home (CAHSAH) is the leading statewide home care association in the nation and the voice of home care for the western United States. CAHSAH's is dedicated to being the preeminent source of advocacy, education and information, reflecting the full diversity of the home care industry, and to promote quality home care and enhance the effectiveness of its members.

As a California state healthcare association, we provide leadership to the industry through advocacy, education and information sharing activities. With our nation's demographics rapidly changing, we seek to shape the industry's future and to anticipate and meet future demands.

Partnership with our active and supportive membership ensures the quality, growth and future of home care in California and nationwide.

1.2 Member Profile

In representing the home care industry, we take into account the needs of our diverse membership, which reflects different geographic locations, types and sizes of organizations and services.

Our 459 provider member base is comprised of seven provider types:

- Medicare Certified (40%)
- Licensed Home Health (19%)
- Home Care Aide/Private Duty (35%)
- Hospice (4%)
- Other Providers (2%)
 - Home Medical Equipment
 - Home Infusion Pharmacy
 - Interdisciplinary Professional Services

While our member base is 459, total locations exceed 950. The provider type is based on the primary business, although many organizations represent other

provider types as well. Agencies vary in size (net revenues) from less than \$500,000 to \$19 million+.

SECTION 2 – GPO Programs

2.1 Overview

CAHSAH is authorized to serve as a Group Purchasing Organization (GPO) to negotiate discounts on goods and services that will increase the efficiency and effectiveness of the home care industry. CAHSAH may receive a royalty fee from the participating vendors with respect to purchases made by or on behalf of the GPO participant, which helps support association programs.

2.2 Purpose

CAHSAH supports its mission through our GPO programs by providing:

- Consistent, quality information regarding industry issues and trends.
- Increased access to and/or affordability of products or services that improve the industry environment.
- Non-dues revenue, in the form of a royalty, to enhance association activities.

A GPO Program places emphasis on:

- Developing long term relationships with key, “best-in-class” suppliers
- Ensuring a high level of quality and service from the GPO vendors
- Lowering the cost of acquiring products and services
- Minimizing the selection process on behalf of our members
- Adopting standard and common processes, policies, information and measurements for procurement
- Promoting best practices and technology

SECTION 3 –GPO Program – Employment Screening

The home care industry is under more pressure than ever before – staff shortages, ever-changing regulations, diminishing profit margins, etc. These and other factors make thorough employment screening for home care employees an absolute necessity, safeguarding member integrity.

Our members are interested in a robust, responsive approach, ensuring compliance with state-mandated screening requirements. Replacing employees because of poor hiring choices is costly. Members are looking for cost-effective technology and processes that will provide accurate, intelligent information that increases opportunity for success – information that is comprehensive, objective and reliable.

The purpose of establishing this GPO program is to make available to our members products/services with the best technology, highest reliability and seamless integration with their existing business tools while addressing the global issues of home care providers.

One of the key objectives of the GPO employment screening program is to assist our members in identifying the best products in the marketplace. To the extent the program can screen and identify the best products, this will increase efficiency by not requiring individual organizations to go through an elaborate procurement process on their own. A second objective is to guarantee the best possible pricing for the products. It is our intent that members could not find comparable products at better pricing outside of the GPO.

SECTION 4 – Request for Proposal

CAHSAH invites vendors who are dedicated to the home care industry to submit a proposal to provide employment screening to our members through the replacement of our existing GPO program. The program will be awarded on an exclusive basis, dependent upon the type of product or service proposed and the ability to satisfy customer demand and other criteria clearly stated at the time the Requests are let.

4.1 Qualifications and Minimum Criteria for Participation

- A. Any vendor, manufacturer, distributor, consultant or agent seeking to become a GPO vendor must provide, at a minimum, the following information regarding their organization, experience and expertise in a clear and truthful manner:
1. Length of time in business and any history regarding servicing of the home care market.
 2. Vision and Core Value
 3. Organization structure, ownership, sources of capital – information that demonstrates financial viability. Please include a company brochure.
 4. Current client/customer base (size and scope) and geographic service areas.
 5. References from three clients, preferably home care clients.
 6. Curricula vitae or resumes of corporate officers and/or primary sales and service representatives with whom CAHSAH and its members will conduct business.
 7. Marketing plan for reaching the maximum number of members (details).
 8. Example of evaluation tool/satisfaction instrument used to assess customer satisfaction.
 9. Type of dispute resolution or grievance process clients may use if dissatisfied with consultant company or employee behaviors. (See Evaluation, Reevaluation and Dispute Resolution below.)

10. Type and amount of property, casualty, general liability, and, where appropriate, professional liability insurance, in effect for each service provided.
 11. Proposed fee structure for CAHSAH members. Indicate dollar amount or percentage of discount from regular fees.
 12. Proposed royalty fee to be paid to CAHSAH.
- B. A written discussion regarding the manner in which you would ensure that CAHSAH members and your company are clear on the expectations, potential outcomes, and time frames for completion of any agreement or fulfillment of any orders.
- 4.2 Proposed Employment Screening Program Global Specifications
(Please discuss in detail each of the items listed below)
- A. Ability to address diverse agency needs and scope of services
 - B. Value to the members as well as nondues revenue for CAHSAH
 - C. Standard and custom reports with ability to download information to customer's current IT platform; interface with existing business systems
 - D. Training –initial and ongoing
- 4.3 Proposed Employment Screening Program Detailed Specifications
(Please discuss in detail each of the items listed below)
- A. Reliability and quality of product
 - Customer support
 - Minimal effort to collect data
 - Instant access to information 24/7
 - Secure website for warehousing of data
 - Turnaround times
 - Quality assurance
 - Compliance expertise
 - Transmission history with regard to down time
 - B. Support of products and users including response time, education, and training
 - C. Product Features
 - (1) Patient privacy/confidentiality, specifically how data is protected during transmission, etc.
 - (2) Ability to tailor services
 - (3) Specialty searches
 - (4) Detailed, easy to read online reports

- (5) Leading edge tools in web-based environment with real time information – include hardware/software requirements
- (6) User friendly
- (7) Technologically competitive
- (8) Real time statistical review

D. Other - please address

- (1) Research capabilities and processes
- (2) Online billing and invoicing functionality; customized billing solutions
- (3) Communications on industry leading information and trends as well as best practices

E. Experience with regard to length of time between upgrades of software, particularly in regard to regulatory changes.

F. Pending litigation – full disclosure

SECTION 5 - RFP Process

This section sets out the rules under which this RFP and the RFP process will be conducted. Failure to comply with these rules may result in the rejection of your proposal and disqualification from the RFP process.

- A. CAHSAH staff shall review each proposal for completeness prior to submission to the CAHSAH Membership Committee for recommendation to the Board.
- B. The Membership Committee shall review all proposals deemed qualified during an established open selection period and will evaluate all responses utilizing objective selection criteria.
- C. Prior to final acceptance of the proposal, the Membership Committee may seek guidance and counsel from other CAHSAH committees, members, or professional consultants with expertise in the area of the proposal. The committee may also request personal presentations by the vendors, or by selected vendors, to assist in the decision-making process.
- D. The Membership Committee shall recommend acceptance or rejection of all proposals.
- E. Proposals deemed acceptable by the Membership Committee will be presented to the Board of Directors for approval.

Note: Should the Membership Committee request additions or revisions to satisfy the Membership Committee's requirements, the updated proposal will need to be resubmitted in a time and manner specifically prescribed by the Committee.

- F. Vendors, manufacturers, distributors, or agents who are added to CAHSAH's GPO shall be notified of acceptance in a timely manner and added to the list of GPO products and services for distribution to CAHSAH's membership.
- G. Once accepted, a contract will be drawn, using CAHSAH's GPO template **(Appendix A)**. Any advertising, exhibit space, consulting services, etc. arrangements are not part of the GPO agreement and will be addressed through separate contracts.

It is our expectation that your proposal, as submitted, will be considered your final and best response. However, we reserve the right to conduct negotiations with one or more suppliers to clarify terms or negotiate pricing. After the final presentations and negotiations, CAHSAH will select the supplier(s) that it believes will best meet its members' needs.

To ensure equality and consistent and fair communication of information to all prospective vendors during this process, any questions or comments regarding this RFP must be directed to Sandy Bertoux, sbertoux@cahsah.org.

5.1 Timeline (2010 dates are tentative)

Issue RFP to selected vendors and post on website	02/04/10
RFP intent to respond due	02/26/10
RFP questions due to CAHSAH	03/05/10
Response to RFP Questions to Vendors	03/12/10
Final RFP responses due	03/26/10
RFP analysis completed	04/15/10
Vendor presentations as required	05/28/10 (completed date)
Finalize negotiations with suppliers	06/15/10
Contract awarded	06/18/10
Contract signed	06/30/10

5.2 Announcement of Intent to Respond

All vendors who receive this RFP are expected to respond by 02/26/10 to CAHSAH with the Announcement of Intent to Respond Form, **(Appendix B)**. A faxed or e-mail response to Sandy Bertoux regarding this intent is required (Fax: 916-641-5881; e-mail: sbertoux@cahsah.org).

5.3 RFP Formats and Sections

The formats outlined in the RFP must be adhered to in your responses. All response materials must also be accurately labeled, including the section and question addressed. All questions/items (see Sections 4 and 5) should have specific and complete responses.

It is critical that this RFP format is adhered to and that responses are clear. If for any reason there is additional information, which is relevant to the bid, then please include it in the attachments to your response.

- A. Suppliers are required to respond to all of the requirements set forth in this RFP and provide supporting materials.
- B. Suppliers should not reformat this RFP document. Failure to follow this requirement may result in Vendor's disqualification.
- C. Questions about this RFP will only be accepted in writing and only during the Question and Answer period set out above.

5.4 Changes, Cancellations and Modifications

- A. CAHSAH reserves the right to withdraw, modify or discontinue all or part of this RFP process at any time. If one of these events should occur, each Respondent will be notified as soon thereafter as practical in writing or via the same distribution channel used for disseminating the RFP.
- B. CAHSAH may, at its option, revise the schedule of events or anticipated date of award, or may request further Proposals from any Respondent.
- C. Any reply, withdrawal or modification received after the established due date, time, or place designated for receipt will be deemed late and may be considered at the sole discretion of CAHSAH.
- D. CAHSAH, at its sole discretion, reserves the right to modify or amend the milestones associated with this RFP.

5.5 Instructions for Pricing

Please prepare a complete and comprehensive breakdown of the vendor pricing. This section shall include each and every element of the products/services outlined in the vendor proposal and include all analysis, reporting, materials, equipment, software, transportation and any other items provided by the vendor, and included in the vendor quote, except those expressly stated to be the responsibility of the purchaser.

5.6 Proposal Submittal

Proposal should be sent AND emailed to:

Sandy Bertoux
Director, Finance and Membership
3780 Rosin Ct., Suite 190
Sacramento, CA 95834
sbertoux@cahsah.org

SECTION 6 – Program Review/Post Selection

Evaluation, Reevaluation and Dispute Resolution

- A. GPO products and services will be reevaluated according to contract or annually by the Membership Committee. The reevaluation will be based on:
 - 1. Review of GPO Vendor's Client Satisfaction Instruments
 - 2. Review of member complaints and any mitigation efforts
 - 3. Continuing relevance in the marketplace
 - 3. Royalty performance
 - 4. Mutual satisfaction by GPO and GPO Vendor
- B. Any complaint by a CAHSAH member, resolved or otherwise, shall be noted in the vendor's file and submitted to the Membership Committee for consideration at the time of the annual renewal.
- C. Any controversy or claim arising out of or relating to services rendered or products sold to CAHSAH members, or the breach thereof, whether in tort or in contract, in law or in equity, shall be settled by binding arbitration in accordance with the California Arbitration Act (Code of Civil Procedure Section 1289 et. seq.). The decision of the arbitrator shall be final and binding.
 - 1. Should any substantiated complaint cause injury or undue financial burden to a CAHSAH member, the vendor may be immediately disqualified from the GPO program at the discretion of the Membership Committee.
 - 2. Disqualified vendors may be eligible for reentry into the program if all criteria for selection are met. Reapplication may be no earlier than two years from the disqualification date.
- D. Unless specified otherwise, all GPO agreements shall be for a term of at least one year.

- E. All GPO agreements will renew for an additional term, as specified in the agreement, at the discretion of the Membership Committee.
- F. GPO agreements may be terminated by either party with written notice within thirty (30) days of the termination of the contract.

SECTION 7 – Contract Summary

(Details provided in GPO Agreement – **Appendix A: Contract Template**)

7.1 GPO Vendor(s) Responsibility

All GPO vendors shall develop legal and binding contracts for each transaction/ engagement with a CAHSAH member.

- A. A list of clients and services, including costs or fees charged to CAHSAH members upon which the Royalty Fee is based, shall be forwarded to CAHSAH regularly, at least quarterly.
- B. All contract information shall include, at a minimum, a description of the services rendered or products sold; an estimate of total costs; and a timeline for completion of the project, or delivery date.
- C. All contracts shall include a statement of the vendor's general liability, professional liability and property and casualty insurance coverage, as appropriate.
- D. CAHSAH will not assume liability for any contracted services or the reliability of products purchased. Each party to the transaction (vendor and client) shall indemnify and hold harmless CAHSAH, its officers, agents, directors, and employees from and against any and all loss, claim, damage and expense (including attorney's fees), arising out of the agreement, and/or out of any claims by a third party in connection with their transaction.

7.2 Royalties

- A. GPO vendors shall pay CAHSAH a royalty based on the actual dollar value of the sale or completed project.
- B. Fees may be paid as flat rates or a percentage of the contract or sale and shall be negotiated individually with each GPO vendor. Minimum fees will be equal to 1% of sales.
- C. GPO vendors shall forward the royalty to CAHSAH on/or about a mutually agreed upon date, at least quarterly, along with the listing as outlined in Section 4.1.

7.3 CAHSAH's Responsibility

- A. CAHSAH agrees to provide:
 - 1. A list of all CAHSAH members by electronic media.
 - 2. Use of the CAHSAH name and logo.
 - 3. Complimentary listing under GPO products and services section in the Annual Resource Guide.
- B. Other options negotiated on an individual basis.

7.4 Breach of Performance

- A. If any vendor is discovered to have made agreements with CAHSAH members without notifying CAHSAH, the vendor shall be liable for immediate payment of royalties due to CAHSAH.
 - 1. Any breach in the agreement shall subject the vendor to immediate termination of the agreement.
 - 2. At a minimum, the breach will be noted as a complaint against the vendor and will be subject to review by the Membership Committee.

**GROUP PURCHASING ORGANIZATION
VENDOR PARTICIPATION AGREEMENT
Exhibit A**



This Group Purchasing Organization Vendor Participation Agreement (“Agreement”) is made this _____ day of _____, [INSERT EFFECTIVE DATE] (“Effective Date”) in the City of Sacramento, County of Sacramento, State of California, by and between the California Association for Health Services at Home (“CAHSAH”) and _____ (“VENDOR”).

A. CAHSAH is a nonprofit association representing the interest of its “members” as providers of health and supportive services and products in the home throughout California. CAHSAH has established itself as a Group Purchasing Organization (“GPO”) and intends to structure its relationships with vendors and participating CAHSAH members in a manner that is consistent with the requirements of the GPO safe harbor of the Federal Anti-Kickback Law (42 CFR §1001.92(i)) to facilitate the availability to the home care industry of discounts for services and supplies that will increase the efficiency and effectiveness of home care providers and reduce home care costs.

B. CAHSAH has and will continue to enter into agreements with CAHSAH members and other home care agencies who desire to participate in CAHSAH’s GPO that authorizes CAHSAH to serve as such agency’s GPO. Once those persons have entered into the agreements with CAHSAH, they are “GPO Participants”.

C. VENDOR is [**Describe VENDOR Business, for example, an insurance brokerage firm licensed by the California Department of Insurance.**] VENDOR desires to participate as a vendor in CAHSAH’s GPO for the products and services described in Section 1.1 below (the “Products and Services”).

D. CAHSAH and VENDOR enter into this Agreement in order to set forth the manner in which the Services will be offered to CAHSAH Members and other material terms of the arrangement, all as further described herein.

NOW, THEREFORE, the parties hereto agree as follows:

**ARTICLE 1
VENDOR OBLIGATIONS**

1.1 **Vendor Products and Services.** VENDOR agrees to sell to GPO Participants the following goods and services:_____ [**DESCRIBE PRODUCTS AND SERVICES AND DISCOUNT ARRANGEMENT, IF NECESSARY ATTACH AN ADDITIONAL EXHIBIT TO DESCRIBE AND CROSS-REFERENCE EXHIBIT AS A PART OF THE DESCRIPTION OF THE PRODUCES AND SERVICES for example: Group Health Insurance Products and Services through Kaiser Permanente Medical Group of Northern California (“Kaiser North”) and Kaiser Permanente Medical Group of Southern California (“Kaiser South”)**]. VENDOR agrees to use due diligence in providing eligible GPO Participants with the most competitively priced Products and Services.

GPO Participants. To be eligible to participate in VENDOR's GPO program, CAHSAH members must authorize CAHSAH to serve as such member or agency's GPO through a signed GPO agreement. VENDOR shall be responsible for confirming the eligibility of GPO Participants to participate in the GPO. In connection with this obligation,

1.2 VENDOR may rely on the signed GPO agreement submitted by the GPO Participant in substantially the form attached hereto as Exhibit "A" or on the list of GPO Participants available through CAHSAH upon VENDOR's request.

1.3 **Vendor Obligations.** All agreements with respect to the sales of VENDOR Products and Services provided through the GPO shall be negotiated and entered into directly between VENDOR and the GPO Participants, and CAHSAH shall not purchase on behalf of or resell to GPO Participants any Products and Services. VENDOR and the individual GPO Participant may agree to modify the terms of the applicable Products and Services. GPO Participants may also be required to meet certain enrollment guidelines specified for the applicable Products or Services. **[ADD FOR INSURANCE PLANS] All GPO Participants who comply with Plan enrollment guidelines are eligible for participation in the applicable Plan. VENDOR continues to, and can insure non-CAHSAH Members and non-GPO Participants outside this Agreement. VENDOR shall be responsible for the implementation of the Plan, enrollment and the billing and collection of premiums. VENDOR shall be responsible for [DESCRIBE VENDOR OBLIGATIONS, for example, the monitoring of claims made by GPO Participants under the applicable Plan.]**

1.4 **Discounts.**

(a) **Disclosure Requirements.** To the extent that VENDOR provides any discount to GPO Participants that is not otherwise accurately reflected in the invoice or statement provided by VENDOR to the GPO Participant, VENDOR shall fully and accurately report the discount on the invoice or statement submitted to the GPO Participant, and inform the GPO Participant of its obligations to report such discount pursuant to the discount safe harbor of the Federal Anti-Kickback Law (42 CFR §1001.952). Where the price paid by the GPO Participant does not reflect the value of the discount or the value of the discount is not known at the time of sale, VENDOR shall fully and accurately report the existence of a discount program on the invoice or statement submitted to the GPO Participant, inform the GPO Participant of its obligations and, when the value of the discount becomes known, provide the GPO Participant with documentation of the calculation of the discount identifying the specific Products or Services purchased to which the discount will be applied.

(b) **No Recoupment of Discount.** VENDOR shall not seek to recoup the amounts of any Discounts provided pursuant to this Agreement from Medicare, Medicaid or other federal or state health care program, or from any beneficiaries of such programs, whether directly or indirectly.

1.5 **Accuracy of Disseminated Information.** All information provided by VENDOR to GPO Participants and CAHSAH Members, including all articles, bulletins, memoranda, and other promotional material shall be (i) accurate, (ii) not contain any misrepresentation or false or misleading statement or estimate, illustration, circular or materials; and (iii) comply in all respects with all applicable laws **[ADD IF HEALTH INSURANCE IS PRODUCT AND SERVICE: including, but not limited to, the requirements of the Knox-Keene Health Care Service Plan Act (California Health and Safety Code Sections 1340 et seq) and any regulations issued pursuant thereto].**

1.6 **Compliance with Laws.** VENDOR agrees to comply with applicable laws, regulations and rules in the performance of their obligations and under this Agreement. **[ADD IF AGREEMENT INVOLVES INSURANCE PRODUCTS]** Without limiting the generality of the foregoing, VENDOR represents to CAHSAH that, to the best of its knowledge, this Agreement is not in contradiction of any provision of the Knox-Keene Health Care Service Plan Act, as regulated by the California Department of Managed Health Care, or any California insurance or health care law, regulation or rule (collectively, "Laws"). VENDOR shall, in the in the performance of its obligations under this Agreement comply with all applicable California Knox-Keene Health Care Service Plan Act and California insurance or health care Laws. VENDOR represents and warrants to CAHSAH that this Agreement does not conflict with any California Knox-Keene Health Care Service Plan Act and California insurance or health care Laws. In performing its obligations under this Agreement, VENDOR and not CAHSAH shall be responsible for complying with all California Knox-Keene Health Care Service Plan Act and California insurance or health care laws and advising CAHSAH of any duties it may have thereunder by reason of this Agreement.

1.7 **Affiliate Membership in CAHSAH.** VENDOR shall maintain an affiliate membership in CAHSAH for the term of the Agreement. VENDOR shall work with CAHSAH to provided a mechanism to reach VENDOR's members that are not CAHSAH Members for CAHSAH marketing purposes.

1.8 **Booth Space and Advertising.** VENDOR shall have access to booth space at CAHSAH conferences at rates negotiated at such times, and shall have access to advertising space in CAHSAH publications at rates negotiated from time to time.

ARTICLE 2 USE OF CAHSAH NAME

2.1 **Grant of License.** CAHSAH shall, during the term of the Agreement and subject to the terms and conditions of this Agreement, grant to VENDOR a license to use CAHSAH's name and service mark (collectively the "CAHSAH Name") in connection with the VENDOR's participation in the GPO and the Products and Services described in the Agreement; provided, however that VENDOR's license to use the CAHSAH Name shall be limited in all respects by the provisions regarding the "Use of CAHSAH Name" set forth below and shall automatically without notice terminate upon expiration or earlier termination of the Agreement.

2.2 **Limitations on Use of CAHSAH Name.** VENDOR shall use the CAHSAH Name only for the purpose(s) of acknowledging VENDOR's participation in CAHSAH's GPO program. Further, the license granted hereunder is subject to the following use restrictions and conditions:

a) The CAHSAH Name may not be used in any fashion as a recommendation or endorsement by CAHSAH of the purchase of any particular Product or Service offered by VENDOR and VENDOR shall not use CAHSAH letterhead or create any advertising or promotional materials that would create the appearance that VENDOR's communication is made by CAHSAH or that CAHSAH is specifically endorsing VENDOR;

b) VENDOR advertising and promotional materials containing the CAHSAH Name shall be limited to describing VENDOR as a participant in CAHSAH's GPO program and shall not identify VENDOR as a "partner" of CAHSAH or as in any kind of partnership or affiliation with CAHSAH;

c) CAHSAH will not engage in any promotional or marketing activities on behalf of VENDOR or the Products or Services or provide endorsements or testimonials regarding VENDOR's Products or Services;

The CAHSAH Name may not be used in, on or in connection with any advertising or promotional materials directed to the patients served by GPO Participants,

d) including the VENDOR website(s) (except to the extent that the listing of a GPO Participant on VENDOR's directory may state that it is a member of CAHSAH, if it is in fact a member of CAHSAH); and

e) VENDOR shall make no representations that CAHSAH has assessed or recommended the quality, merchantability, fitness for any purpose, performance, operation, maintenance, or support of the VENDOR's Products and Services.

2.3 CAHSAH Approval of VENDOR Materials Using CAHSAH Name. VENDOR shall provide CAHSAH with samples of materials using the CAHSAH Name that VENDOR intends to mail, publish or otherwise provide to GPO Participants at least 15 days prior to the date of actual distribution and such materials shall be subject to CAHSAH's reasonable approval. VENDOR, not CAHSAH, shall be responsible for the accuracy of said information and the proper use of the CAHSAH Name within the terms and provisions of the license granted in this Agreement.

2.4 GPO Vendor Information. CAHSAH identifies to its members its GPO vendors through CAHSAH's newsletters, website and other CAHSAH publications. CAHSAH's website provides website links for all GPO vendors and CAHSAH affiliate members. VENDOR may contact GPO Participants directly provided that all such contacts shall be made in a reasonable and professional manner. Any direct marketing, mailings, distribution of VENDOR's materials, website banners or other advertising for or by VENDOR shall be purchased at fair market value or made available by VENDOR at VENDOR's sole cost and expense.

ARTICLE 3 PRESENTATION TO GPO PARTICIPANTS

3.1 Distribution of Information.

a) No later than thirty (30) days from the date of execution of this Agreement, VENDOR shall communicate with CAHSAH members enclosing information pertaining to the Products and Services offered by VENDOR to GPO Participants. The form and content of said communication, including any attachments and enclosures shall be reviewed and approved by CAHSAH; however, VENDOR, and not CAHSAH, shall be responsible for the accuracy of said information and compliance with the requirements of applicable law.

b) VENDOR may contact GPO Participants directly and all such contacts shall be made in a reasonable and professional manner.

3.2 Provision of Information by VENDOR.

a) During the term of this Agreement, at CAHSAH statewide membership meetings, VENDOR shall provide seminars and instructional materials to GPO Participants relating to the Products and Services offered by VENDOR at VENDOR's cost and expense.

b) During the term of this Agreement, VENDOR shall provide (INSURED) GPO Participants with information, including alerts and special bulletins, as necessary to inform them of significant changes affecting the Products and Services at VENDOR's expense.

c) VENDOR shall provide CAHSAH with samples of materials using the Licensed Name that VENDOR intends to mail or otherwise provide to GPO Participants at least fifteen (15) days prior to the date of actual distribution and such materials shall be subject to CAHSAH's reasonable approval. VENDOR, not CAHSAH, shall be responsible for the accuracy of said information and the proper use of the Licensed Name within the terms and provisions of the license granted in this Agreement.

3.3 Sales of Products and Services Other than GPO Products and Services. VENDOR and GPO Participants (or CAHSAH Members who are not GPO Participants) are free to enter into agreements for the purchase and sale of products, plan and services offered by VENDOR that are different than the Products and Services offered to GPO Participants ("Other Products and Services"). In that event:

a) VENDOR and the other party shall negotiate separate consideration for the Other Products and Services;

b) The Other Products and Services shall not be provided pursuant to the GPO or this Agreement; and

c) VENDOR shall not use the Licensed Name in any manner in connection with the offer or sale of the Other Products and Services.

ARTICLE 4 REPORTS

4.1 Quarterly Reports. During the term of this Agreement, VENDOR shall prepare quarterly reports disclosing the GPO Participants in the Products and Services offered by VENDOR, the Products and Services participated in, and the fees, premiums or other amounts paid by the GPO Participants to VENDOR for the Products and Services.

4.2 Annual Reports. During the term of this Agreement, VENDOR shall prepare an Annual Report:

a) Describing the Products and Services offered by VENDOR during the calendar year to GPO Participants, the Products and Services participated in by GPO Participants, and the fees, premiums or other amounts paid by the GPO Participants to VENDOR for the Products and Services for such calendar year;

b) To the extent feasible, setting forth an estimate of fees, premiums and other amounts to be paid by GPO Participants to VENDOR for the Products and Services for the following years; and

c) Discussing trends and changes affecting the Products and Services for GPO Participants.

The Annual Report shall be delivered to CAHSAH no later than the fifteenth (15th) day of March of the following calendar year. Each quarterly report shall be delivered to CAHSAH by VENDOR no later than 30 days after the end of each calendar quarter.

ARTICLE 5
PAYMENT TO CAHSAH - THE CAHSAH ROYALTY

5.1 **Royalty.** During the term of this Agreement, and in consideration for the right to participate in CAHSAH's GPO program and the right to use the Licensed Name in connection with VENDOR's participation in CAHSAH's GPO program, VENDOR agrees to pay CAHSAH a royalty (the "Royalty") as follows **[NEED TO DESCRIBE ROYALTY CALCULATION, INCLUDING METHOD OF CALCULATION AND TIME OF PAYMENT, FOR EXAMPLE]:**

a) **The Royalty shall be [three percent (3%)] of the gross premiums, fees or other amounts paid by GPO Participants to VENDOR for the Products and Services offered by VENDOR.**

b) **The Royalty shall be paid no later than thirty (30) days following the end of the calendar quarter, or if Section 7.3 applies, pursuant to Section 7.3.**

5.2 **Purpose.** It is expressly agreed and understood by the parties hereto that payment of the Royalty is solely in consideration for the right to participate in CAHSAH's GPO Program as a vendor, including the right to use the Licensed Name in connection with VENDOR's participation in CAHSAH's GPO Program.

5.3 **Non Solicitation.** It is expressly agreed and understood by the parties hereto that CAHSAH shall not solicit CAHSAH Members or GPO Participants to purchase any Products and Services offered by VENDOR.

5.4 **Fees and Charges.** VENDOR shall provide to CAHSAH all services described herein without compensation and shall not charge GPO Participants any fee other than the fees set forth in the agreements between VENDOR and the applicable GPO Participants. It is expressly agreed and understood by the parties hereto that CAHSAH is not responsible for the payment of any fees or premiums charged to GPO Participants in respect of any such agreements.

5.5 **Audits.** CAHSAH shall during and after the term of this Agreement have the right, at its sole cost and expense upon reasonable notice to VENDOR, to review or have its agents review VENDOR's records related to the Products and Services to confirm the accuracy of the Royalty payments made to CAHSAH pursuant to this Agreement.

ARTICLE 6
INDEMNIFICATION

6.1 **Indemnification by VENDOR.** VENDOR agrees to indemnify, defend and hold CAHSAH and its directors, officers, employees, CAHSAH Members, and GPO Participants harmless from all claims, demands, actions, suits, costs, expenses, penalties, damages, losses, and liabilities, including without limitation, reasonable attorney's fees, costs and expenses, including those of appeal and not limited to taxable costs, resulting from VENDOR's breach of the representations, warranties or covenants in this Agreement, or any acts or omissions of VENDOR arising from or related to this Agreement or the products and services offered by VENDOR, including, but not limited to, any violation of any provision of applicable law.

6.2 **Indemnification by CAHSAH.** CAHSAH agrees to indemnify and hold VENDOR harmless from all claims, demands, actions, suits, costs, expenses, penalties, damages, losses, and liabilities (collectively, "Liabilities"), including without limitation, reasonable attorney's fees, costs and expenses, resulting from CAHSAH's breach of the representations, warranties or covenants in this Agreement, or any acts or omissions of CAHSAH arising from or related to this Agreement to the extent that such Liabilities are not covered by insurance.

6.3 **Survival.** Sections 6.1 and 6.2 shall survive the expiration or termination of this Agreement.

ARTICLE 7 TERM OF AGREEMENT AND TERMINATION

7.1 **Term; Automatic Renewal.** The term of this Agreement shall be three (3) years from the Effective Date and the term shall be automatically extended for successive two-year terms unless notice of termination is given by a party to the other party at least ninety (90) days prior to the expiration date of the then-current term.

7.2 **Termination.** This Agreement may be terminated as follows:

a) The Agreement expires at the end of the term, if notice of termination has been timely given pursuant to Section 9.1 hereof.

b) Upon thirty (30) days written notice of intent to terminate in the event that:

i) VENDOR ceases to do business in California;

ii) VENDOR is adjudicated as bankrupt, takes advantage of the insolvency laws of any jurisdiction, makes an assignment for the benefit of creditors, is voluntarily or involuntarily dissolved or has a receiver, trustee or other court officer appointed with respect to its property;

iii) VENDOR fails to make a payment due under this Agreement and fails to remedy same within ten (10) days of receipt of notice of its failure to make said payment; or

iv) Participation in this Agreement by either party constitutes a violation of law.

c) Upon thirty (30) days written notice of intent to terminate in the event of a material breach of this Agreement, and the breaching party fails to remedy the same within ten (10) days of receipt of notice of its breach.

7.3 **Pro-Rated Royalty.** If this Agreement is terminated during a calendar year, accrued and unpaid Royalties will be paid within thirty (30) days following the termination date on a pro-rated basis through the termination date.

Jeopardy. In the event of any legislative or regulatory change, whether state or federal, or other determination which has or would have a significant adverse impact on either party hereto in connection with the performance of this Agreement, or in the event that performance by either party of any term or provision of this Agreement should for any reason be

7.4 in violation of any statute, regulation or otherwise, be deemed illegal, the affected party shall have the right to request the other party to renegotiate the terms of this Agreement. If the parties fail to reach an agreement satisfactory to both parties, the party requesting such renegotiation may terminate this Agreement upon thirty (30) days' written notice to the other party.

ARTICLE 8 DISPUTE RESOLUTION

Any claim or controversy arising out of or relating to any provision of this Agreement, or the breach thereof, shall upon written demand of either party be settled by arbitration in accordance with the California Arbitration Act then in effect, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Arbitration shall be held in the County of Sacramento, State of California. The parties agree that they will accept the arbitrator(s) award as final and binding on them. In any such arbitration, the parties shall be entitled to pursue discovery as provided in California Code of Civil Procedure Section 1282, et seq. The arbitrators shall apply California substantive law and federal substantive law where state law is preempted and in any such arbitration. Civil discovery for use in such arbitration may be conducted in accordance with the California Code of Civil Procedure and the California Evidence Code, and the arbitrator selected shall have the power to enforce the rights, remedies, duties, liabilities, and obligations of discovery by the imposition of the same terms, conditions and penalties as can be imposed in like circumstances in a civil action by a superior court of the State of California. The arbitrators shall have the power to grant all legal and equitable remedies and award compensatory damages provided by California law, except that punitive damages shall not be awarded. The arbitrators shall prepare in writing and provide to the parties an award including factual findings and the legal reasons on which the decision is based. The arbitrators shall not have the power to commit errors of law or legal reasoning, and the award may be vacated or corrected pursuant to California Code of Civil Procedure Sections 1286.2 or 1286.6 for such error. Notwithstanding the above, in the event either party wishes to obtain injunctive relief or a temporary restraining order, such party may initiate an action for such relief in a court of law and the decision of the court of law with respect to the injunctive relief or temporary restraining order shall be subject to appeal only through the courts of law. The courts of law shall not have the authority to review or grant any request or demand for damages or declaratory relief.

ARTICLE 9 MISCELLANEOUS

9.1 **Notices.** All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been given (i) on the date of personal delivery, or (ii) two (2) days after the date of deposit in the United States mail, postage prepaid, by registered or certified mail, return receipt requested, or (iii) one (1) day after the date of deposit to a nationally recognized overnight courier service, in each case, properly addressed to the party at the address set forth below, or any other address that may be designated by written notice to the other.

If to CAHSAH: California Association for Health Services at Home
Attention: Joseph H. Hafkenschiel, President
3780 Rosin Court, Suite 190
Sacramento, CA 95834-1644

If to VENDOR: _____

Either party may from time to time specify a different address in accordance with this paragraph.

9.2 **No Joint Venture.** It is expressly understood and agreed by the parties hereto that neither party is an agent, partner or joint venture with or of the other.

9.3 **Pertaining to Bribery.** VENDOR hereby certifies that is has not been convicted of bribing or attempting to bribe any officer, employee or agent of CAHSAH and has made an admission of same.

9.4 **Prohibition Against Discrimination.** VENDOR shall comply with all Federal, State and local laws prohibiting discrimination against any person.

9.5 **Attorneys' Fees.** In the event that either party institutes any action or proceeding arising out of this Agreement, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including but not limited to attorneys' fees, costs and fees of expert witnesses, of appeal and of enforcement incurred by the prevailing party in connection with such action or proceeding. The determination of which party is the "prevailing party," shall be made by the court or arbitrator, as applicable, at the time of the action or proceeding, as the case may be. Notwithstanding the foregoing, attorneys' fees incurred in enforcing any judgment are recoverable as a separate item and such agreement of the parties is intended to be severable from the other provisions of this Agreement and is intended to survive any judgment and is not to be deemed merged into any judgment. The provisions of this Section shall survive the expiration or termination of this Agreement.

9.6 **Entire Agreement.** This Agreement, together with exhibits, sets forth the entire agreement and understanding of the parties and supersedes all prior agreements and understandings of the parties relating to this Agreement. There are no agreements, representations, or warranties between the parties other than those set forth in this Agreement or the documents and agreements referred to in this Agreement.

9.7 **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors and permitted assigns.

9.8 **Severability.** If any part of this Agreement shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of this Agreement, unless the effect of such severance would be to substantially alter the Agreement or obligations of the parties, in which event the Agreement may be terminated pursuant to the provisions of this Agreement.

9.9 **Amendment.** Except as otherwise provided herein, this Agreement may be amended or modified only by a writing signed by all of the parties to this Agreement.

9.10 **Counterparts.** This Agreement may be executed in several counterparts in one or more separate documents, all of which together shall constitute one and the same instrument with the same force and effect as though all parties had executed the same document.

9.11 **Headings.** The headings of the sections of this Agreement are included for the purposes of convenience only and shall not affect the interpretation of any provision hereof.

9.12 **Governing Law and Jurisdiction.** This Agreement shall be governed by, and its terms and conditions construed in accordance with, applicable common law and statutes of the State of California, without giving effect to the conflict of law rules of that state or the laws of any other country or jurisdiction. Any controversy or claim arising out of or relating to this Agreement, or the breach of this Agreement, shall be brought only in the Superior or State Courts of Sacramento County or in the U.S. District Court for the Eastern District of California, and each of the parties hereby consent to the jurisdiction of, and service of process by, such courts for the purpose of resolving any disputes, and further consent to the propriety of venue in such courts.

9.13 **Waiver.** No waiver of or failure by any party to enforce any of the provisions, terms, conditions, or obligations herein shall be construed as a waiver of any subsequent breach of such provision, term, condition, or obligation, or of any other provision, term, condition, or obligation hereunder, whether the same or different in nature. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

(c) **Assignability.** Neither Party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party. Except as specifically provided in this Agreement, any attempted assignment of a party's rights, claims, privileges, duties or obligations hereunder shall be null and void.

IN WITNESS WHEREOF, the parties hereto execute this Agreement on the date first set forth above.

VENDOR:

[INSERT FULL LEGAL NAME OF VENDOR]

Date: _____

By:

Its: _____

CALIFORNIA ASSOCIATION FOR HEALTH
SERVICES AT HOME

Date: _____

By:

Joseph H. Hafkenschiel, President

Date: _____

By:

_____, Board Chairperson