36217

MASTER EMPLOYER AGREEMENT

This Master Employer Agreement (this "Agreement") is made and entered into by and between Carrum Health, Inc., a Delaware corporation ("**Carrum**"), and The City of Long Beach ("**Employer**"), as plan sponsor and plan administrator of, and on behalf of, City of Long Beach as a self-funded health plan ("**Plan**"), as of January 1, 2022. (Carrum and Employer are referred to herein individually as a "**Party**" and collectively as the "**Parties**"). The effective date of this Agreement is January 1, 2022 (the "**Effective Date**").

RECITALS

WHEREAS, Carrum has entered into certain agreements with Participating Providers (each a "**Contract**") for the provision of Bundled Services at specific Case Rates (each a "**Bundled Payment Program**"). In this Agreement, Employer is contracting with Carrum on behalf of the Plan to secure access for Plan members ("**Participants**") to Carrum's network of Participating Providers offering Bundled Payment Programs. Carrum will make available the details of the Bundled Payment Programs to Employer (each a "**Program Notice**").

NOW, THEREFORE, in consideration of mutual promises, covenants and agreements contained in this Agreement, the parties agree as follows:

ARTICLE I
DESCRIPTION OF SERVICES AND DEFINITIONS

Under the Bundled Payment Program, an array of specified surgeries and procedures are provided (each, an "Index Procedure"). Index Procedures are made available at a fixed price determined in advance (the "Case Rate"). The program includes an extended period during which certain readmissions or admissions ("Readmissions" or "Admissions"), or additional procedures ("Revisions") will be provided at no additional cost. The "Episode Period," during which no additional charges apply generally extends from three days prior to admission to the end of a "Warranty Period" following discharge. For a Readmission or Revision to be covered at no additional cost, it must be related to the Index Procedure (a "Patient Complication"). Services connected with a Readmission or Revision are only covered by the Case Rate if Participant returns to the Provider for those services. They are not included in the Case Rate or subject to this Agreement if Participant obtains the services from another hospital or provider. In that event they would be billed to the Plan Sponsor at standard network rates through its primary insurance carrier or third-party administrator.

Index Procedures provided at the Case Rate include a group of related medical services (the "Bundled Services") designed to provide comprehensive medical care from the date of the Participant's admission through the date of his or her discharge. To avoid disputes and allow Providers to estimate Case Rates, it is necessary to define Bundled Services with reasonable accuracy. Carrum's agreements with Providers define Bundled Services using Diagnosis-Related Group ("MS-DRG") or Current Procedural Terminology ("CPT") codes. Each MS-DRG or CPT code represents a group of codes from the International Classification of Diseases ("ICD") and similar codes used by the Medicare program to reflect a patient's diagnosis, necessary medical procedures, and the presence of complications or comorbidities, among other information. Each Bundled Service in Carrum's agreements with Providers includes a list of the categories and types of services that are included in the definition of Bundled Services, as well as a list of MS-DRG codes describing Readmissions, Admissions, and Revisions that are not included in the Case Rate.

Some Participants may experience, in rare circumstances, certain medical problems during or after admission that are unrelated to the Index Procedure. If the medical problem is an emergency or urgent, it may be necessary to provide treatment at the facility where the patient is admitted. Services to treat emergent or urgent medical problems that are unrelated to the Index Procedure are "Unrelated Covered Services". An example of an Unrelated Covered Service would be an urgent hernia repair while a Participant is at a Provider for a bariatric Index Procedure. Unrelated Covered Services are reimbursed separately from the Case Rate using a predetermined rate (the "Default Rate").

If a Participant schedules follow-up visits with a Provider that are outside of the Bundled Services, the follow-up visits are not subject to this Agreement and will be billed to Plan Sponsor at standard network rates through its primary insurance carrier or third-party administrator. Similarly, some Participants may need services from Non-

Participating Providers related to their surgery that are not part of the Bundled Services. Such services may include (but are not limited to) physical therapy, nursing, infusion, respiratory, inpatient rehabilitation, skilled nursing, and long-term acute care. Those services are not included in the Case Rate or subject to this Agreement and will be billed to the Plan Sponsor at standard network rates through its primary insurance carrier or third-party administrator.

Providers that contract with Carrum may offer different Index Procedures and Case Rates, and there may be variations in other material terms and conditions, such as Warranty Periods. Each Provider's services are outlined in their respective "Program Notice". Each Program Notice describes Bundled Payment Programs that are available to the Plan Sponsor and Participants, and each Program Notice includes more detailed information, including MS-DRG and/or CPT codes and definitions of the capitalized terms above. In most cases, the capitalized terms above are defined in greater detail in the Program Notice applicable to the Bundled Services elected by a Participant. More general definitions applicable to the entire Agreement follow. In the event of an inconsistency between defined terms or any other provision of this Agreement, the applicable Program Notice will control.

"Agreement" means this Master Employer Agreement and any Appendices attached hereto, each as presently in effect or as amended hereafter.

"**Billed Charges**" means Provider's usual and customary charges.

"Bundled Invoice" means an invoice submitted by Provider to Carrum that is sufficiently detailed to identify and support payment of the Bundled Services and Unrelated Covered Services, if any.

"**CMS**" means the Centers for Medicare and Medicaid Services.

"Covered Services" consist of both the Bundled Services and the Unrelated Covered Services.

"Facility" is defined as an acute-care inpatient hospital facility or an outpatient ambulatory surgery center contracted with Carrum to participate in the Bundled Services Program.

"Medically Necessary/Medical Necessity," shall mean a procedure, service, equipment or supply that is: within the standards of good medical practice and within the organized medical community and the most appropriate (as defined below) procedure, service, equipment or supply that can be safely provided. "Most appropriate" means: (i) there is valid scientific evidence demonstrating that the expected health benefits from the procedure, service, equipment or supply are clinically significant and produce a greater likelihood of benefit, without disproportionately greater risk of harm or complications, for the Participant with the particular medical condition being treated than other possible alternatives; and for hospital stays, acute care as an inpatient is necessary due to the kind of services the Participant is receiving or the severity of the medical condition, and safe and adequate care cannot be received as an outpatient or in a less intensive medical setting. The Plan shall reserve the right to require Provider to provide documentation of Medical Necessity on a case-by-case basis.

"Never Event" means a non-reimbursable serious hospital-acquired condition as defined by the Centers for Medicare and Medicaid Services (CMS). Determination of the occurrence of a Never Event and any reimbursement for Medically Necessary services that may be reimbursable outside the Never Event shall be in accordance with CMS Medicare payment guidelines.

"Non-Covered Service" means any health care service that is not a Covered Service, including Never Events and any health care service or supply that would otherwise be a Covered Service but has been determined by a Provider to be not Medically Necessary.

"Participating Provider" or **"Provider"** means (i) a Facility; (ii) an individual who is employed by Facility or Provider or who has contracted (directly or indirectly) with Provider or a Facility to furnish Covered Services to Participants and (ii) in the case of surgeon Participating Providers, has been certified by Carrum for participation in the Bundled Payment Program.

"Prior Authorization" shall consist of i) confirmation by Carrum of an individual's administrative eligibility for Bundled Services and ii) confirmation by the Participating Provider of an individual's clinical appropriateness for Bundled Services.

ARTICLE II
THE PROGRAM

2.1 Payment for Services. Each Program Notice shall detail the Case Rate for the Bundled Services which shall cover all Bundled Services. All Bundled Services (as described in the applicable Program Notice) will be covered by the Case Rate. Unrelated Covered Services will be reimbursed at the Default Rate (as described in the applicable Program Notice).

2.2 Provider Selection and Program Notices. Carrum shall separately provide Program Notices to Plan prior to execution of this Agreement in order to permit Plan to select those Bundled Payment Programs it wishes to offer to Participants. Thereafter, Carrum will notify and provide to Plan new or modified Program Notices as they may become available. Plan has the right to select Bundled Payment Programs to offer to Participants and must notify Carrum, in writing, of Plan's selections, and those Program Notices shall become part of this Agreement. Participating Providers have the right to decline or terminate participation with the Plan. Plan shall abide by the terms of the applicable Program Notice(s). Only the specific Covered Services described in the Program Notice(s) will be provided under this Agreement.

2.3 Medical Information. Carrum shall assist in obtaining medical information for Participants. Participating Providers will review medical records to determine whether a proposed surgery is Medically Necessary. If a Participating Provider requires an in-person evaluation or additional tests, Participating Provider shall notify Carrum to receive prior approval.

2.4 Medicare Secondary Payor. All of the rates, terms and provisions of each Program Notice will apply to all Participants where Plan is the primary payor, including Participants enrolled in a Medicare secondary payor program. Plan's payment to Participating Provider shall not be affected by a Participant's status as a beneficiary of Medicare or any other program or health plan as a secondary payor.

2.5 Non-Covered Services. If a Participant agrees in writing in advance, Participating Providers may furnish, bill, and collect from a Participant directly for any Non-Covered Services at Provider's Billed Charges. Notwithstanding the foregoing, neither Plan nor a Participant shall be liable for payment relating to a Never Event.

2.6 Exclusivity. Plan agrees that its relationship with Carrum is exclusive, and that Plan will only offer bundled services with providers based in the United States of America to its Participants through this Agreement. In the event that Plan also is a party to a preferred provider network agreement or an exclusive provider network agreement that include Participating Providers as providers, this Agreement shall take precedence.

ARTICLE III
EMPLOYER'S OBLIGATIONS

3.1 Communications and Incentives. Employer shall make best efforts to educate all Participants about the availability of Carrum's offerings. Employer shall also agree to:

3.1.1. Send introductory communications upon execution of this Agreement, in ongoing Annual Enrollment materials, and other regular benefits communications (no less than quarterly) to Participants.

3.1.2. Include information in the benefit plan documents regarding financial incentives to be paid by Employer, for at least the IRS allowed tax-preferred limits, to cover costs of Participant travel to Provider, and appropriate stipends to cover costs realized during the course of care received at Provider, including costs of one travel companion, unless prohibited by law.

3.1.3. Employer agrees to, consistent with applicable law, offer financial incentives or penalties to encourage the use of Bundled Services where appropriate, including: (i) waived co-payments, coinsurance and/or deductibles for using Participating Providers for Bundled Services; and, in Employer's discretion (ii) contributions to health reimbursement arrangements, health savings accounts or health flexible spending accounts to offset out-of-pocket costs of medical care and additional services or (iii) other alternative financial incentives or penalties. Employer will be solely responsible for the payment of any incentives hereunder.

3.1.4. Instruct any applicable third-party administrator(s) to inform Participants of Carrum's offerings.

3.2 Prior Authorization. Employer delegates to Carrum the sole authority to determine which persons are administratively eligible to receive Bundled Services. Prior to referring Participants to Participating Providers, Carrum shall verify Participant's eligibility for benefits with Plan. If Plan confirms Participant eligibility, Plan may not retroactively deny, offset, or seek to recoup payment if it is later determined the individual was not eligible. Participating Providers shall determine an individual's clinical eligibility for Bundled Services and submit a plan of care to Carrum. Such plan of care shall serve to certify the Medical Necessity of the Bundled Services, as determined solely by the Participating Provider, to be provided to the Participant.

3.3 Provision of Claims Data. Employer shall direct Plan and its business associates to provide a complete claims file on a weekly basis in a format acceptable to Carrum. Any data third party access fees shall be paid by Employer.

3.4 Provision of Participant Information. Employer shall provide or cause Plan to provide Participant information that is necessary for Carrum to perform its obligations hereunder, and sufficient so that Carrum can exclusively identify the Participant. Employer shall provide, or cause Plan to provide, such information in an eligibility file to Carrum on a weekly basis. Employer shall also provide a method for Carrum to validate Participant eligibility within three (3) business days of Carrum inquiry.

3.5 Provision of Plan Information. Employer shall provide copies of plan documents and Summary Plan Descriptions to Carrum and shall inform Carrum in advance of all changes to Plan's benefit design that have a material impact on this Agreement.

3.6 Compliance. It is Employer's sole responsibility to ensure compliance with laws that apply to it as sponsor and plan administrator of its group health plan, including but not limited to the Patient Protection and Affordable Care Act, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (except for those obligations assumed by Carrum in the business associate agreement attached hereto as Exhibit B), Title I of the Genetic Information Nondiscrimination Act of 2008 (GINA), the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), and the Employee Retiree Income Security Act of 1974 (ERISA). Except with respect to the authority delegated to Carrum in accordance with Section 3.2, Employer acknowledges and agrees that Carrum does not have and shall not exercise any discretionary authority or control with respect to management or administration of Employer's group health plan or the funding or disposition of assets under such plan, and that such authority and control is retained by Employer.

ARTICLE IV
CARRUM OBLIGATIONS

4.1 Services Provided to Participants. Carrum shall cause Participating Providers to provide Covered Services to Participants in accordance with the terms of this Agreement. Carrum shall review all anticipated services to be provided to Participant to confirm such services are within the scope of the Bundled Payment Program. Carrum shall coordinate any travel logistics for Participant and provide for care coordination and concierge services.

4.2 Provider Accreditation and Licensure. Carrum shall require Participating Providers to maintain in good standing, all licenses, permits, governmental or board authorizations or approvals required by law.

4.3 Medical Management/Quality Improvement. Carrum shall require Participating Providers to use reasonable efforts to abide by, participate in and cooperate with quality, cost and claims review, medical management and quality improvement programs and procedures, if any, established by Plan. As necessary and requested by Plan, Carrum will require Participating Providers to provide Plan (and any Plan designee) with reasonable access to records (including Participants' medical records) maintained by Participating Providers and required in connection with such programs in accordance with applicable law. Carrum shall require Participating Providers to use their best efforts to comply with all reasonable determinations made by Plan pursuant to the Medical Management/Quality Improvement programs and comply with any corrective requirement imposed on Plan or by State or Federal officials resulting from any inspection or evaluation. Plan and Program Administrator shall maintain the confidentiality of all such information and shall disclose it to third parties only upon the Participating Provider's advance written consent, or as required by law.

4.4 Transition of Care. Carrum shall use and require Participating Providers to use best efforts to ensure smooth and proper transition of care for Participants.

4.5 Responsibility for Services. Participating Providers shall be solely responsible for the quality of Covered Services provided to Participants. Carrum shall cause Participating Providers to acknowledge and agree to Plans' and/or Carrum's administrative eligibility determinations, authorization of payment for Covered Services, and any utilization review functions are payment, not treatment decisions. Plan and Carrum are not responsible for the quality of Covered Services that are delivered by Participating Providers.

4.6 Communications to Plan Participants. Employer authorizes Carrum to communicate with all Participants regarding the benefit available to them via Carrum as part of the Plan, including targeted communications sent to Participants according to information identified via the claims files. Employer authorizes Carrum to communicate with all Participants upon launch of the program and subsequently once per quarter at minimum.

4.7 Participant Cost Sharing. Plan shall provide Carrum with the Participant's cost sharing obligations at least ten (10) days prior to the date of surgery. Carrum will collect the Participant's portion of the cost and deduct the same amount from the invoice to Plan.

4.8 Subcontractors. Carrum shall have the right to subcontract any of its obligations under this Agreement to one or more third parties. Carrum will require its subcontractors to adhere to the same standards applicable to Carrum regarding data privacy, security and confidentiality.

ARTICLE V
PAYMENT AND BILLING

5.1 Payment to Carrum. The Employer or Plan, as applicable, shall pay i) Carrum all amounts described in each Program Notice for the particular Bundled Payment Program; and ii) all Implementation and Platform fees (refer to Appendix A for fee schedule). Plan will pay Carrum such payments pursuant to Sections 5.2 and 5.3 below. The obligation for payment under this Agreement and the applicable Program Notice is solely that of the Employer and Plan. Neither Carrum nor Participating Providers shall seek reimbursement for Covered Services except in accordance with and subject to the terms of this Agreement and the applicable Program Notice.

5.2 Payment Schedule for Bundled Invoices and Participant Travel. Carrum shall send an invoice to the Employer on behalf of the Plan on a bi-weekly basis reflecting amounts due to Carrum from Employer for Covered Services and participant travel. Employer or Plan shall deliver payment to Carrum on or in advance of no later than seven (7) business days following the receipt of such invoice. Such amounts shall include, but not be limited to, the following:

5.2.1 Amounts due for Covered Services, offset by any amounts collected from Participants in accordance with Section 4.7.

5.2.3 Amounts due for Participant travel.

5.2.4 Any late payment penalties due.

5.3 Late Payment Penalty. If payment is not received by Carrum within 7 business days following the receipt of the invoice, Carrum reserves the right to assess a late payment penalty of three percent (3%) per month, prorated for the number of days that payment is late, and Employer agrees to pay this amount in addition to the amount past due.

5.4 Payment in Full. Carrum will cause Participating Providers to accept payment as described in this Agreement as payment in full for Covered Services and shall not seek payment from Participants for the provision of Covered Services.

5.5 Remittance Advice. Along with all amounts owed to Carrum, Plan shall provide to Carrum a remittance advice to indicate which invoice(s) are being paid.

5.6 Disputed Invoices. In the event of a denial of all or a portion of an invoice, Plan shall supply Carrum with the reasons for denial no later than the time that payment is due and shall pay the portion of the invoice that is not in dispute. In the event Carrum disputes the denial of all or any portion of the invoice on its own behalf or on behalf of Participating Providers:

5.6.1 Carrum shall dispute such denial in writing and provide documentation to the Plan for reconsideration of such denial within thirty (30) days of receipt of the denial.

5.6.2 Should Carrum not supply written documentation within thirty (30) days of receipt of the denial, Carrum will be deemed to have waived, released, and relinquished any and all rights to dispute the denial of all or portions of the invoice.

5.6.3 Should Carrum supply documentation to Plan within thirty (30) days of receipt of the denial, Plan shall complete its review and make a determination regarding the appropriate payment within thirty (30) calendar days after receipt of the necessary written documentation from Carrum.

5.6.4 If a portion of the invoice is still in dispute after this determination, Plan shall pay any undisputed portion at that time.

5.6.5 In the event all or a portion of the dispute remains unresolved, the Parties shall proceed with dispute resolution proceedings as set forth in Section 9.13 of this Agreement.

5.7 Plan and Eligibility Changes. If the benefits of Plan change or are discontinued, or a Participant becomes ineligible while receiving Bundled Services, then the Bundled Payment Program(s) in effect at the time of commencement of Bundled Services shall apply until the Participant's completion of the Bundled Services.

5.8 Billing Audit Requirements. Upon reasonable prior written notice to Participating Providers, and subject to a mutually agreeable audit plan and process between Provider, Plan and Carrum, the Plan or its designee may audit the charges made under this Agreement to determine if the charges accurately reflect the Covered Services provided to Participants and whether such charges are consistent with the terms of this Agreement. Such audits shall be done retrospectively and shall be limited to Claims not more than twelve (12) months old from payment date, and audit must identify both underpayments and overpayments. Plan, Carrum, or the Plan's designee (who shall sign an appropriate confidentiality agreement) shall conduct the audits and investigations during regular business hours and treat any confidential information in a manner consistent with this Agreement and applicable state or federal law. To the extent permitted under applicable law and regulation, as a condition to the conduct of the audit, Plan agrees that Participating Provider or its authorized representatives may review, audit and duplicate data and other records relating to performance under this Agreement. Any undisputed amounts resulting from such audit shall be paid by the party owing the payment within thirty (30) days of the owing party's receipt of notice requesting payment of the undisputed amounts. This section will survive the termination of this Agreement.

ARTICLE VI
TERM AND TERMINATION

6.1 Term. The initial term of this Agreement shall commence on the Effective Date and shall continue for an eighteen (18) month period (the "Initial Term"). Following the expiration of the initial term, the Plan can opt to renew for two (2) additional (12) month periods (each, a "Renewal Term") at the Plan's discretion, unless terminated by either Party pursuant to Section 6.2, Section 6.3, or Section 6.4. Collectively the Initial Term and the Renewal Term shall be the "Term." The terms in the written agreement are subject to review and/or renegotiation at the Plan's discretion at least 180 days prior to the end of a 12-month period in the Renewal Term upon the written request of either party.

6.1.1 Plan may elect to terminate participation in a specific Bundled Payment Program without terminating this Agreement.

6.2 Termination without Cause. This Agreement may be terminated, after the Initial Term, upon the anniversary of the Effective Date provided that the terminating Party provides the other Party with one hundred twenty (120) days prior written notice.

6.3 Termination for Breach. Either Party may, at its option, terminate this Agreement in the event of a material breach by the other Party. Such termination may be affected only through a written notice to the breaching Party, specifically identifying the breach or breaches on which such notice of termination is based. The breaching Party will have a right to cure such breach or breaches within thirty (30) days of receipt of such notice, and this Agreement may be terminated by the non-breaching Party in the event that such cure is not made within such thirty (30) day period. In the event Employer materially breaches this Agreement during the Initial Term and Carrum terminates the Agreement as provided in this Section 6.3, Employer shall owe all fees outlined in Appendix A for the entirety of the Initial Term.

6.4 Termination for Insolvency. Either Party may, at its option, terminate this Agreement immediately upon written notice to the other Party, in the event (a) that the other Party becomes insolvent or unable to pay its debts when due; (b) the other Party files a petition in bankruptcy, reorganization or similar proceeding, or, if filed against, such petition is not removed within ninety (90) days after such filing; (c) the other Party discontinues it business; or (d) a receiver is appointed or there is an assignment for the benefit of such other Party's creditors.

6.5 Termination for Nonpayment. Carrum or a Participating Provider may terminate or suspend its services under this Agreement or under any Bundled Payment Program in the event of nonpayment of undisputed Bundled Invoices due under this Agreement. Any such suspension or termination of services shall not relieve Employer's or Plan's obligation for payment and shall survive the termination or suspension of this Agreement.

6.6 Services after Termination. If a Participant has begun receiving Covered Services from Participating Providers prior to any terminations described in this Section VI or prior to a change in the Case Rate, Participating Providers shall complete Participant's care and Plan or Employer will make payment in accordance with the terms of this Agreement.

ARTICLE VII
REPRESENTATIONS AND WARRANTIES; INDEMNIFICATION; LIMITATION OF LIABILITY

7.1 Mutual Representations and Warranties. Each Party hereby represents and warrants i) that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; ii) that the execution and performance of this Agreement will not conflict with or violate any provision of law having applicability to either Party; iii) that it shall act in accordance with all applicable laws and regulations; iv) the information that it provides is accurate; v) that it is not under any obligation that would conflict with its obligations under this Agreement and vi) that this Agreement, when executed and delivered, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms.

7.1.1 THE PARTIES AGREE THAT CARRUM IS NOT A CARE PROVIDER AND DOES NOT PROVIDE DIAGNOSTIC SERVICES OR MEDICAL ADVICE. THE SERVICES PROVIDED BY CARRUM, ARE NOT, NOR ARE THEY INTENDED TO BE, A MEDICAL EVALUATION, MEDICAL EXAMINATION, MEDICAL ADVICE, MEDICAL CONSULTATION, MEDICAL DIAGNOSIS OR MEDICAL TREATMENT. EXCEPT AS PROVIDED HEREIN, CARRUM SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION THE SERVICES PROVIDED BY PARTICIPATING PROVIDERS, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR USE OF A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING OUT OF THE COURSE OF DEALING, OR COURSE OF PERFORMANCE.

7.2 Defense Costs. Except as set forth in Section 7.3 below, no Party shall be liable for any claims or demands or expenses of defending the others or the others' agents or employees against any legal or regulatory action arising out of or directly or indirectly connected with this Agreement, including any negligence or professional malpractice or for any costs, liability, settlement, expenses, including attorneys' fees or penalties of the other resulting from such actions, which are the subject of this Agreement.

7.3 Indemnification.

7.3.1 Plan agrees to protect, indemnify and hold harmless Carrum and its agents, employees, directors, and officers (collectively, the "Carrum Indemnitees") from and against any and all damages, injuries, claims, liabilities and costs (including, but not limited to, attorneys' fees) ("Claims") that are suffered or incurred by a Carrum Indemnitee as a result of or arising from a breach of this Agreement by, or the negligent or intentional acts of, Plan, its officers, directors, employees, agents, consultants or subcontractors (collectively the "Plan Indemnitees"). Notwithstanding the previous sentence, Plan shall have no obligation to indemnify or hold harmless any Carrum Indemnitee for Claims resulting or arising from a breach of this Agreement, willful misconduct, criminal conduct, gross negligence, reckless acts or fraud of a Carrum Indemnitee. The indemnity provided for under this Section 7.3.1 is in addition to any other rights that Carrum may have against Plan and will survive the termination or expiration of this Agreement.

7.3.2 Carrum agrees to protect, indemnify and hold harmless Plan Indemnitees from and against any and all Claims that are suffered or incurred by a Plan Indemnitee as a result of or arising from a breach of this Agreement by Carrum or the willful misconduct, criminal conduct, gross negligence, reckless acts or fraud of any Carrum Indemnitee. Notwithstanding the previous sentence, Carrum shall have no obligation to indemnify or hold harmless any Plan Indemnitee for Claims resulting or arising from the negligent or intentional acts of any Plan Indemnitee. Said indemnity is in addition to any other rights that Plan may have against Carrum and will survive the termination or expiration of this Agreement. Breaches related to Protected Health Information (PHI) as defined in HIPAA or the HITECH Act shall be excluded from this Section 7.3.2 and reserved to the Business Associate Agreement entered into between the Parties.

7.4 Limitation on Liability. PLAN SPONSOR AGREES THAT CARRUM AND ITS AFFILIATES AND THEIR COLLECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, LICENSORS, OR REPRESENTATIVES (COLLECTIVELY "CARRUM PARTIES") WILL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES THAT MAY ARISE OUT OF OR RELATE TO THE SERVICES PROVIDED BY CARRUM UNDER THIS AGREEMENT, THE BUSINESS ASSOCIATE AGREEMENT AND/OR ANY EXHIBITS SCHEDULES, AMENDMENTS, APPENDICES THERETO, INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS RESULTING FROM THE USE OR INABILITY TO USE THE CARRUM PLATFORM OR APP(S) (INCLUDING LOSS OF TIME, LOSS OF SAVINGS, LOSS OF DATA, LOSS OF PRIVACY OR SECURITY, LOSS OF PROFITS AND LOSS OF GOODWILL), EVEN IF THE CARRUM PARTIES HAVE BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF THE DAMAGES OR COSTS OCCURRING, THE LIMITED REMEDIES STATES HEREIN FAIL OF THEIR ESSENTIAL PURPOSE, OR EVEN IF LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE.

ARTICLE VIII
PROPRIETARY INFORMATION

8.1 Confidential Information. "Confidential Information" shall mean certain nonpublic information, whether disclosed orally or in writing, concerning the procedures, credentialing, criteria, patient treatment and/or finances, pricing methodologies, fee schedules, volume of business, methods, systems, practices, plans and other proprietary business information. Confidential Information may be i) designated as "Confidential," "Proprietary" or some similar designation; (ii) which the Receiver is advised is confidential or proprietary; or (iii) which, a reasonable person knows or should reasonably understand to be confidential or proprietary.

8.2 Ownership of Confidential Information. The Parties acknowledge that during the performance of this Agreement, each Party will have access to certain of the other Party's Confidential Information or Confidential Information of third parties that the disclosing Party is required to maintain as confidential. Both Parties agree that all items of Confidential Information are proprietary to the disclosing Party or such third party, as applicable, and will remain the sole property of the disclosing Party or such third party.

8.3 Mutual Confidentiality Obligations. Each Party agrees as follows: (a) to use Confidential Information disclosed by the other Party only for the purposes described herein; (b) that such Party will not reproduce Confidential Information disclosed by the other Party, and will hold in confidence and protect such Confidential Information from dissemination to, and use by, any third party; (c) that neither Party will create any derivative work from Confidential Information disclosed to such Party by the other Party; (d) to restrict access to the Confidential Information disclosed by the other Party to such of its personnel, agents, and/or consultants, if any, who have a need to have access and who have been advised of and have agreed in writing to treat such information in accordance with the terms of this Agreement; and (e) to return or destroy all Confidential Information disclosed by the other Party that is in its possession upon termination or expiration of this Agreement.

8.4 Confidentiality Exceptions. Notwithstanding the foregoing, the provisions of Sections 8.1, 8.2, and 8.3 will not apply to Confidential Information that (a) is publicly available or in the public domain at the time disclosed; (b) is or becomes publicly available or enters the public domain through no fault of the recipient; (c) is rightfully communicated to the recipient by persons not bound by confidentiality obligations with respect thereto; (d) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (e) is independently developed by the recipient; or (f) is approved for release or disclosure by the disclosing Party without restriction. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (x) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (y) to establish a Party's rights under this Agreement, including to make such court filings as it may be required to do.

8.2 Use of Name. Participating Providers, Carrum, and Plan shall not use another's name, copyrights, symbols, trademarks or service marks (collectively, "Marks") in advertising, promotional materials or otherwise, without the prior written consent of such other party; provided, however, that this prohibition shall not apply to (i) Carrum's use of the Marks in lists of participating Plans in the Bundled Program or commercial materials for the Bundled Program provided by Carrum, the Plan, or the Provider to Participants or (ii) Carrum's inclusion of Marks in its non-public facing informational materials used with prospective Plans.

ARTICLE IX
MISCELLANEOUS PROVISIONS

9.1 Carrum shall not be liable to Employer, the Plan, its Participants or any other person or entity for any act or omission of Participating Providers, their employees or agents, including but not limited to the failure or refusal to render any Covered Services to a Participant.

9.2 Headings. The headings of the various sections of this Agreement are inserted merely for the purpose of convenience and do not expressly or by implication limit, define or extend the specific terms of the section so designated.

9.3 Counterpart Copies. This Agreement may be executed in multiple counterparts, each of which shall be an original, but such counterparts shall constitute one and the same instrument.

9.4 Waiver of Breach. Waiver of breach of any term or provision of this Agreement shall not be deemed a waiver of any other breach of the same or different provision. The failure to exercise any right hereunder shall not operate as a waiver of such right. All rights and remedies provided herein are cumulative.

9.5 No Guarantee. Carrum makes no representations or guarantees concerning the number of Participating Providers or Bundled Payment Programs it can or will provide to Plan as options to participate in under this Agreement. Similarly, Plan makes no representations or guarantees concerning its participation in any specific Bundled Payment Program or the number of Participants who will receive Covered Services.

9.6 Notices. Except for invoices and billing-related communications, which may be sent by email, any notice required pursuant to this Agreement shall be in writing and shall be sent by certified or registered mail or courier, return receipt requested, to Carrum or Employer at the address set forth below. The notice shall be effective on the date indicated on the return receipt. Such addresses may change from time to time by written notice to the other Party.

To Carrum:
Carrum Health, Inc.
951 Mariners Island, 3rd Floor
San Mateo, CA 94414
Attn: General Counsel

To Employer:
City of Long Beach
Attention: Human Resources – Employee Benefits
411 West Ocean Boulevard, Floor 10
Long Beach, CA 90802
E-mail Invoice to: HR-AcctsPay@longbeach.gov
Contact: Michelle Hamilton, HR Officer; Phone: 562.570.6371

9.7 Severability. In the event any term of this Agreement is rendered invalid or unenforceable by any state, local or federal law, regulation or court, the remainder of the terms shall remain in full force and effect.

9.8 Entire Agreement. This Agreement, its Appendices, and the Program Notice(s) constitute the entire understanding between the Parties concerning the subject matter of this Agreement and supersede all other prior agreements between the Parties.

9.9 Amendment. This Agreement may only be amended by a written amendment signed by Carrum and Employer by their duly authorized representatives.

9.10 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California to the extent not preempted by ERISA or other law.

9.11 Independent Contractor. The relationship of the Parties is that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither Employer, nor Carrum, nor any of their respective agents or employees, shall be construed to be the agent, employee or representative of the other. Furthermore, this Agreement shall not be construed to create a partnership, joint venture, association or like relationship between or among Participating Providers, Carrum, or Employer.

9.12 No Third-Party Beneficiaries. Except with respect to Providers identified in Program Notices, this Agreement will be construed to confer no rights whatsoever on any third parties, including Participants, other providers, or other individuals or entities, unless specifically provided herein.

9.13 Negotiation of Disputes. All disputes that the parties cannot resolve on their own through good faith discussions, shall be subject to resolution initially through non-binding arbitration in accordance with the rules and procedures of the Judicial Arbitration and Mediation Service (JAMS). To the extent the JAMS streamlined rules and procedures are available, they will be used. Arbitration will take place in the County of Los Angeles, California. Mediation may be utilized in lieu of non-binding arbitration if the parties agree. If arbitration is unsuccessful, claims for injunctive or other equitable relief may be brought by either party, immediately at any time, in any court of competent jurisdiction.

9.14 Survival. If this Agreement is terminated or expires, its provisions will continue in effect with respect to the following: Article V (Payment and Billing), 6.5 (Termination for Nonpayment), 6.6 (Services after Termination), 5.8 Billing Audit, 7.3 (Indemnification), and Article VIII (Proprietary Information).

(Rest of page intentionally left blank; Signature page(s) follow)

IN WITNESS WHEREOF, Plan and Carrum have entered into this Agreement as of the Effective Date specified above.

Employer/Plan

By: Linda F. Tatum

Name: LINDA F. TATUM

Title: ASST CITY MANAGER

Carrum Health, Inc.

DocuSigned by:

By: Sachin Jain
73EDE8C19C7C451...

Name: Sachin Jain

Title: CEO

APPROVED AS TO FORM
January 3, 2022
CHARLES PARKIN, City Attorney
By Gary J. Anderson
GARY J. ANDERSON
PRINCIPAL DEPUTY CITY ATTORNEY

APPENDIX A: FEE SCHEDULE

A1. Participant Platform Fees:

- **Program Year** 1 of Agreement: $1.00 Per Employee Per Month (PEPM)
- **Program** Year 2 of Agreement: $1.00 Per Employee Per Month (PEPM)
- **Program** Year 3 of Agreement and beyond: $1.00 Per Employee Per Month (PEPM)

Program Year 1 shall commence upon the date where Bundled Payment Programs are first available for Participants ("Launch Date") and continue for twelve (12) months thereafter and each subsequent 12-month period shall be the next Program Year. The Launch Date shall commence on January 1, 2022. Participant Platform Fees will be invoiced annually in advance of each Program Year. Carrum will issue an invoice to Employer 30 days prior to the Launch Date and then 30 days prior to the beginning of each Program Year. Employee count shall be derived from the most recent eligible employee, defined as every US- based subscriber on a non-HMO plan that has access to use the Carrum benefit, count as provided by Plan or Plan's third-party administrator as outlined in Section 3.4.

A.3 Consultation-Only Transaction Fee. In the event i) Participant meets qualification criteria established by Participating Provider, ii) Carrum completes gathering Participant's relevant medical records and refers Participant for a consultation to the Participating Provider, iii) the Participating Provider completes a consultation with the Participant, and iv) the Participant does not complete the Bundled Services, then Employer or Plan shall pay a Consultation-Only Fee in the amount of two thousand four hundred ninety-nine dollars ($2,499.00)

APPENDIX B: HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement (the "Agreement") is entered into this 1st day of JANUARY, 2022, by and between CITY OF LONG BEACH ("Plan Sponsor"), as plan sponsor and plan administrator of, and on behalf of, ANTHEM BLUE CROSS (i.e., the group health plan) ("Covered Entity") and Carrum Health ("Business Associate"). Business Associate and Plan Sponsor are hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, COVERED ENTITY is subject to the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d – 1320d-8 ("**HIPAA**"), as amended from time to time, and is required to safeguard individually identifiable health information the COVERED ENTITY creates, receives, maintains or transmits (hereinafter "protected health information" or "PHI") in accordance with the requirements HIPAA establishes and also the requirements set forth in the Health Information Technology for Economic and Clinical Health Act and any regulations promulgated thereunder (the "HITECH Act"); and

WHEREAS, COVERED ENTITY desires to engage the services of BUSINESS ASSOCIATE to perform certain tasks on behalf of COVERED ENTITY which may involve the use or disclosure of PHI created, received, maintained or transmitted by COVERED ENTITY, BUSINESS ASSOCIATE and/or other business associates of COVERED ENTITY; and

WHEREAS, BUSINESS ASSOCIATE desires to perform the designated services on behalf of COVERED ENTITY.

NOW THEREFORE, for and in consideration of the mutual premises, conditions and covenants herein contained, the parties hereto agree as follows:

1. DEFINITIONS

1.1. **"Protected Health Information"** or **"PHI"** as used in this Agreement means (subject to the definition at 45 C.F.R. § 160.103) Individually Identifiable Health Information that BUSINESS ASSOCIATE creates, receives, maintains or transmits on behalf of COVERED ENTITY. This Agreement is intended to comply with the requirements for business associate agreements under the HIPAA Rules and is to be construed to achieve compliance with those requirements.

1.2. **Regulations.** Terms used, but not otherwise defined, in the Agreement will have the same meaning as those terms in the federal Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160, subpart A and Part 164, subparts A and E (the "**Privacy Rule**"); the federal Security Standards, 45 C.F.R. Part 160, subpart A and Part 164, subparts A and C (the "**Security Standards**"); and 45 C.F.R. Part 160, subpart A and Part 164, subpart D (the "**Breach Notification Rule**"), and as each may be amended from time to time. Collectively, the Privacy, Security and Breach Notification Rules are referred to as the "HIPAA Rules."

2. TERM

2.1. The term of this Agreement will commence as of the Effective Date and will expire when all PHI created, received, maintained or transmitted by BUSINESS ASSOCIATE on behalf of COVERED ENTITY is destroyed or returned to COVERED ENTITY pursuant to Section 8.1.

3. PERMITTED USES AND DISCLOSURES PERMITTED

3.1. **Stated Purposes.** BUSINESS ASSOCIATE is permitted to use and/or disclose PHI as necessary to perform the services specified in the underlying services agreement between the parties and/or preparing a geographic and cost savings analysis (the "**Stated Purposes**") and is otherwise prohibited from using or disclosing PHI provided or made available by COVERED ENTITY for any purpose other than as expressly permitted or required by this Agreement. Unless otherwise set forth herein, the terms of the underlying services agreement shall apply to this Business Associate Agreement.

3.2. **Other Permitted Uses and Disclosures.** In addition to the Stated Purposes for which BUSINESS ASSOCIATE may use or disclose PHI, BUSINESS ASSOCIATE may use or disclose PHI provided or made available from COVERED ENTITY for the proper management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE. Such a use and disclosure are permitted provided that:

3.2.1. The disclosure is Required by Law; or

3.2.2. BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as Required By Law or for the purposes for which it was disclosed to the person; the person will use appropriate safeguards to prevent use or disclosure of the PHI; and the person immediately notifies the BUSINESS ASSOCIATE of any instance of which it is aware in which the confidentiality of the information has been breached.

3.3. **Minimum Necessary.** BUSINESS ASSOCIATE agrees to make uses and disclosures and requests of PHI consistent with COVERED ENTITY'S minimum necessary policies and procedures, such policies and procedures to be provided to BUSINESS ASSOCIATE by COVERED ENTITY concurrent with the execution of the Agreement.

3.4. **Data Aggregation.** BUSINESS ASSOCIATE may use or disclose PHI to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of COVERED ENTITY.

4. BUSINESS ASSOCIATE OBLIGATIONS

4.1. **Limits on Use and Further Disclosure Established by Agreement or By Law.** BUSINESS ASSOCIATE hereby agrees that the PHI provided or made available by COVERED ENTITY will not be further used or disclosed other than as permitted or required by the Agreement or as Required by Law. BUSINESS ASSOCIATE will comply with the provisions of this Agreement related to the privacy and security of PHI and all present and future provisions of the HIPAA Rules that are applicable to COVERED ENTITY and/or BUSINESS ASSOCIATE. To the extent BUSINESS ASSOCIATE is to carry out any of COVERED ENTITY'S obligation under the Privacy Rule, BUSINESS ASSOCIATE will comply with the requirements of the Privacy Rule that apply to COVERED ENTITY in the performance of such obligation.

4.2. **Appropriate Safeguards.** BUSINESS ASSOCIATE will establish and maintain appropriate safeguards to prevent any use or disclosure of the PHI, other than as provided for by this Agreement and comply with the Security Rule with respect to electronic PHI.

4.3. **Reports of Improper Use or Disclosure.** BUSINESS ASSOCIATE hereby agrees that it will report to COVERED ENTITY within thirty (30) days of discovery any use or disclosure of PHI not provided for or allowed by this Agreement. This provision will apply to Breaches of Unsecured PHI, as those terms are defined at 45 C.F.R. § 164.402. BUSINESS ASSOCIATE'S notice will include the applicable elements as set forth at 45 C.F.R. §164.410(c) when Breaches of Unsecured PHI occur.

4.4. **Subcontractors.** In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, BUSINESS ASSOCIATE hereby agrees to enter into written agreements with any subcontractors that create, receive, maintain, or transmit PHI on behalf of BUSINESS ASSOCIATE, and the terms of such agreements will incorporate the applicable restrictions, conditions, and requirements that apply to BUSINESS ASSOCIATE with respect to such information as set forth herein.

4.5. **Right of Access to Information.** BUSINESS ASSOCIATE hereby agrees to make available and provide a right of access to PHI by an Individual. This right of access will conform with and meet the requirements set forth at 45 C.F.R. § 164.524. The obligations of BUSINESS ASSOCIATE in this paragraph apply only to PHI in Designated Record Sets in BUSINESS ASSOCIATE'S possession or control as such term is defined at 45 C.F.R. § 164.501.

4.6. **Amendment and Incorporation of Amendments.** BUSINESS ASSOCIATE agrees to make PHI available for amendment and to incorporate any amendments to PHI in accordance with 45 C.F.R. 164.526, which describes the requirements applicable to an Individual's request for an amendment to

the PHI relating to the Individual. The obligations of BUSINESS ASSOCIATE in this paragraph apply only to PHI in Designated Record Sets in BUSINESS ASSOCIATE'S possession or control as such term is defined at 45 C.F.R. § 164.501.

4.7. **Provide Accounting.** BUSINESS ASSOCIATE agrees to make PHI and information related to the disclosures available as required to provide an accounting of disclosures in accordance with 45 C.F.R. 164.528, which describes the requirements applicable to an Individual's request for an accounting of disclosures of PHI relating to the Individual. BUSINESS ASSOCIATE agrees to document such disclosures of PHI and information related to such disclosures as would be required for COVERED ENTITY to respond to a request by an Individual for an accounting. In addition, as required by the HITECH Act, effective on such date as the Secretary may specify, if BUSINESS ASSOCIATE uses electronic health records, as defined at 42 U.S.C. § 17931, BUSINESS ASSOCIATE will record disclosures through electronic health records for treatment, payment and health care operations purposes, if any, in accordance with the specifications established by the Secretary.

4.8. **Access to Books and Records.** BUSINESS ASSOCIATE hereby agrees to make its internal practices, books, and records relating to the use or disclosure of PHI received from or created or received by BUSINESS ASSOCIATE on behalf of the COVERED ENTITY, available to the Secretary of the Department of Health and Human Services ("HHS"), or the Secretary's designee, for purposes of determining COVERED ENTITY'S compliance with its obligations under HIPAA.

4.9. **Mitigation Procedures.** BUSINESS ASSOCIATE agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of PHI in a manner contrary to this Agreement or the Privacy Rule.

4.10. **Prohibition on Remuneration for PHI.** Unless an exception applies, as set forth at 42 U.S.C. § 17935(d)(2), in no event may BUSINESS ASSOCIATE directly or indirectly receive remuneration in exchange for any PHI of an Individual unless COVERED ENTITY obtains from the Individual a valid authorization that includes a specification of whether the PHI can be further exchanged for remuneration by the entity receiving PHI of that Individual. This prohibition does not apply to remuneration BUSINESS ASSOCIATE receives from the COVERED ENTITY for activities that the BUSINESS ASSOCIATE undertakes on behalf of and at the specific request of the COVERED ENTITY pursuant to this Agreement.

5. OBLIGATIONS OF COVERED ENTITY

5.1. **Restrictions in Notice of Privacy Practices.** COVERED ENTITY will notify BUSINESS ASSOCIATE of any limitation(s) in the notice of privacy practices of COVERED ENTITY under 45 C.F.R. 164.520, to the extent that such limitation may affect BUSINESS ASSOCIATE'S use or disclosure of PHI.

5.2. **Changes in Permission by Individuals.** COVERED ENTITY will notify BUSINESS ASSOCIATE of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect BUSINESS ASSOCIATE'S use or disclosure of PHI.

5.3. **Agreed-Upon Restrictions.** COVERED ENTITY will notify BUSINESS ASSOCIATE of any restrictions on the use or disclosure of PHI that COVERED ENTITY has agreed to or is required to abide by under 45 C.F.R. 164.522, to the extent that such restriction may affect BUSINESS ASSOCIATE'S use or disclosure of PHI.

5.4. **Permissible Requests.** COVERED ENTITY will not request BUSINESS ASSOCIATE to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the COVERED ENTITY, except that BUSINESS ASSOCIATE may use or disclose PHI for the management and administration and legal responsibilities of the BUSINESS ASSOCIATE as specified herein.

6. ACKNOWLEDGMENT OF OBLIGATIONS

6.1. BUSINESS ASSOCIATE acknowledges that it is directly subject to HIPAA, as amended by the HITECH Act, including, but not limited to, Sections 164.308, 164.310, 164.312 and Section 164.316, as well as the enforcement and penalty provisions HIPAA provides, as they may be amended from time to

time. See 42 U.S.C. §§ 17931, 17934. BUSINESS ASSOCIATE agrees that it will (a) comply with all applicable provisions of HIPAA, as amended by the HITECH Act and as it may be further amended from time to time; and (b) not act in any way to interfere with or hinder COVERED ENTITY'S ability to comply with HIPAA, as amended by the HITECH Act and as it may be further amended from time to time.

7. BREACH

7.1. In the event that either Party has knowledge of a material breach of this Agreement by the other Party, the non-breaching Party may immediately terminate this Agreement.

7.2. Alternatively, in the event that either Party has knowledge of a material breach of this Agreement by the other Party and cure is possible, the non-breaching Party may provide a reasonable opportunity for the breaching Party to cure the breach or end the violation. If the breaching Party does not cure the breach or end the violation within the time specified by non-breaching Party, the non-breaching Party may terminate this Agreement.

7.3. In the event that either Party has knowledge of a material breach of this Agreement by the other Party and cure is not possible, the non-breaching Party will terminate the portion of the service being perform that is affected by the breach.

8. TERMINATION

8.1. This Agreement may be terminated by either Party in accordance with Section 7 or by COVERED ENTITY upon thirty (30) days' written notice.

8.2. Upon termination of this Agreement for any reason, if feasible, BUSINESS ASSOCIATE will return or destroy all PHI received from COVERED ENTITY or created or received by BUSINESS ASSOCIATE on behalf of COVERED ENTITY that BUSINESS ASSOCIATE still maintains in any form and retain no copies of such information. If such return or destruction is not feasible, BUSINESS ASSOCIATE will extend the protections of this Agreement to the information retained and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. This paragraph will survive the termination of this Agreement.

9. MISCELLANEOUS

9.1. **Amendment.** This Agreement cannot be amended except by mutual written agreement of COVERED ENTITY and BUSINESS ASSOCIATE.

9.2. **Amendment for Compliance.** In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of the Agreement will remain in full force and effect. In addition, in the event COVERED ENTITY believes in good faith that any provision of the Agreement fails to comply with the then-current requirements of the applicable HIPAA regulations, COVERED ENTITY will notify BUSINESS ASSOCIATE in writing. For a period of up to thirty (30) days, the Parties will address in good faith such concern and will amend the terms of this Agreement, if necessary, to bring it into compliance. If after such thirty-day period this Agreement fails to comply with the HIPAA regulations with respect to the concern(s) raised pursuant to this paragraph, COVERED ENTITY has the right to terminate this Agreement upon thirty (30) days' written notice to BUSINESS ASSOCIATE.

9.3. **Binding Nature and Assignment.** This Agreement will be binding on the Parties hereto and their successors and assigns, but neither Party may assign this Agreement without the prior written consent of the other, which consent will not be unreasonably withheld.

9.4. **Notices.** Whenever under this Agreement one Party is required to give notice to the other, such notice will be deemed given if mailed by First Class United States mail, postage prepaid, and addressed as follows:

COVERED ENTITY:

Name:
Attn:
Address:

BUSINESS ASSOCIATE
Carrum Health, Inc.
Attn: Legal
951 Mariners Island, 3rd Floor
San Mateo, CA 94404

Either Party may at any time change its address for notification purposes by mailing a notice stating the change and setting forth the new address.

9.5. **Force Majeure.** BUSINESS ASSOCIATE will be excused from performance under this Agreement for any period BUSINESS ASSOCIATE is prevented from performing any services pursuant hereto, in whole or in part, as a result of an Act of God, war, civil disturbance, court order, labor dispute or other cause beyond its reasonable control, and such nonperformance will not be grounds for termination, except that BUSINESS ASSOCIATE'S inability to perform will not be excused in the event that BUSINESS ASSOCIATE failed to implement a reasonable disaster recovery plan prior to experiencing the event and invoking this provision.

9.6. **No Third-Party Beneficiaries.** The Parties have not created and do not intend to create by this Agreement any third-party rights under this Agreement.

9.7. **Severability.** If any provision of this Agreement, or any other agreement, document, or writing pursuant to or in connection with this Agreement, is found to be wholly or partially invalid or unenforceable, the remainder of this Agreement is unaffected.

9.8. **Waiver.** No term or provision of this Agreement will be deemed waived and no breach excused unless such waiver or excuse of breach is in writing, signed by the Party against who such waiver or excuse is claimed.

9.9. **Entire Agreement.** This BUSINESS ASSOCIATE AGREEMENT consists of this document and constitutes the entire agreement between the Parties with respect to the subject matter hereof. There are no understandings or agreements relating to this Agreement which are not fully expressed herein and no change, waiver or discharge of obligations arising under this Agreement will be valid unless in writing and executed by the Party against whom such change, waiver or discharge is sought to be enforced.

BUSINESS ASSOCIATE	COVERED ENTITY
Signature: Sachin Jain (Docusigned by: 73EDE8C19C7C451...)	Signature: Linda F. Tatum
Name: Sachin Jain	Name: LINDA F. TATUM
Title: CEO	Title: ASST CITY MANAGER
Date: 12/29/2021	Date: 1/14/2022

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

APPROVED AS TO FORM
January 3, 2022
CHARLES PARKIN, City Attorney
By Gary J. Anderson
GARY J. ANDERSON
PRINCIPAL DEPUTY CITY ATTORNEY