

**Exhibit A – Attachment 13
PROGRAM INTEGRITY**

- D. The Contractor shall implement and maintain arrangements or procedures that include provision for the Contractor's suspension of payments to a network provider for which there is a credible allegation of fraud. (42 C.F.R. §438.608(a), (a)(8).)

5. Service Verification

Pursuant to 42 C.F.R. § 438.608(a)(5), the Contractor, and/or any subcontractor, to the extent that the subcontractor is delegated responsibility by the Contractor for coverage of services and payment of claims under this Contract, shall implement and maintain arrangements or procedures designed to detect and prevent fraud, waste and abuse that include provisions to verify, by sampling or other methods, whether services that have been represented to have been delivered by network providers were received by beneficiaries and the application of such verification processes on a regular basis. (42 C.F.R. §438.608(a), (a)(5).)

6. Disclosures

- A. Disclosure of 5% or More Ownership Interest:

1) Pursuant to 42 C.F.R. § 455.104, Medicaid managed care entities must disclose certain information related to persons who have an ownership or control interest in the managed care entity, as defined in 42 C.F.R. § 455.101. The parties hereby acknowledge that because the Contractor is a political subdivision of the State of California, there are no persons who meet such definition and therefore there is no information to disclose.

a) In the event that, in the future, any person obtains an interest of 5% or more of any mortgage, deed of trust, note or other obligation secured by Contractor, and that interest equals at least 5% of Contractor's property or assets, then the Contractor will make the disclosures set forth in i and subsection 2(a).

i. The Contractor will disclose the name, address, date of birth, and Social Security Number of any managing employee, as that term is defined in 42 C.F.R. §

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455.101. For purposes of this disclosure, Contractor may use the business address for any member of its Board of Supervisors.

- ii. The Contractor shall provide any such disclosure upon execution of this contract, upon its extension or renewal, and within 35 days after any change in Contractor ownership or upon request of the Department.
- 2) The Contractor shall ensure that its subcontractors and network providers submit the disclosures below to the Contractor regarding the network providers' (disclosing entities') ownership and control. The Contractor's network providers must be required to submit updated disclosures to the Contractor upon submitting the provider application, before entering into or renewing the network providers' contracts, within 35 days after any change in the subcontractor/network provider's ownership, annually and upon request during the re-validation of enrollment process under 42 Code of Federal Regulations part 455.104.
- a) Disclosures to be Provided:
 - i. The name and address of any person (individual or corporation) with an ownership or control interest in the network provider. The address for corporate entities shall include, as applicable, a primary business address, every business location, and a P.O. Box address;
 - ii. Date of birth and Social Security Number (in the case of an individual);
 - iii. Other tax identification number (in the case of a corporation with an ownership or control interest in the managed care entity or in any subcontractor in which the managed care entity has a 5 percent or more interest);
 - iv. Whether the person (individual or corporation) with an ownership or control interest in the Contractor's network provider is related to another person with

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ownership or control interest in the same or any other network provider of the Contractor as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the managed care entity has a 5 percent or more interest is related to another person with ownership or control interest in the managed care entity as a spouse, parent, child, or sibling;

- v. The name of any other disclosing entity in which the Contractor or subcontracting network provider has an ownership or control interest; and
- vi. The name, address, date of birth, and Social Security Number of any managing employee of the managed care entity.

- 3) For each provider in Contractor's provider network, Contractor shall provide the Department with all disclosures before entering into a network provider contract with the provider and annually thereafter and upon request from the Department during the re-validation of enrollment process under 42 Code of Federal Regulations part 455.104.

B. Disclosures Related to Business Transactions – Contractor must submit disclosures and updated disclosures to the Department or HHS including information regarding certain business transactions within 35 days, upon request.

- 1) The following information must be disclosed:
 - a) The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request; and
 - b) Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any subcontractor, during the 5-year period ending on the date of the request.

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- c) Contractor must obligate Network Providers to submit the same disclosures regarding network providers as noted under subsection 1(a) and (b) within 35 days upon request.

C. Disclosures Related to Persons Convicted of Crimes

- 1) Contractor shall submit the following disclosures to the Department regarding the Contractor's management:
 - a) The identity of any person who is a managing employee of the Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).)
 - b) The identity of any person who is an agent of the Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).) For this purpose, the word "agent" has the meaning described in 42 Code of Federal Regulations part 455.101.
- 2) The Contractor shall supply the disclosures before entering into the contract and at any time upon the Department's request.
- 3) Network providers should submit the same disclosures to the Contractor regarding the network providers' owners, persons with controlling interest, agents, and managing employees' criminal convictions. Network providers shall supply the disclosures before entering into the contract and at any time upon the Department's request.

**Exhibit A – Attachment 14
REPORTING REQUIREMENTS**

1. Data Submission/ Certification Requirements

A. The Contractor shall submit any data, documentation, or information relating to the performance of the entity's obligations as required by the State or the United States Secretary of Health and Human Services. (42 C.F.R. § 438.604(b).) The individual who submits this data to the state shall concurrently provide a certification, which attests, based on best information, knowledge and belief that the data, documentation and information is accurate, complete and truthful. (42 C.F.R. § 438.606(b) and (c).) The data, documentation, or information submitted to the state by the Contractor shall be certified by one of the following:

- 1) The Contractor's Chief Executive Officer (CEO).
- 2) The Contractor's Chief Financial Officer (CFO).
- 3) An individual who reports directly to the CEO or CFO with delegated authority to sign for the CEO or CFO so that the CEO or CFO is ultimately responsible for the certification. (42 C.F. R. § 438.606(a).)

2. Encounter Data

The Contractor shall submit encounter data to the Department at a frequency and level specified by the Department and CMS. (42 C.F.R. § 438.242(c)(2).) The Contractor shall ensure collection and maintenance of sufficient beneficiary encounter data to identify the provider who delivers service(s) to the beneficiary. (42 C.F.R. § 438.242(c)(1).) The Contractor shall submit all beneficiary encounter data that the Department is required to report to CMS under § 438.818. (42 C.F.R. § 438.242(c)(3).) The Contractor shall submit encounter data to the state in standardized Accredited Standards Committee (ASC) X12N 837 and National Council for Prescription Drug Programs (NCPDP) formats, and the ASC X12N 835 format as appropriate. (42 C.F.R. § 438.242(c)(4).)

3. Insolvency

A. The Contractor shall submit data to demonstrate it has made adequate provision against the risk of insolvency to ensure that beneficiaries will not

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REPORTING REQUIREMENTS**

be liable for the Contractor's debt if the Contractor becomes insolvent. (42 C.F.R. § 438.604(a)(4); 42 C.F.R. § 438.116.)

B. The Contractor shall meet the State's solvency standards for private health maintenance organizations or be licensed by the State as a risk-bearing entity, unless one of the following exceptions apply (42 C.F.R. § 438.116 (b).):

- 1) The Contractor does not provide both inpatient hospital services and physician services.
- 2) The Contractor is a public entity.
- 3) The Contractor is (or is controlled by) one of more federally qualified health centers and meets the solvency standards established by the State for those centers.
- 4) The Contractor has its solvency guaranteed by the State.

4. Network Adequacy

The Contractor shall submit, in a manner and format determined by the Department, documentation to demonstrate compliance with the Department's requirements for availability and accessibility of services, including the adequacy of the provider network. (42 C.F.R. § 438.604(a)(5).)

5. Information on Ownership and Control

The Contractor shall submit for state review information on its and its subcontractors' ownership and control described in 42 C.F.R. §455.104 and Attachment 13 of this Contract. (42 C.F.R § 438.604(a)(6).)

6. Annual Report of Overpayment Recoveries

The Contractor shall submit an annual report of overpayment recoveries in a manner and format determined by the Department. (42 C.F.R § 438.604(a)(7).)

7. Performance Data

A. In an effort to improve the performance of the State's managed care program, in accordance with 42 Code of Federal Regulations part

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438.66(c), the Contractor will submit the following to the Department (42 C.F.R. §438.604(b).):

- 1) Enrollment and disenrollment data;
- 2) Member grievance and appeal logs;
- 3) Provider complaint and appeal logs;
- 4) The results of any beneficiary satisfaction survey;
- 5) The results of any provider satisfaction survey;
- 6) Performance on required quality measures;
- 7) Medical management committee reports and minutes;
- 8) The Contractor's annual quality improvement plan;
- 9) Audited financial and encounter data; and
- 10) Customer service performance data.

Exhibit B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. Payment Provisions

This program may be funded using one or more of the following funding sources: funds distributed to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, funds from the Mental Health Services Fund, and any other funds from which the Controller makes distributions to the counties in compliance with applicable statute and regulations including Welf. & Inst. Code §§ 5891, 5892 and 14705(a)(2). These funding sources may be used by the Contractor to pay for services and then certify as public expenditures in order to be reimbursed federal funds.

2. Budget Contingency Clause

This provision is a supplement to provision number nine (Federal Contract Funds) in Exhibit D(F) which is attached hereto as part of this Contract.

A. Federal Budget

If federal funding for FFP reimbursement in relation to this contract is eliminated or substantially reduced by Congress, the Department and the Contractor each shall have the option either to cancel this contract or to propose a contract amendment to address changes to the program required as a result of the elimination or reduction of federal funding.

B. Delayed Federal Funding

Contractor and Department agree to consult with each other on interim measures for program operation that may be required to maintain adequate services to beneficiaries in the event that there is likely to be a delay in the availability of federal funding.

3. Federal Financial Participation

Nothing in this contract shall limit the Contractor's ability to submit claims for appropriate FFP reimbursement based on actual, total fund expenditures for any covered services or quality assurance, utilization review, Medi-Cal Administrative Activities and/or administrative costs. In accordance the Welf. & Inst. Code § 14705(c), the Contractor shall ensure compliance with all requirements necessary for Medi-Cal reimbursement for these services and activities. Claims for FFP reimbursement shall be submitted by the Contractor to the Department for adjudication throughout the fiscal year. Pursuant to the

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BUDGET DETAIL AND PAYMENT PROVISIONS

Welf. & Inst. Code § 14705(d), the Contractor shall certify to the state that it has incurred public expenditures prior to requesting the reimbursement of federal funds.

4. Audits and Recovery of Overpayments

- A. Pursuant to Welf. & Inst. Code § 14707, in the case of federal audit exceptions, the Department will follow federal audit appeal processes unless the Department, in consultation with the California Mental Health Director's Association, determines that those appeals are not cost beneficial.
- 1) Whenever there is a final federal audit exception against the State resulting from a claim for federal funds for an expenditure by individual counties that is not federally allowable, the department may offset federal reimbursement and request the Controller's office to offset the distribution of funds to the Contractor from the Mental Health Subaccount, the Mental Health Equity Subaccount and the Vehicle License Collection Account of the Local Revenue Fund; funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011; and any other mental health realignment funds from which the Controller makes distributions to the counties by the amount of the exception. The Department shall provide evidence to the Controller that the county had been notified of the amount of the audit exception no less than 30 days before the offset is to occur.
 - 2) The Department will involve the Contractor in developing responses to any draft federal audit reports that directly impact the county.
- B. Pursuant to Welf. & Inst. Code § 14718(b)(2), the Department may offset the amount of any federal disallowance, audit exception, or overpayment against subsequent claims from the Contractor.
- 1) The Department may offset the amount of any state disallowance, audit exception, or overpayment for fiscal years through and including 2010-11 against subsequent claims from the Contractor.
 - 2) Offsets may be done at any time, after the department has invoiced or otherwise notified the Contractor about the audit exception, disallowance, or overpayment. The Department shall determine the amount that may be withheld from each payment to the mental health plan.

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BUDGET DETAIL AND PAYMENT PROVISIONS

- 3) The maximum withheld amount shall be 25 percent of each payment as long as the Department is able to comply with the federal requirements for repayment of FFP pursuant 42 United States Code (U.S.C.) §1396b(d)(2)). The Department may increase the maximum amount when necessary for compliance with federal laws and regulations.
- C. Pursuant to the Welf. & Inst. Code § 14170, cost reports submitted to the Department are subject to audit in the manner and form prescribed by the Department. The year-end cost report shall include both Contractor's costs and the costs of its subcontractors, if any. Contractor and its subcontractors shall be subject to audits and/or reviews, including client record reviews, by the Department. In accordance with the Welf. & Inst. Code § 14170, any audit of Contractor's cost report shall occur within three years of the date of receipt by the Department of the final cost report with signed certification by the Contractor's Mental Health Director and one of the following: (1) the Contractor's Chief Financial Officer (or equivalent), (2) an individual who has delegated authority to sign for, and reports directly to the Contractor's Chief Financial Officer, or (3) the county auditor controller, or equivalent. Both signatures are required before the cost report shall be considered final. For purposes of this section, the cost report shall be considered audited once the Department has informed the Contractor of its intent to disallow costs on the cost report, or once the Department has informed the Contractor of its intent to close the audit without disallowances.
- D. If the adjustments result in the Department owing FFP to the Contractor, the Department shall submit a claim to the federal government for the related FFP within 30 days contingent upon sufficient budget authority.

5. Claims Adjudication Process

- A. In accordance with the Welf. & Inst. Code §14705(c), claims for federal funds in reimbursement for services shall comply with eligibility and service requirements under applicable federal and state law.
- B. The Contractor shall certify each claim submitted to the Department in accordance with Cal. Code Regs., tit. 9, § 1840.112 and 42 C.F.R. § 433.51, at the time the claims are submitted to the Department. The Contractor's Chief Financial Officer or his or her equivalent, or an individual with authority delegated by the county auditor-controller, shall sign the certification, declaring, under penalty of perjury, that the Contractor has incurred an expenditure to cover the services included in the claims to satisfy the requirements for FFP. The Contractor's Mental Health Director or an individual with authority delegated by the Mental Health Director

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BUDGET DETAIL AND PAYMENT PROVISIONS

shall sign the certification, declaring, under penalty of perjury that, to the best of his or her knowledge and belief, the claim is in all respects true, correct, and in accordance with the law and meets the requirements of Cal. Code Regs., tit. 9, § 1840.112(b). The Contractor shall have mechanisms that support the Mental Health Director's certification, including the certification that the services for which claims were submitted were actually provided to the beneficiary. If the Department requires additional information from the Contractor that will be used to establish Department payments to the Contractor, the Contractor shall certify that the additional information provided is in accordance with 42 C.F.R. § 438.604.

- C. Claims not meeting federal and/or state requirements shall be returned to Contractor as not approved for payment, along with a reason for denial. Claims meeting all Health Insurance Portability and Accountability Act (HIPAA) transaction requirements and any other applicable federal or state privacy laws or regulations and certified by the Contractor in accordance with Cal. Code Regs., tit. 9, §1840.112, shall be processed for adjudication.
- D. Good cause justification for late claim submission is governed by applicable federal and state laws and regulations and is subject to approval by the Department.
- E. In the event that the Department or the Contractor determines that changes requiring a change in the Contractor's or Department's obligation must be made relating to either the Department's or the Contractor's claims submission and adjudication systems due to federal or state law changes or business requirements, both the Department and the Contractor agree to provide notice to the other party as soon as practicable prior to implementation. This notice shall include information and comments regarding the anticipated requirements and impacts of the projected changes. The Department and the Contractor agree to meet and discuss the design, development, and costs of the anticipated changes prior to implementation.
- F. The Contractor shall comply with Cal. Code Regs., tit. 9, § 1840.304, when submitting claims for FFP for services billed by individual or group providers. The Contractor shall submit service codes from the Health Care Procedure Coding System (HCPCS) published in the most current Mental Health Medi-Cal billing manual.

6. Payment Data Certification

Contractor shall certify the data it provides to the Department to be used in determining payment of FFP to the Contractor, in accordance with 42 C.F.R. §§ 438.604 and 438.606.

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BUDGET DETAIL AND PAYMENT PROVISIONS

7. System Changes

In the event changes in federal or state law or regulations, including court decisions and interpretations, necessitate a change in either the fiscal or program obligations or operations of the Contractor or the Department, or a change in obligation for the cost of providing covered services the Department and the Contractor agree to negotiate, pursuant to the Welf. & Inst. Code § 14714(c) regarding (a) changes required to remain in compliance with the new law or changes in existing obligations, (b) projected programmatic and fiscal impacts, (c) necessary contract amendments. To the extent that contract amendments are necessary, the parties agree to act to ensure appropriate amendments are made to accommodate any changes required by law or regulation.

8. Administrative Reimbursement

- A. The Contractor may submit claims for reimbursement of Medical Administrative Activities (MAA) pursuant to Welf. & Inst. Code § 14132.47. The Contractor shall not submit claims for MAA unless it has submitted a claiming plan to the Department which was approved by the Department and is effective during the quarter in which the costs being claimed were incurred. In addition, the Contractor shall not submit claims for reimbursements of MAA that are not consistent with the Contractor's approved MAA claiming plan. The Contractor shall not use the relative value methodology to report its MAA costs on the year-end cost report. Rather, the Contractor shall calculate and report MAA units on the cost report by multiplying the amount of time (minutes, hours, etc.) spent on MAA activities by the salary plus benefits of the staff performing the activity and then allocating indirect administrative and other appropriately allocated costs.
- B. Pursuant to the Welf. & Inst. Code § 14711(c), administrative costs shall be claimed separately in a manner consistent with federal Medicaid requirements and the approved Medicaid state plans and waivers and shall be limited to 15 percent of the total actual cost of direct client services. The cost of performing quality assurance and utilization review activities shall be reimbursed separately and shall not be included in administrative costs.

9. Notification of Request for Contract Amendment

In addition to the provisions in Exhibit E, Additional Provisions, both parties agree to notify the other party whenever an amendment to this contract is to be requested so that informal discussion and consultation can occur prior to a formal amendment process.

**Exhibit E
 ADDITIONAL PROVISIONS**

1. Additional Incorporated Exhibits

A. The following additional exhibits are attached, incorporated herein, and made a part hereof by this reference:

1) Exhibit A, Attachment 9	Documentation Requirements	7 page(s)
2) Exhibit A, Attachment 10	Coordination And Continuity Of Care	2 page(s)
3) Exhibit A, Attachment 11	Information Requirements	10 pages
4) Exhibit A, Attachment 12	Beneficiary Problem Resolution	21 page
5) Exhibit A, Attachment 13	Program Integrity	7 pages
6) Exhibit A, Attachment 14	Reporting Requirements	3 pages
7) Exhibit B	Budget Detail And Payment Provisions	5 pages
8) Exhibit C *	General Terms And Conditions	<u>GTC 04/2017</u>
9) Exhibit D (F)	Special Terms And Conditions (Attached hereto as part of this agreement) (Notwithstanding Provisions 2, 3, 4, 6 ,8, 12, 14, 22, 25, 29, and 30 which do not apply to this agreement.)	26 pages
10) Exhibit E	Additional Provisions (Program Terms And Conditions)	16 pages
11) Exhibit E, Attachment 1	Definitions	4 pages
12) Exhibit E, Attachment 2	Service Definitions	6 pages
13) Exhibit F	HIPAA Business Associate Addendum	27 pages
14) Exhibit F, Attachment B	Information Security Exchange Agreement between the Social Security Administration (SSA) and the California Department of Health Care Services (DHCS)	101 pages

2. Amendment Process

Should either party, during the term of this Contract, desire a change or amendment to the terms of this Contract, such changes or amendments shall be proposed in writing to the other party, who will respond in writing as to whether

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the proposed changes/amendments are accepted or rejected. If accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process. No amendment will be considered binding on either party until it is formally approved by both parties and the Department of General Services (DGS), if DGS approval is required.

3. Cancellation/Termination

A. General Provisions

- 1) As required by, if the Contractor decides not to contract with the Department, does not renew its contract, or is unable to meet the standards set by the Department, the Contractor agrees to inform the Department of this decision in writing. (Welf. & Inst. Code § 14712(c)(1).)
- 2) If the Contractor is unwilling to contract for the delivery of specialty mental health services or if the Department or Contractor determines that the Contractor is unable to adequately provide specialty mental health services or that the Contractor does not meet the standards the Department deems necessary for a mental health plan, the Department shall ensure that specialty mental health services are provided to Medi-Cal beneficiaries. (Welf. & Inst. Code § 147122(c)(2), (3).)
- 3) The Department may contract with qualifying individual counties, counties acting jointly, or other qualified entities approved by the Department for the delivery of specialty mental health services in any county that is unable or unwilling to contract with the Department. The Contractor may not subsequently contract to provide specialty mental health services unless the Department elects to contract with the Contractor. (Welf. & Inst. Code § 147122(c)(4).)
- 4) If the Contractor does not contract with the Department to provide specialty mental health services, the Department will work with the Department of Finance and the Controller to obtain funds from the Contractor in accordance with Government (Govt.) Code 30027.10. (Welf. & Inst. Code § 147122(d).)

A. Contract Renewal

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- 1) This contract may be renewed if the Contractor continues to meet the statutory and regulatory requirements governing this contract, as well as the terms and conditions of this contract. Failure to meet these requirements shall be cause for nonrenewal of the contract. (42 C.F.R. § 438.708; Welf. & Inst. Code § 14714(b)(1).) The Department may base the decision to renew on timely completion of a mutually agreed-upon plan of correction of any deficiencies, submissions of required information in a timely manner, and/or other conditions of the contract. (Welf. & Inst. Code § 14714(b)(1).)
- 2) In the event the contract is not renewed based on the reasons specified in (1), the Department will notify the Department of Finance, the fiscal and policy committees of the Legislature, and the Controller of the amounts to be sequestered from the Mental Health Subaccount, the Mental Health Equity Account, and the Vehicle License Fee Collection Account of the Local Revenue Fund and the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, and the Controller will sequester those funds in the Behavioral Health Subaccount pursuant to Govt. Code § 30027.10. Upon this sequestration, the Department will use the funds in accordance with Govt. Code § 30027.10. (Welf. & Inst. Code § 14714(b)(3).)

B. Contract Amendment Negotiations

Should either party during the life of this contract desire a change in this contract, such change shall be proposed in writing to the other party. The other party shall acknowledge receipt of the proposal in writing within 10 days and shall have 60 days (or such different period as the parties mutually may set) after receipt of such proposal to review and consider the proposal, to consult and negotiate with the proposing party, and to accept or reject the proposal. Acceptance or rejection may be made orally within the 60-day period, and shall be confirmed in writing within five days thereafter. The party proposing any such change shall have the right to withdraw the proposal at any time prior to acceptance or rejection by the other party. Any such proposal shall set forth a detailed explanation of the reason and basis for the proposed change, a complete statement of costs and benefits of the proposed change and the text of the desired amendment to this contract that would provide for the change. If the proposal is accepted, this contract shall be amended to provide for the change mutually agreed to by the parties on the condition that the

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amendment is approved by the Department of General Services, if necessary.

D. Contract Termination

The Department or the Contractor may terminate this contract in accordance with, and within the given timeframes provided in California Code of Regulations, title 9, section 1810.323.

- 1) DHCS reserves the right to cancel or terminate this Contract immediately for cause.
- 2) The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this Contract.
- 3) Contract termination or cancellation shall be effective as of the date indicated in DHCS' notification to the Contractor. The notice shall identify any final performance, invoicing or payment requirements.
- 4) Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel, or if cancellation is not possible reduce, subsequent contract costs.
- 5) In the event of early termination or cancellation, the Contractor shall be entitled to payment for all allowable costs authorized under this Contract and incurred up to the date of termination or cancellation, including authorized non-cancelable obligations, provided such expenses do not exceed the stated maximum amounts payable.
- 6) The Department will immediately terminate this Contract if the Department finds that there is an immediate threat to the health and safety of Medi-Cal beneficiaries. Termination of the contract for other reasons will be subject to reasonable notice to the Contractor of the Department's intent to terminate, as well as notification to affected beneficiaries. (Welf. & Inst. Code § 14714(d).)

E. Termination of Obligations

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ADDITIONAL PROVISIONS**

- 1) All obligations to provide covered services under this contract shall automatically terminate on the effective date of any termination of this contract. The Contractor shall be responsible for providing covered services to beneficiaries until the termination or expiration of the contract and shall remain liable for the processing and payment of invoices and statements for covered services provided to beneficiaries prior to such expiration or termination.
- 2) When Contractor terminates a subcontract with a provider, Contractor shall make a good faith effort to provide notice of this termination, within 15 days, to the persons that Contractor, based on available information, determines have recently been receiving services from that provider.

F. Contract Disputes

Should a dispute arise between the Contractor and the Department relating to performance under this contract, other than disputes governed by a dispute resolution process in Chapter 11 of Division 1, California Code of Regulations, title 9, or the processes governing the audit appeals process in Chapter 9 of Division 1, California Code of Regulations, title 9 the Contractor shall follow the Dispute Resolution Process outlined in provision number 15 of Exhibit D(F) which is attached hereto as part of this contract.

4. Fulfillment of Obligation

No covenant, condition, duty, obligation, or undertaking continued or made a part of this contract shall be waived except by written agreement of the parties hereto, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever will not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed or discharged by the party to which the same may apply. Until performance or satisfaction of all covenants, conditions, duties, obligations, and undertakings is complete, the other party shall have the right to invoke any remedy available under this contract, or under law, notwithstanding such forbearance or indulgence.

5. Additional Provisions

A. Inspection Rights/Record Keeping Requirements

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- 1) Provision number seven (Audit and Record Retention) of Exhibit D(F), which is attached hereto as part of this Contract, supplements the following requirements.
- 2) The Contractor, and subcontractors, shall allow the Department, CMS, the Office of the Inspector General, the Comptroller General of the United States, and other authorized federal and state agencies, or their duly authorized designees, to evaluate Contractor's, and subcontractors', performance under this contract, including the quality, appropriateness, and timeliness of services provided, and to inspect, evaluate, and audit any and all records, documents, and the premises, equipment and facilities maintained by the Contractor and its subcontractors pertaining to such services at any time. Contractor shall allow such inspection, evaluation and audit of its records, documents and facilities, and those of its subcontractors, for 10 years from the term end date of this Contract or in the event the Contractor has been notified that an audit or investigation of this Contract has been commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion of all legal remedies, whichever is later. (See 42 C.F.R. §§ 438.3(h), 438.230(c)(3)(i-iii).) Records and documents include, but are not limited to all physical and electronic records and documents originated or prepared pursuant to Contractor's or subcontractor's performance under this Contract including working papers, reports, financial records and documents of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries.
- 3) The Contractor, and subcontractors, shall retain, all records and documents originated or prepared pursuant to Contractor's or subcontractor's performance under this Contract, including beneficiary grievance and appeal records identified in Attachment 12, Section 2 and the data, information and documentation specified in 42 Code of Federal Regulations parts 438.604, 438.606, 438.608, and 438.610 for a period of no less than 10 years from the term end date of this Contract or in the event the Contractor has been notified that an audit or investigation of this Contract has been commenced, until such time as the matter under audit or investigation has been resolved, including the exhaustion

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of all legal remedies, whichever is later. (42 C.F.R. § 438.3(u); See also § 438.3(h).) Records and documents include, but are not limited to all physical and electronic records and documents originated or prepared pursuant to Contractor's or subcontractor's performance under this Contract including working papers, reports, financial records and documents of account, beneficiary records, prescription files, subcontracts, and any other documentation pertaining to covered services and other related services for beneficiaries.

B. Notices

Unless otherwise specified in this contract, all notices to be given under this contract shall be in writing and shall be deemed to have been given when mailed, to the Department or the Contractor at the following addresses, unless the contract explicitly requires notice to another individual or organizational unit:

Department of Health Care Services
Mental Health Services Division
1500 Capitol Avenue, MS 2702
P.O. Box 997413
Sacramento, CA 95899-7413

Riverside County Mental Health
4095 County Circle Drive
Riverside, CA 92503

C. Nondiscrimination

- 1) Consistent with the requirements of applicable federal law, such as 42 Code of Federal Regulations, part 438.3(d)(3) and (4), and state law, the Contractor shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, gender identity, religion, marital status, national origin, age, sexual orientation, or mental or physical handicap or disability.
- 2) The Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services,

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effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.

- 3) The Contractor shall include the nondiscrimination and compliance provisions of this contract in all subcontracts to perform work under this contract.
- 4) Notwithstanding other provisions of this section, the Contractor may require a determination of medical necessity pursuant to California Code of Regulations, title 9, sections 1820.205, 1830.205 and/or 1830.210, prior to providing covered services to a beneficiary.

D. Relationship of the Parties

The Department and the Contractor are, and shall at all times be deemed to be, independent agencies. Each party to this contract shall be wholly responsible for the manner in which it performs the obligations and services required of it by the terms of this contract. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the parties or any of their agents or employees. Each party assumes exclusively the responsibility for the acts of its employees or agents as they relate to the services to be provided during the course and scope of their employment. The Department and its agents and employees shall not be entitled to any rights or privileges of the Contractor's employees and shall not be considered in any manner to be Contractor employees. The Contractor and its agents and employees, shall not be entitled to any rights or privileges of state employees and shall not be considered in any manner to be state employees.

E. Waiver of Default

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this contract shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this contract.

6. Duties of the State

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In discharging its obligations under this contract, and in addition to the obligations set forth in other parts of this contract, the Department shall perform the following duties:

A. Payment for Services

The Department shall make the appropriate payments set forth in Exhibit B and take all available steps to secure and pay FFP to the Contractor, once the Department receives FFP, for claims submitted by the Contractor. The Department shall notify Contractor and allow Contractor an opportunity to comment to the Department when questions are posed by CMS, or when there is a federal deferral, withholding, or disallowance with respect to claims made by the Contractor.

B. Reviews

The Department shall conduct reviews of access to and quality of care in Contractor's county at least once every three years and issue reports to the Contractor detailing findings, recommendations, and corrective action, as appropriate, pursuant to California Code of Regulations, title 9, sections 1810.380 and 1810.385. The Department shall also arrange for an annual external quality review of the Contractor as required by 42 Code of Federal Regulations, part 438.350 and California Code of Regulations, title 9, section 1810.380(a)(7).

C. Monitoring for Compliance

When monitoring activities identify areas of non-compliance, the Department shall issue reports to the Contractor detailing findings, recommendations, and corrective action. Cal. Code Reg., tit. 9, § 1810.380. Failure to comply with required corrective action could lead to civil penalties, as appropriate, pursuant to Cal. Code Reg., tit. 9, § 1810.385.

D. The Contractor shall prepare and submit a report to the Department that provides information for the areas set forth in 42 C.F.R. § 438.66(b) and (c) as outlined in Exhibit A, Attachment 14, Section 7, in the manner specified by the Department.

E. If the Contractor has not previously implemented a Mental Health Plan or Contractor will provide or arrange for the provision of covered benefits to new eligibility groups, then the Contractor shall develop an Implementation

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Plan (as defined in Cal. Code Regs., tit. 9, § 1810.221) that is consistent with the readiness review requirements set forth in 42 Code of Federal Regulations, part 438.66(d)(4), and the requirements of Cal. Code Regs., tit. 9, § 1810.310 (a). (See 42 C.F.R. § 438.66(d)(1), (4).) The Department shall review and either approve, disapprove, or request additional information for each Implementation Plan. Notices of Approval, Notices of Disapproval and requests for additional information shall be forwarded to the Contractor within 60 days of the receipt of the Implementation Plan. (Cal. Code Regs., tit. 9, § 1810.310(b).) A Contractor shall submit proposed changes to its approved Implementation Plan in writing to the Department for review. A Contractor shall submit proposed changes in the policies, processes or procedures that would modify the Contractor's current Implementation Plan prior to implementing the proposed changes. (See Cal. Code Regs., tit. 9, § 1810.310 (b)-(c)).

- F. The Department shall act promptly to review the Contractor's Cultural Competence Plan submitted pursuant to Cal. Code Regs., tit. 9, § 1810.410. The Department shall provide a Notice of Approval or a Notice of Disapproval, including the reasons for the disapproval, to the Contractor within 60 calendar days after receipt of the plan from the Contractor. If the Department fails to provide a Notice of Approval or Disapproval, the Contractor may implement the plan 60 calendar days from its submission to the Department.
- G. Certification of Organizational Provider Sites Owned or Operated by the Contractor
- 1) The Department shall certify the organizational provider sites that are owned, leased or operated by the Contractor, in accordance with California Code of Regulations, title 9, section 1810.435, and the requirements specified in Exhibit A, Attachment 3, Section 6 of this contract. This certification shall be performed prior to the date on which the Contractor begins to deliver services under this contract at these sites and once every three years after that date, unless the Department determines an earlier date is necessary. The on-site review required by Cal. Code Regs., tit. 9, § 1810.435(e), shall be conducted of any site owned, leased, or operated by the Contractor and used for to deliver covered services to beneficiaries, except that on-site review is not required for public school or satellite sites.

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- 2) The Department may allow the Contractor to begin delivering covered services to beneficiaries at a site subject to on-site review by the Department prior to the date of the on-site review, provided the site is operational and has any required fire clearances. The earliest date the Contractor may begin delivering covered services at a site subject to on site review by the Department is the date the Contractor requested certification of the site in accordance with procedures established by the Department, the date the site was operational, or the date a required fire clearance was obtained, whichever date is latest.
- 3) The Department may allow the Contractor to continue delivering covered services to beneficiaries at a site subject to on-site review by the Department as part of the recertification process prior to the date of the on-site review, provided the site is operational and has all required fire clearances.
- 4) Nothing in this section precludes the Department from establishing procedures for issuance of separate provider identification numbers for each of the organizational provider sites operated by the Contractor to facilitate the claiming of FFP by the Contractor and the Department's tracking of that information.

H. Excluded Providers

- 1) If the Department learns that the Contractor has a prohibited affiliation, as described in Attachment 1, Section 2, the Department:
 - a) Must notify the Secretary of the noncompliance.
 - b) May continue an existing agreement with the Contractor unless the Secretary directs otherwise.
 - c) May not renew or otherwise extend the duration of an existing agreement with the Contractor unless the Secretary provides to the State and to Congress a written statement describing compelling reasons that exist for renewing or extending the agreement despite the prohibited affiliations.
 - d) Nothing in this section must be construed to limit or otherwise affect any remedies available to the U.S. under

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ADDITIONAL PROVISIONS

sections 1128, 1128A or 1128B of the Act. (42 C.F.R.
§438.610(d).)

I. Sanctions

The Department shall conduct oversight and impose sanctions on the Contractor for violations of the terms of this contract, and applicable federal and state law and regulations, in accordance with Welf. & Inst. Code § 14712(e) and Cal. Code Regs., tit. 9, §§ 1810.380 and 1810.385.

J. Notification

The Department shall notify beneficiaries of their Medi-Cal specialty mental health benefits and options available upon termination or expiration of this contract.

K. Performance Measurement

The Department shall measure the Contractor's performance based on Medi-Cal approved claims and other data submitted by the Contractor to the Department using standard measures established by the Department in consultation with stakeholders.

7. State and Federal Law Governing this Contract

- A. Contractor agrees to comply with all applicable federal and state law, including the applicable sections of the state plan and waiver, including but not limited to the statutes and regulations incorporated by reference below in Sections C, E, and F, in its provision of services as the Mental Health Plan. Contractor agrees to comply with any changes to these statutes and regulations that may occur during the contract period and any new applicable statutes or regulations. These obligations shall not apply without the need for a Contract amendment(s). To the extent there is a conflict between federal or state law or regulation and a provision in this contract, Contractor shall comply with the federal or state law or regulation and the conflicting Contract provision shall no longer be in effect.
- B. Contractor agrees to comply with all existing policy letters issued by the Department. All policy letters issued by the Department subsequent to the effective date of this Contract shall provide clarification of Contractor's obligations pursuant to this Contract, and may include instructions to the Contractor regarding implementation of mandated obligations pursuant to

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ADDITIONAL PROVISIONS**

State or federal statutes or regulations, or pursuant to judicial interpretation.

C. Federal law:

- 1) Title 42 United States Code, to the extent that these requirements are applicable;
- 2) 42 C.F.R. to the extent that these requirements are applicable;
- 3) 42 C.F.R. Part 438, Medicaid Managed Care, limited to those provisions that apply to Prepaid Inpatient Health Plans (PIHPs), except for the provisions listed in paragraph D and E, below.
- 4) 42 C.F.R. § 455 to the extent that these requirements are applicable;
- 5) Title VI of the Civil Rights Act of 1964
- 6) Title IX of the Education Amendments of 1972
- 7) Age Discrimination Act of 1975
- 8) Rehabilitation Act of 1973
- 9) Americans with Disabilities Act
- 10) Section 1557 of the Patient Protection and Affordable Care Act
- 11) Deficit Reduction Act of 2005;
- 12) Balanced Budget Act of 1997.
- 13) The Contractor shall comply with the provisions of the Copeland Anti-Kickback Act, which requires that all contracts and subcontracts in excess of \$2000 for construction or repair awarded by the Contractor and its subcontractors shall include a provision for compliance with the Copeland Anti-Kickback Act.
- 14) The Contractor shall comply with the provisions of the Davis-Bacon Act, as amended, which provides that, when required by Federal Medicaid program legislation, all construction contracts awarded by

Exhibit E
ADDITIONAL PROVISIONS

the Contractor and its subcontractors of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act as supplemented by Department of Labor regulations.

- 15) The Contractor shall comply with the provisions of the Contract Work Hours and Safety Standards Act, as applicable, which requires that all subcontracts awarded by the Contractor in excess of \$2,000 for construction and in excess of \$2,500 for other subcontracts that involve the employment of mechanics or laborers shall include a provision for compliance with the Contract Work Hours and Safety Standards Act.
 - 16) Any applicable federal and state laws that pertain to beneficiary rights.
- D. The following sections of 42 Code of Federal Regulations, part 438 are inapplicable to this Contract:
- 1) §438.3(b) Standard Contract Provisions – Entities eligible for comprehensive risk contracts
 - 2) §438.3(c) Standard Contract Provisions - Payment
 - 3) §438.3(g) Standard Contract Provisions - Provider preventable conditions
 - 4) §438.3(o) Standard Contract Provisions - LTSS contract requirements
 - 5) §438.3(p) Standard Contract Provisions – Special rules for HIOs
 - 6) §438.3(s) Standard Contract Provisions – Requirements for MCOs, PIHPs, or PAHPs that provide covered outpatient drugs
 - 7) §438.4 Actuarial Soundness
 - 8) §438.5 Rate Development Standards
 - 9) §438.6 Special Contract Provisions Related to Payment
 - 10) §438.7 Rate Certification Submission

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- 11) §438.8 Medical Loss Ratio Standards
 - 12) §438.9 Provisions that Apply to Non-emergency Medical Transportation
 - 13) §438.50 State Plan Requirements
 - 14) §438.52 Choice of MCOs, PIHPs, PAHPs, PCCMs, and PCCM entities
 - 15) §438.56 Disenrollment: requirements and limitations
 - 16) §438.70 Stakeholder engagement when LTSS is delivered through a managed care program
 - 17) 438.74 State Oversight of the Minimum MLR Requirements
 - 18) §438.104 Marketing
 - 19) §438.110 Member advisory committee
 - 20) §438.114 Emergency and Post-Stabilization
 - 21) §438.362 Exemption from External Quality Review
 - 22) §438.700-730 Basis for Imposition of Sanctions
 - 23) §438.802 Basic Requirements
 - 24) §438.810 Expenditures for Enrollment Broker Services
 - 25) §438.816 Expenditures for the beneficiary support system for enrollees using LTSS
- E. Specific provisions of 42 Code of Federal Regulations, part 438 relating to the following subjects are inapplicable to this Contract:
- 1) Long Terms Services and Supports
 - 2) Managed Long Terms Services and Supports
 - 3) Actuarially Sound Capitation Rates

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ADDITIONAL PROVISIONS**

- 4) Medical Loss Ratio
 - 5) Religious or Moral Objections to Delivering Services
 - 6) Family Planning Services
 - 7) Drug Formularies and Covered Outpatient Drugs
- F. Pursuant to Welfare & Institutions Code section 14704, a regulation or order concerning Medi-Cal specialty mental health services adopted by the State Department of Mental Health pursuant to Division 5 (commencing with Section 5000), as in effect preceding the effective date of this section, shall remain in effect and shall be fully enforceable, unless and until the readoption, amendment, or repeal of the regulation or order by DHCS, or until it expires by its own terms.
- G. State Law:
- 1) Division 5, Welfare & Institutions Code, to the extent that these requirements are applicable to the services and functions set forth in this contract
 - 2) Welf. & Inst. Code §§ 14680-14685.1
 - 3) Welf. & Inst. Code §§ 14700-14726
 - 4) Chapter 7, Part 3, Division 9, Welf. & Inst. Code, to the extent that these requirements are applicable to the services and functions set forth in this contract
 - 5) Cal. Code Regs., tit. 9, § 1810.100 et. seq. – Medi-Cal Specialty Mental Health Services
 - 6) Cal. Code Regs., tit. 22, §§ 50951 and 50953
 - 7) Cal. Code Regs., tit. 22, §§ 51014.1 and 51014.2

Exhibit E – Attachment 1
DEFINITIONS

1. The following definitions and the definitions contained in California Code of Regulations, title 9, sections 1810.100-1850.535 shall apply in this contract. If there is a conflict between the following definitions and the definitions in California Code of Regulations, title 9, sections 1810.100-1850.535, the definitions below will apply.
 - A. "Advance Directives" means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State), relating to the provision of the healthcare when the individual is incapacitated.
 - B. "Abuse" means, as the term described in, provider practices that are inconsistent with sound, fiscal, business, or medical practices, and result in an unnecessary cost to the Medi-Cal program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes beneficiary practices that result in unnecessary cost to the Medi-Cal program. (See 42 C.F.R. §§ 438.2, 455.2)
 - C. "Appeal" means a review by the Contractor of an adverse benefit determination.
 - D. "Beneficiary" means a Medi-Cal recipient who is currently receiving services from the Contractor.
 - E. "Contractor" means Riverside County Mental Health.
 - F. "Covered Specialty Mental Health Services" are defined in Exhibit E, Attachment 2.
 - G. "Department" means the California Department of Health Care Services (DHCS).
 - H. "Director" means the Director of DHCS.
 - I. "Emergency" means a condition or situation in which an individual has a need for immediate medical attention, or where the potential for such need is perceived by emergency medical personnel or a public safety agency (Health & Safety Code § 1797.07).
 - J. "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to self or some other person. It includes an act that

**Exhibit E – Attachment 1
DEFINITIONS**

constitutes fraud under applicable State and Federal law. (42 C.F.R. §§ 438.2, 455.2)

- K. "Grievance" means an expression of dissatisfaction about any matter other than adverse benefit determination. Grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the beneficiary's rights regardless of whether remedial action is requested. Grievance includes a beneficiary's right to dispute an extension of time proposed by the Contractor to make an authorization decision. (42 C.F.R. § 438.400)
- L. "Habilitative services and devices" help a person keep, learn, or improve skills and functioning for daily living. (45 C.F.R. § 156.115(a)(5)(i))
- M. "HHS" means the United States Department of Health and Human Service
- N. "Specialist" means a psychiatrist who has a license as a physician and surgeon in this state and shows evidence of having completed the required course of graduate psychiatric education as specified by the American Board of Psychiatry and Neurology in a program of training accredited by the Accreditation Council for Graduate Medical Education, the American Medical Association, or the American Osteopathic Association. (Cal. Code Regs., tit. 9 § 623.)
- O. A "Network Provider" means any provider, group of providers, or entity that has a network provider agreement with a Mental Health Plan, or a subcontractor, and receives Medicaid funding directly or indirectly to order, refer or render covered services as a result of the Department's contract with a Mental Health Plan. A network provider is not a subcontractor by virtue of the network provider agreement. (42 C.F.R. § 438.2)
- P. "Out-of-network provider" means a provider or group of providers that does not have a network provider agreement with a Mental Health Plan, or with a subcontractor. (A provider may be "out of network" for one Mental Health Plan, but in the network of another Mental Health Plan.)
- Q. "Out-of-plan provider" has the same meaning as out-of-network provider.
- R. "Provider" means a person or entity who is licensed, certified, or otherwise recognized or authorized under state law governing the healing arts to provide specialty mental health services and who meets the standards for

**Exhibit E – Attachment 1
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participation in the Medi-Cal program as described in California Code of Regulations, title 9, Division 1, Chapters 10 or 11 and in Division 3, Subdivision 1 of Title 22, beginning with Section 50000. Provider includes but is not limited to licensed mental health professionals, clinics, hospital outpatient departments, certified day treatment facilities, certified residential treatment facilities, skilled nursing facilities, psychiatric health facilities, general acute care hospitals, and acute psychiatric hospitals. The MHP is a provider when direct services are provided to beneficiaries by employees of the Mental Health Plan.

- S. "Overpayment" means any payment made to a network provider by a Mental Health Plan to which the provider is not entitled under Title XIX of the Act or any payment to a Mental Health Plan by a State to which the Mental Health Plan is not entitled to under Title XIX of the Act. (42 C.F.R. § 438.2)
- T. "Physician Incentive Plans" mean any compensation arrangement to pay a physician or physician group that may directly or indirectly have the effect of reducing or limiting the services provided to any plan enrollee.
- U. "PIHP" means Prepaid Inpatient Health Plan. . A Prepaid Inpatient Health Plan is an entity that:
 - 1) Provides medical services to beneficiaries under contract with the Department of Health Care Services, and on the basis of prepaid capitation payments, or other payment arrangement that does not use state plan rates;
 - 2) Provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its beneficiaries; and
 - 3) Does not have a comprehensive risk contract. (42 C.F.R. § 438.2)
- V. "Rehabilitation" means a recovery or resiliency focused service activity identified to address a mental health need in the client plan. This service activity provides assistance in restoring, improving, and/or preserving a beneficiary's functional, social, communication, or daily living skills to enhance self-sufficiency or self regulation in multiple life domains relevant to the developmental age and needs of the beneficiary. Rehabilitation also includes support resources, and/or medication education. Rehabilitation may be provided to a beneficiary or a group of beneficiaries. (California's

**Exhibit E – Attachment 1
DEFINITIONS**

Medicaid State Plan, State Plan Amendment 10-016, Attachment 3.1-A, Supplement 3, p. 2a.)

- W. "Satellite site" means a site owned, leased or operated by an organizational provider at which specialty mental health services are delivered to beneficiaries fewer than 20 hours per week, or, if located at a multiagency site at which specialty mental health services are delivered by no more than two employees or contractors of the provider.
- X. "Subcontract" means an agreement entered into by the Contractor with any of the following:
- 1) Any other organization or person who agrees to perform any administrative function or service for the Contractor specifically related to securing or fulfilling the Contractor's obligations to the Department under the terms of this contract.
 - 2) "Subcontractor" means an individual or entity that has a contract with an MCO, PIHP, PAHP, or PCCM entity that relates directly or indirectly to the performance of the MCO's, PIHP's, PAHP's, or PCCM entity's obligations under its contract with the State. A network provider is not a subcontractor by virtue of the network provider agreement with the MCO, PIHP, or PAHP. Notwithstanding the foregoing, for purposes of Exhibit D(F) the term "subcontractor" shall include network providers.

**Exhibit E – Attachment 2
SERVICE DEFINITIONS**

1. The Contractor shall provide, or arrange and pay for, the following medically necessary covered Specialty Mental Health Services to beneficiaries of Riverside County. Services shall be provided based on medical necessity criteria, in accordance with an individualized Client Plan, and approved and authorized according to State of California requirements. Services include:
 - A. Mental Health Services Individual or group therapies and interventions are designed to provide a reduction of mental disability and restoration, improvement or maintenance of functioning consistent with the goals of learning, development, independent living, and enhanced self-sufficiency. These services are separate from those provided as components of adult residential services, crisis intervention, crisis stabilization, day rehabilitation, or day treatment intensive. Service activities may include, but are not limited to:
 - 1) Assessment - A service activity designed to evaluate the current status of mental, emotional, or behavioral health. Assessment includes, but is not limited to, one or more of the following: mental status determination, analysis of the clinical history, analysis of relevant cultural issues and history; diagnosis; and the use of mental health testing procedures.
 - 2) Plan Development - A service activity that consists of development of client plans, approval of client plans, and/or monitoring and recording of progress.
 - 3) Therapy - A service activity that is a therapeutic intervention that focuses primarily on symptom reduction as a means to reduce functional impairments. Therapy may be delivered to an individual or group and may include family therapy at which the client is present.
 - 4) Rehabilitation - A service activity that includes, but is not limited to, assistance, improving, maintaining or restoring functional skills, daily living skills, social and leisure skills, grooming and personal hygiene skills; obtaining support resources; and/or obtaining medication education.
 - 5) Collateral - A service activity involving a significant support person in the beneficiary's life for the purpose of addressing the mental health needs of the beneficiary in terms of achieving goals of the beneficiary's client plan. Collateral may include, but is not limited

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to, consultation and training of the significant support person(s) to assist in better utilization of mental health services by the client, consultation and training of the significant support person(s) to assist in better understanding of mental illness, and family counseling with the significant support person(s) in achieving the goals of the client plan. The client may or may not be present for this service activity.

- B. Medication Support Services include prescribing, administering, dispensing and monitoring of psychiatric medications or biologicals that are necessary to alleviate the symptoms of mental illness. Service activities may include but are not limited to: evaluation of the need for medication; evaluation of clinical effectiveness and side effects; obtaining informed consent; instruction in the use, risks and benefits of, and alternatives for, medication; collateral and plan development related to the delivery of service and/or assessment for the client; prescribing, administering, dispensing and monitoring of psychiatric medications or biologicals; and medication education.
- C. Day Treatment Intensive are a structured, multi-disciplinary program of therapy that may be used as an alternative to hospitalization, or to avoid placement in a more restrictive setting, or to maintain the client in a community setting and which provides services to a distinct group of beneficiaries who receive services for a minimum of three hours per day (half-day) or more than four hours per day (full-day). Service activities may include, but are not limited to, assessment, plan development, therapy, rehabilitation and collateral. Collateral addresses the mental health needs of the beneficiary to ensure coordination with significant others and treatment providers.
- D. Day Rehabilitation services are a structured program of rehabilitation and therapy with services to improve, maintain or restore personal independence and functioning, consistent with requirements for learning and development and which provides services to a distinct group of beneficiaries who receive services for a minimum of three hours per day (half-day) or more than four hours per day (full-day). Service activities may include, but are not limited to assessment, plan development, therapy, rehabilitation and collateral. Collateral addresses the mental health needs of the beneficiary to ensure coordination with significant others and treatment providers.

**Exhibit E – Attachment 2
SERVICE DEFINITIONS**

- E. Crisis Intervention services last less than 24 hours and are for, or on behalf of, a beneficiary for a condition that requires more timely response than a regularly scheduled visit. Service activities include, but are not limited to, assessment, collateral and therapy. Crisis Intervention services may either be face-to-face or by telephone with the beneficiary or the beneficiary's significant support person and may be provided anywhere in the community.
- F. Crisis Stabilization services last less than 24 hours and are for, or on behalf of, a beneficiary for a condition that requires a more timely response than a regularly scheduled visit. Service activities include but are not limited to one or more of the following: assessment, collateral, and therapy. Collateral addresses the mental health needs of the beneficiary to ensure coordination with significant others and treatment providers.
- G. Adult Residential Treatment Services are rehabilitative services provided in a non-institutional, residential setting for beneficiaries who would be at risk of hospitalization or other institutional placement if they were not receiving residential treatment services. The services include a wide range of activities and services that support beneficiaries in their effort to restore, maintain, and apply interpersonal and independent living skills and to access community support systems. Service activities may include assessment, plan development, therapy, rehabilitation, and collateral. Collateral addresses the mental health needs of the beneficiary to ensure coordination with significant others and treatment providers.
- H. Crisis Residential services provide an alternative to acute psychiatric hospital services for beneficiaries who otherwise would require hospitalization. The CRS programs for adults provide normalized living environments, integrated into residential communities. The services follow a social rehabilitation model that integrates aspects of emergency psychiatric care, psychosocial rehabilitation, milieu therapy, case management and practical social work.
- I. Psychiatric Health Facility Services—A Psychiatric Health Facility is a facility licensed under the provisions beginning with Section 77001 of Chapter 9, Division 5, Title 22 of the California Code of Regulations. "Psychiatric Health Facility Services" are therapeutic and/or rehabilitative services provided in a psychiatric health facility on an inpatient basis to beneficiaries who need acute care, which meets the criteria of Section 1820.205 of Chapter 11, Division 1, Title 9 of the California Code of Regulations, and whose physical health needs can be met in an affiliated

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SERVICE DEFINITIONS**

general acute care hospital or in outpatient settings. These services are separate from those categorized as “Psychiatric Inpatient Hospital”.

- J. Intensive Care Coordination (ICC) is a targeted case management service that facilitates assessment of, care planning for and coordination of services to beneficiaries under age 21 who are eligible for the full scope of Medi-Cal services and who meet medical necessity criteria for this service. ICC service components include: assessing; service planning and implementation; monitoring and adapting; and transition. ICC services are provided through the principles of the Core Practice Model (CPM), including the establishment of the Child and Family Team (CFT) to ensure facilitation of a collaborative relationship among a youth, his/her family and involved child-serving systems. The CFT is comprised of – as appropriate, both formal supports, such as the care coordinator, providers, case managers from child-serving agencies, and natural supports, such as family members, neighbors, friends, and clergy and all ancillary individuals who work together to develop and implement the client plan and are responsible for supporting the child/youth and family in attaining their goals. ICC also provides an ICC coordinator who:
- 1) Ensures that medically necessary services are accessed, coordinated and delivered in a strength-based, individualized, family/youth driven and culturally and linguistically competent manner and that services and supports are guided by the needs of the child/youth;
 - 2) Facilitates a collaborative relationship among the child/youth, his/her family and systems involved in providing services to the child/youth;
 - 3) Supports the parent/caregiver in meeting their child/youth’s needs;
 - 4) Helps establish the CFT and provides ongoing support; and
 - 5) Organizes and matches care across providers and child serving systems to allow the child/youth to be served in his/her community
- K. Intensive Home Based Services (IHBS) are individualized, strength-based interventions designed to ameliorate mental health conditions that interfere with a child/youth’s functioning and are aimed at helping the child/youth build skills necessary for successful functioning in the home and community and improving the child/youth’s family’s ability to help the

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child/youth successfully function in the home and community. IHBS services are provided according to an individualized treatment plan developed in accordance with the Core Practice Model (CPM) by the Child and Family Team (CFT) in coordination with the family's overall service plan which may include IHBS. Service activities may include, but are not limited to assessment, plan development, therapy, rehabilitation and collateral. IHBS is provided to beneficiaries under 21 who are eligible for the full scope of Medi-Cal services and who meet medical necessity criteria for this service.

- L. Therapeutic Behavioral Services (TBS) are intensive, individualized, short-term outpatient treatment interventions for beneficiaries up to age 21. Individuals receiving these services have serious emotional disturbances (SED), are experiencing a stressful transition or life crisis and need additional short-term, specific support services to accomplish outcomes specified in the written treatment plan.
- M. Therapeutic Foster Care (TFC) Services model allows for the provision of short-term, intensive, highly coordinated, trauma informed and individualized SMHS activities (plan development, rehabilitation and collateral) to children and youth up to age 21 who have complex emotional and behavioral needs and who are placed with trained, intensely supervised and supported TFC parents. The TFC parent serves as a key participant in the therapeutic treatment process of the child or youth. The TFC parent will provide trauma informed interventions that are medically necessary for the child or youth. TFC is intended for children and youth who require intensive and frequent mental health support in a family environment. The TFC service model allows for the provision of certain SMHS activities (plan development, rehabilitation and collateral) available under the EPSDT benefit as a home-based alternative to high level care in institutional settings such as group homes and an alternative to Short Term Residential Therapeutic Programs (STRTPs).
- N. Psychiatric Inpatient Hospital Psychiatric Inpatient Hospital Services include both acute psychiatric inpatient hospital services and administrative day services. Acute psychiatric inpatient hospital services are provided to beneficiaries for whom the level of care provided in a hospital is medically necessary to diagnose or treat a covered mental illness. Administrative day services are inpatient hospital services provided to beneficiaries who were admitted to the hospital for an acute psychiatric inpatient hospital service and the beneficiary's stay at the hospital must be continued beyond the beneficiary's need for acute

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SERVICE DEFINITIONS**

psychiatric inpatient hospital services due to lack of residential placement options at non-acute residential treatment facilities that meet the needs of the beneficiary.

Psychiatric inpatient hospital services are provided by SD/MC hospitals and FFS/MC hospitals. MHPs claim reimbursement for the cost of psychiatric inpatient hospital services provided by SD/MC hospitals through the SD/MC claiming system. FFS/MC hospitals claim reimbursement for the cost of psychiatric inpatient hospital services through the Fiscal Intermediary. MHPs are responsible for authorization of psychiatric inpatient hospital services reimbursed through either billing system. For SD/MC hospitals, the daily rate includes the cost of any needed professional services. The FFS/MC hospital daily rate does not include professional services, which are billed separately from the FFS/MC inpatient hospital services via the SD/MC claiming system.

- O. Targeted Case Management Targeted case management is a service that assists a beneficiary in accessing needed medical, educational, social, prevocational, vocational, rehabilitative, or other community services. The service activities may include, but are not limited to, communication, coordination and referral; monitoring service delivery to ensure beneficiary access to services and the service delivery system; monitoring of the beneficiary's progress, placement services, and plan development. TCM services may be face-to-face or by telephone with the client or significant support persons and may be provided anywhere in the community. Additionally, services may be provided by any person determined by the MHP to be qualified to provide the service, consistent with the scope of practice and state law.

Special Terms and Conditions

(For federally funded service contracts or agreements and grant agreements)

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition.

The terms "contract", "Contractor" and "Subcontractor" shall also mean, "agreement", "grant", "grant agreement", "Grantee" and "Subgrantee" respectively.

The terms "California Department of Health Care Services", "California Department of Health Services", "Department of Health Care Services", "Department of Health Services", "CDHCS", "DHCS", "CDHS", and "DHS" shall all have the same meaning and refer to the California State agency that is a party to this Agreement.

This exhibit contains provisions that require strict adherence to various contracting laws and policies. Some provisions herein are conditional and only apply if specified conditions exist (i.e., agreement total exceeds a certain amount; agreement is federally funded, etc.). The provisions herein apply to this Agreement unless the provisions are removed by reference on the face of this Agreement, the provisions are superseded by an alternate provision appearing elsewhere in this Agreement, or the applicable conditions do not exist.

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1. Federal Equal Opportunity Requirements

(Applicable to all federally funded agreements entered into by the Department of Health Care Services)

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.
- b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.
- c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g. The Contractor will include the provisions of Paragraphs a through g in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Federal Executive Order No. 11246 as amended, including by Executive Order 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' and as supplemented by regulation at 41 CFR part 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or Section 503 of the Rehabilitation Act of 1973 or (38 U.S.C. 4212) of the Vietnam Era Veteran's Readjustment Assistance Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs or DHCS may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHCS, the Contractor may request in writing to DHCS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

2. Travel and Per Diem Reimbursement

(Applicable if travel and/or per diem expenses are reimbursed with agreement funds.)

Reimbursement for travel and per diem expenses from DHCS under this Agreement shall, unless otherwise specified in this Agreement, be at the rates currently in effect, as established by the California Department of Human Resources (CalHR), for nonrepresented state employees as stipulated in DHCS' Travel Reimbursement Information Exhibit. If the CalHR rates change during the term of the Agreement, the new rates shall apply upon their effective date and no amendment to this Agreement shall be necessary. Exceptions to CalHR rates may be approved by DHCS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior authorization from DHCS. Verbal authorization should be confirmed in writing. Written authorization may be in a form including fax or email confirmation.

3. Procurement Rules

(Applicable to agreements in which equipment/property, commodities and/or supplies are furnished by DHCS or expenses for said items are reimbursed by DHCS with state or federal funds provided under the Agreement.)

a. Equipment/Property definitions

Wherever the term equipment and/or property is used, the following definitions shall apply:

- (1) **Major equipment/property:** A tangible or intangible item having a base unit cost of **\$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.
 - (2) **Minor equipment/property:** A tangible item having a base unit cost of **less than \$5,000** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.
- b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.
- c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.

- (1) Equipment/property purchases shall not exceed \$50,000 annually.

To secure equipment/property above the annual maximum limit of \$50,000, the Contractor shall

make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment/property purchased through DHCS' Purchasing Unit. The cost of equipment/property purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment/property specifications for those items that the State must procure. DHCS may pay the vendor directly for such arranged equipment/property purchases and title to the equipment/property will remain with DHCS. The equipment/property will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.

- (2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.
- (3) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
 - (a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.
 - (b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
 - (c) Procurements shall be conducted in a manner that provides for all of the following:
 - [1] Avoid purchasing unnecessary or duplicate items.
 - [2] Equipment/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
 - [3] Take positive steps to utilize small and veteran owned businesses.
- d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of \$5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.
- e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.
- f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.
- g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.
- h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

4. Equipment/Property Ownership / Inventory / Disposition

(Applicable to agreements in which equipment/property is furnished by DHCS and/or when said items are purchased or reimbursed by DHCS with state or federal funds provided under the Agreement.)

- a. Wherever the term equipment and/or property is used in Provision 4, the definitions in Paragraph a of Provision 3 shall apply.

Unless otherwise stipulated in this Agreement, all equipment and/or property that is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement shall be considered state equipment and the property of DHCS.

- (1) **Reporting of Equipment/Property Receipt** - DHCS requires the reporting, tagging and annual inventorying of all equipment and/or property that is furnished by DHCS or purchased/reimbursed with funds provided through this Agreement.

Upon receipt of equipment and/or property, the Contractor shall report the receipt to the DHCS Program Contract Manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHCS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHCS Funds) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager.

- (2) **Annual Equipment/Property Inventory** - If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or property to the DHCS Program Contract Manager using a form or format designated by DHCS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHCS-Funded Equipment) does not accompany this Agreement, Contractor shall request a copy from the DHCS Program Contract Manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
- (b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.
- (c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.
- b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.
- c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.
- d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.
- (1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.
- e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.

- f. Within sixty (60) calendar days prior to the termination or end of this Agreement, the Contractor shall provide a final inventory report of equipment and/or property to the DHCS Program Contract Manager and shall, at that time, query DHCS as to the requirements, including the manner and method, of returning state equipment and/or property to DHCS. Final disposition of equipment and/or property shall be at DHCS expense and according to DHCS instructions. Equipment and/or property disposition instructions shall be issued by DHCS immediately after receipt of the final inventory report. At the termination or conclusion of this Agreement, DHCS may at its discretion, authorize the continued use of state equipment and/or property for performance of work under a different DHCS agreement.

g. Motor Vehicles

(Applicable only if motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under this Agreement.)

- (1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.
- (2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.
- (3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.
- (4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

Automobile Liability Insurance

- (a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.
- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:

- [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).
 - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.
 - [3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
- (1) The Contractor must provide in its request for authorization, all information necessary for evaluating the necessity or desirability of incurring such cost.
 - (2) DHCS may identify the information needed to fulfill this requirement.
 - (3) Subcontracts performed by the following entities or for the service types listed below are exempt from the bidding and sole source justification requirements:
 - (a) A local governmental entity or the federal government,
 - (b) A State college or State university from any State,
 - (c) A Joint Powers Authority,
 - (d) An auxiliary organization of a California State University or a California community college,
 - (e) A foundation organized to support the Board of Governors of the California Community Colleges,
 - (f) An auxiliary organization of the Student Aid Commission established under Education Code § 69522,
 - (g) Firms or individuals proposed for use and approved by DHCS' funding Program via acceptance of an application or proposal for funding or pre/post contract award negotiations,
 - (h) Entities and/or service types identified as exempt from advertising and competitive bidding in State Contracting Manual Chapter 5 Section 5.80 Subsection B.2. View this publication at the following Internet address: <http://www.dgs.ca.gov/ols/Resources/StateContractManual.aspx>.
- b. DHCS reserves the right to approve or disapprove the selection of subcontractors and with advance written notice, require the substitution of subcontractors and require the Contractor to terminate subcontracts entered into in support of this Agreement.

- (1) Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Contractor shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.
- c. Actual subcontracts (i.e., written agreement between the Contractor and a subcontractor) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
 - d. Contractor shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
 - e. DHCS assumes no responsibility for the payment of subcontractors used in the performance of this Agreement. Contractor accepts sole responsibility for the payment of subcontractors used in the performance of this Agreement.
 - f. The Contractor is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
 - g. The Contractor shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
 - h. The Contractor agrees to include the following clause, relevant to record retention, in all subcontracts for services:

"(Subcontractor Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Contractor, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
 - i. Unless otherwise stipulated in writing by DHCS, the Contractor shall be the subcontractor's sole point of contact for all matters related to performance and payment under this Agreement.
 - j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, 32 and/or other numbered provisions herein that are deemed applicable.

6. Income Restrictions

Unless otherwise stipulated in this Agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to DHCS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHCS under this Agreement.

7. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this

Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896).

- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
 - (1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
 - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.
- g. The Contractor shall, if applicable, comply with the Single Audit Act and the audit reporting requirements set forth in OMB Circular A-133.

8. Site Inspection

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Contractor or Subcontractor, the Contractor shall provide and shall require Subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

9. Federal Contract Funds

(Applicable only to that portion of an agreement funded in part or whole with federal funds.)

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.

- c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

10. Intellectual Property Rights

a. Ownership

- (1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.
 - (a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- (3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

b. Retained Rights / License Rights

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.
- (2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

With respect to inventions made by Contractor in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Contractor hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Contractor agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

e. Third-Party Intellectual Property

Except as provided herein, Contractor agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Contractor or third party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Contractor's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon the these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required

for Contractor's performance of this Agreement, Contractor shall obtain a license under terms acceptable to DHCS.

f. Warranties

(1) Contractor represents and warrants that:

- (a) It is free to enter into and fully perform this Agreement.
- (b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
- (c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.
- (d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
- (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
- (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
- (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

(2) DHCS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property Indemnity

- (1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by

Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.

- (2) Should any Intellectual Property licensed by the Contractor to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. Federal Funding

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, nontransferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

i. Survival

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

11. Air or Water Pollution Requirements

Any federally funded agreement and/or subcontract in excess of \$100,000 must comply with the following provisions unless said agreement is exempt under 40 CFR 15.5.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
- b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

12. Prior Approval of Training Seminars, Workshops or Conferences

Contractor shall obtain prior DHCS approval of the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop, or conference conducted pursuant to this Agreement and of any reimbursable publicity or educational materials to be made available for distribution. The Contractor shall acknowledge the support of the State whenever publicizing the work under this Agreement in any media. This provision does not apply to necessary staff meetings or training sessions held for the staff of the Contractor or Subcontractor to conduct routine business matters.

13. Confidentiality of Information

- a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.
- b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.
- d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

14. Documents, Publications and Written Reports

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contractual communications) prepared as a requirement of this Agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts or agreements and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

15. Dispute Resolution Process

- a. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below.
 - (1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.
 - (2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's

decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

16. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).
- c. The Contractor, as indicated below, agrees to obtain one of the following audits:
 - (1) **If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement;** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
 - (2) **If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement,** the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**
 - (3) **If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$500,000 or more in Federal awards,** the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:
 - (a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or
 - (b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.

- (4) If the Contractor submits to DHCS a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$500,000 or more in federal funds for the year covered by the audit report.
- d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
 - e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
 - f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
 - g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
 - h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
 - i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
 - j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
 - k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

17. Human Subjects Use Requirements

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this Agreement, Contractor agrees that if any performance under this Agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

18. Novation Requirements

If the Contractor proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

19. Debarment and Suspension Certification

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.
- b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and
 - (4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.
 - (5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.
 - (6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.
- d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.
- e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

20. Smoke-Free Workplace Certification

(Applicable to federally funded agreements/grants and subcontracts/subawards, that provide health, day care, early childhood development services, education or library services to children under 18 directly or through local governments.)

- a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.
- b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.
- c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.
- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHCS shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

22. Payment Withholds

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the Agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

23. Performance Evaluation

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

24. Officials Not to Benefit

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

25. Four-Digit Date Compliance

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

26. Prohibited Use of State Funds for Software

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

27. Use of Small, Minority Owned and Women's Businesses

(Applicable to that portion of an agreement that is federally funded and entered into with institutions of higher education, hospitals, nonprofit organizations or commercial businesses.)

Positive efforts shall be made to use small businesses, minority-owned firms and women's business enterprises, whenever possible (i.e., procurement of goods and/or services). Contractors shall take all of the following steps to further this goal.

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

28. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

By signing this Agreement, the Contractor certifies that he/she is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act. (8 U.S.C. 1601, et seq.)

29. Union Organizing

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

30. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
 - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
 - (2) Director's and executive committee member's fees.
 - (3) Incentive awards and/or bonus incentive pay.
 - (4) Allowances for off-site pay.
 - (5) Location allowances.
 - (6) Hardship pay.
 - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
 - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
 - (1) Be necessary and reasonable for the performance of the Agreement.
 - (2) Be determined in accordance with generally accepted accounting principles.
 - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.

f. Earned/Accrued Compensation

- (1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
- (2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
- (3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

(a) **Example No. 1:**

If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of an agreement, the Contractor during a one-year budget period may only claim up to three weeks of vacation and twelve days of sick leave as actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.

(b) **Example No. 2:**

If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Contractor would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).

(c) **Example No. 3:**

If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

31. Suspension or Stop Work Notification

- a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.
- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.
 - (1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
 - (2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
 - (a) Cancel, extend, or modify the suspension or stop work notification; or
 - (b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.

- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.
- d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
- e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
- f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

32. Lobbying Restrictions and Disclosure Certification

(Applicable to federally funded agreements in excess of \$100,000 per Section 1352 of the 31, U.S.C.)

a. Certification and Disclosure Requirements

- (1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.
- (2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.
- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
 - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
 - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract or agreement, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract or agreement, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract or agreement, grant, loan, or cooperative agreement.

Attachment 1
State of California
Department of Health Care Services

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Riverside County Mental Health
Name of Contractor

Steve Steinberg
Printed Name of Person Signing for Contractor

17-94604
Contract / Grant Number

Signature of Person Signing for Contractor

Date

Director
Title

After execution by or on behalf of Contractor, please return to:

California Department of Health Care Services
Mental Health Services Division/Program Policy Unit
Attn: Dee Taylor
1500 Capitol Avenue, MS 2702
P.O. Box Number 997413
Sacramento, CA 95899-7413

DHCS reserves the right to notify the contractor in writing of an alternate submission address.

Attachment 2

CERTIFICATION REGARDING LOBBYING

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

Approved by OMB
0348-0046

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract</p> <p><input type="checkbox"/> b. grant</p> <p><input type="checkbox"/> c. cooperative agreement</p> <p><input type="checkbox"/> d. loan</p> <p><input type="checkbox"/> e. loan guarantee</p> <p><input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application</p> <p><input type="checkbox"/> b. initial award</p> <p><input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing</p> <p><input type="checkbox"/> b. material change</p> <p>For Material Change Only:</p> <p>Year ____ quarter ____</p> <p>date of last report ____.</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee</p> <p>Tier ____, if known:</p> <p>Congressional District, if known:</p>		<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, if known:</p>
<p>6. Federal Department/Agency</p>	<p>7. Federal Program Name/Description:</p> <p>CDFA Number, if applicable: ____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p> <p>\$</p>	
<p>10.a. Name and Address of Lobbying Registrant (If individual, last name, first name, MI):</p>	<p>b. Individuals Performing Services (including address if different from 10a. (Last name, First name, MI):</p>	
<p>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than \$100,000 for each such failure.</p>	<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>	
<p>Federal Use Only</p>		<p>Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)</p>

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

EXHIBIT F
Privacy and Information Security Provisions

Part I: HIPAA Business Associate Addendum

1. Recitals

- A. A business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), 42 U.S.C. § 17921 et seq., and their implementing privacy and security regulations at 45 C.F.R. Parts 160 and 164 ("the HIPAA regulations") between Department and Contractor arises only to the extent that Contractor performs functions or activities on behalf of the Department pursuant to this Agreement that are described in the definition of "business associate" in 45 C.F.R. § 160.103, including but not limited to utilization review, quality assurance, or benefit management.
- B. The Department wishes to disclose to Contractor certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, to be used or disclosed in the course of providing services and activities as set forth in Section 1.A. of Exhibit F, Part I of this Agreement. This information is hereafter referred to as "Department PHI".
- C. To the extent Contractor performs the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit F, Part I of this Agreement, Contractor is the Business Associate of the Department acting on the Department's behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of the Department and creates, receives, maintains, transmits, uses or discloses PHI and ePHI in the provision of such services or in the performance of such functions or activities. The Department and Contractor are each a party to this Agreement and are collectively referred to as the "parties."
- D. The purpose of this Part I is to protect the privacy and security of the PHI and ePHI that may be created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act and the HIPAA regulations, including, but not limited to, the requirement that the Department must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 C.F.R. Parts 160 and 164 and the HITECH Act.
- E. The terms used in this Part I, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

EXHIBIT F

Privacy and Information Security Provisions

2. Definitions

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- D. Department PHI shall mean Protected Health Information or Electronic Protected Health Information, as defined below, accessed by Contractor in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services on behalf of the Department as specified in Section 1.A. of Exhibit F, Part I of this Agreement. The terms PHI as used in this document shall mean Department PHI.
- E. Electronic Health Records shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. § 17921 and implementing regulations.
- F. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 C.F.R. § 160.103.
- G. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 C.F.R. § 160.103.
- H. Privacy Rule shall mean the HIPAA Regulations that are found at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- I. Protected Health Information (PHI) means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 C.F.R. § 160.103 and as defined under HIPAA.

EXHIBIT F

Privacy and Information Security Provisions

- J. Required by law, as set forth under 45 C.F.R. § 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
- K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.
- L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Department PHI, or confidential data utilized by Contractor to perform the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit F, Part I of this Agreement; or interference with system operations in an information system that processes, maintains or stores Department PHI.
- M. Security Rule shall mean the HIPAA regulations that are found at 45 C.F.R. Parts 160 and 164.
- N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. § 17932(h), any guidance issued by the Secretary pursuant to such Act and the HIPAA regulations.

3. Terms of Agreement

- A. **Permitted Uses and Disclosures of Department PHI by Contractor.** Except as otherwise indicated in this Exhibit F, Part I, Contractor may use or disclose Department PHI only to perform functions, activities or services specified in Section 1.A of Exhibit F, Part I of this Agreement, for, or on behalf of the Department, provided that such use or disclosure would not violate the HIPAA regulations, if done by the Department. Any such use or disclosure, if not for purposes of treatment activities of a health care provider as defined by the Privacy Rule, must, to the extent practicable, be limited to the limited data set, as defined in 45 C.F.R. § 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.
- B. **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Exhibit F, Part I, Contractor may:

EXHIBIT F

Privacy and Information Security Provisions

- 1) **Use and disclose for management and administration.** Use and disclose Department PHI for the proper management and administration of the Contractor's business, provided that such disclosures are required by law, or the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware that the confidentiality of the information has been breached.
- 2) **Provision of Data Aggregation Services.** Use Department PHI to provide data aggregation services to the Department to the extent requested by the Department and agreed to by Contractor. Data aggregation means the combining of PHI created or received by the Contractor, as the Business Associate, on behalf of the Department with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of the Department.

C. Prohibited Uses and Disclosures

- 1) Contractor shall not disclose Department PHI about an individual to a health plan for payment or health care operations purposes if the Department PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. §§ 17935(a) and 45 C.F.R. § 164.522(a).
- 2) Contractor shall not directly or indirectly receive remuneration in exchange for Department PHI, except with the prior written consent of the Department and as permitted by 42 U.S.C. § 17935(d)(2).

D. Responsibilities of Contractor

Contractor agrees:

- 1) **Nondisclosure.** Not to use or disclose Department PHI other than as permitted or required by this Agreement or as required by law.
- 2) **Compliance with the HIPAA Security Rule.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Department PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of the Department, in compliance with 45 C.F.R. §§ 164.308, 164.310 and 164.312, and to prevent use or disclosure of Department PHI other than as provided for by this Agreement. Contractor shall implement reasonable and appropriate policies and procedures to comply with the standards,

EXHIBIT F**Privacy and Information Security Provisions**

implementation specifications and other requirements of 45 C.F.R. § 164, subpart C, in compliance with 45 C.F.R. § 164.316. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Contractor will provide the Department with its current and updated policies upon request.

- 3) **Security.** Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
 - a) Complying with all of the data system security precautions listed in Attachment A, Business Associate Data Security Requirements;
 - b) Achieving and maintaining compliance with the HIPAA Security Rule (45 C.F.R. Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this Agreement; and
 - c) Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III- Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.
- 1) **Security Officer.** Contractor shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with the Department.
- 2) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PHI by Contractor or its subcontractors in violation of the requirements of this Exhibit F, Part I.
- 3) **Reporting Unauthorized Use or Disclosure.** To report to Department any use or disclosure of Department PHI not provided for by this Exhibit F, Part I of which it becomes aware.
- 4) **Contractor's Agents and Subcontractors.**
 - a) To enter into written agreements with any agents, including subcontractors and vendors to whom Contractor provides Department PHI, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Contractor

EXHIBIT F**Privacy and Information Security Provisions**

with respect to such Department PHI under this Exhibit F, and that require compliance with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI. Contractor shall incorporate, when applicable, the relevant provisions of this Exhibit F, Part I into each subcontract or subaward to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI be reported to Contractor.

- b) In accordance with 45 C.F.R. § 164.504(e)(1)(ii), upon Contractor's knowledge of a material breach or violation by its subcontractor of the agreement between Contractor and the subcontractor, Contractor shall:
 - i. Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by the Department; or
 - ii. Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

- 5) **Availability of Information to the Department and Individuals to Provide Access and Information:**
 - a) To provide access as the Department may require, and in the time and manner designated by the Department (upon reasonable notice and during Contractor's normal business hours) to Department PHI in a Designated Record Set, to the Department (or, as directed by the Department), to an Individual, in accordance with 45 C.F.R. § 164.524. Designated Record Set means the group of records maintained for the Department health plan under this Agreement that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for the Department health plan for which Contractor is providing services under this Agreement; or those records used to make decisions about individuals on behalf of the Department. Contractor shall use the forms and processes developed by the Department for this purpose and shall respond to requests for access to records transmitted by the Department within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.

EXHIBIT F

Privacy and Information Security Provisions

- a) If Contractor maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Contractor shall provide such information in an electronic format to enable the Department to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. §17935(e). This section shall be effective as of the date that 42 U.S.C. § 17935(e) and its implementing regulations apply to the Department.
- 9) **Amendment of Department PHI.** To make any amendment(s) to Department PHI that were requested by a patient and that the Department directs or agrees should be made to assure compliance with 45 C.F.R. § 164.526, in the time and manner designated by the Department, with the Contractor being given a minimum of twenty (20) days within which to make the amendment.
- 10) **Internal Practices.** To make Contractor's internal practices, books and records relating to the use and disclosure of Department PHI available to the Department or to the Secretary, for purposes of determining the Department's compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Contractor, Contractor shall provide written notification to the Department and shall set forth the efforts it made to obtain the information.
- 11) **Documentation of Disclosures.** To document and make available to the Department or (at the direction of the Department) to an Individual such disclosures of Department PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of such PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 C.F.R. § 164.528 and 42 U.S.C. § 17935(c). If Contractor maintains electronic health records for the Department as of January 1, 2009, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after January 1, 2014. If Contractor acquires electronic health records for the Department after January 1, 2009, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after the date the electronic health record is acquired, or on or after January 1, 2011, whichever date is later. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting. This section shall be effective only as of the date that 42 U.S.C. § 17935(c) and its implementing regulations apply to the Department.
- 1) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and

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prompt reporting of any breach or security incident, and to take the following steps:

- a) **Initial Notice to the Department.** (1) To notify the Department **immediately by telephone call plus email or fax** upon the discovery of a breach of unsecured PHI in electronic media or in any other media if the PHI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person. (2) To notify the Department **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement or this Exhibit F, Part I, or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Business Associate as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Business Associate.
- b) Notice shall be provided to the Department Program Contract Manager and the Department Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall be provided by calling the Department Information Security Officer. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link:

<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>
- c) Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of Department PHI , Contractor shall take:
 - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
 - ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
- d) **Investigation and Investigation Report.** To immediately investigate such suspected security incident, security incident, breach, or unauthorized access, use or disclosure of PHI . Within 72 hours of

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the discovery, Contractor shall submit an updated "Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the Department Program Contract Manager and the Department Information Security Officer.

- e) **Complete Report.** To provide a complete report of the investigation to the Department Program Contract Manager and the Department Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, and the HIPAA regulations. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten(10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and individual notifications are required, and the corrective action plan.
- f) **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in 42 U.S.C. § 17932 and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured Department PHI involves more than 500 residents of the State of California or its jurisdiction, Contractor shall notify the Secretary of the breach immediately upon discovery of the breach. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

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- g) **Responsibility for Notification of Affected Individuals.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors and notification of the affected individuals is required under state or federal law, Contractor shall bear all costs of such notifications as well as any costs associated with the breach. In addition, the Department reserves the right to require Contractor to notify such affected individuals, which notifications shall comply with the requirements set forth in 42 U.S.C. § 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be made without unreasonable delay and in no event later than 60 calendar days. The Department Program Contract Manager and the Department Information Security Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. The Department will provide its review and approval expeditiously and without unreasonable delay.

- h) **Department Contact Information.** To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

Department Program Contract Manager	DHCS Privacy Officer	DHCS Information Security Officer
See the Exhibit A, Scope of Work for Program Contract Manager information	Privacy Officer c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 Email: privacyofficer@dhcs.ca.gov	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Telephone: ITSD Service Desk (916) 440-7000 or (800)

- 13) **Termination of Agreement.** In accordance with § 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Contractor knows of a material breach or violation by the Department of this Exhibit F, Part I, it shall take the following steps:

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- a) Provide an opportunity for the Department to cure the breach or end the violation and terminate the Agreement if the Department does not cure the breach or end the violation within the time specified by Contractor; or
 - b) Immediately terminate the Agreement if the Department has breached a material term of the Exhibit F, Part I and cure is not possible.
- 14) **Sanctions and/or Penalties.** Contractor understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Contractors may result in the imposition of sanctions and/or penalties on Contractor under HIPAA, the HITECH Act and the HIPAA regulations.

E. Obligations of the Department

The Department agrees to:

- 1) **Permission by Individuals for Use and Disclosure of PHI.** Provide the Contractor with any changes in, or revocation of, permission by an Individual to use or disclose Department PHI, if such changes affect the Contractor's permitted or required uses and disclosures.
- 2) **Notification of Restrictions.** Notify the Contractor of any restriction to the use or disclosure of Department PHI that the Department has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect the Contractor's use or disclosure of PHI.
- 3) **Requests Conflicting with HIPAA Rules.** Not request the Contractor to use or disclose Department PHI in any manner that would not be permissible under the HIPAA regulations if done by the Department.
- 4) **Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that DHCS produces in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice. Visit the DHCS Privacy Office to view the most current Notice of Privacy Practices at: <http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/default.aspx> or the DHCS website at www.dhcs.ca.gov (select "Privacy in the right column and "Notice of Privacy Practices" on the right side of the page).

F. Audits, Inspection and Enforcement

If Contractor is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of

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Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Exhibit F, Part I, Contractor shall notify the Department. Upon request from the Department, Contractor shall provide the Department with a copy of any Department PHI that Contractor, as the Business Associate, provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI to the Secretary. Contractor is responsible for any civil penalties assessed due to an audit or investigation of Contractor, in accordance with 42 U.S.C. § 17934(c).

G. Termination

- 1) **Term.** The Term of this Exhibit F, Part I, shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 C.F.R. § 164.504(e)(2)(ii)(I).
- 2) **Termination for Cause.** In accordance with 45 C.F.R. § 164.504(e)(1)(ii), upon the Department's knowledge of a material breach or violation of this Exhibit F, Part I, by Contractor, the Department shall:
 - a) Provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by the Department; or
 - b) Immediately terminate this Agreement if Contractor has breached a material term of this Exhibit F, Part I, and cure is not possible.

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Part II: Privacy and Security of Personal Information and Personally Identifiable Information Not Subject to HIPAA

1. Recitals

- A. In addition to the Privacy and Security Rules under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) the Department is subject to various other legal and contractual requirements with respect to the personal information (PI) and personally identifiable information (PII) it maintains. These include:
- 1) The California Information Practices Act of 1977 (California Civil Code §§ 1798 et seq.).
 - 2) The Agreement between the Social Security Administration (SSA) and the Department, known as the Information Exchange Agreement (IEA), which incorporates the Computer Matching and Privacy Protection Act Agreement (CMPPA) between the SSA and the California Health and Human Services Agency. The IEA, including the CMPPA, is attached to this Exhibit F as Attachment B and is hereby incorporated in this Agreement.
- B. The purpose of this Exhibit F, Part II is to set forth Contractor's privacy and security obligations with respect to PI and PII that Contractor may create, receive, maintain, use, or disclose for or on behalf of Department pursuant to this Agreement. Specifically this Exhibit applies to PI and PII which is not Protected Health Information (PHI) as defined by HIPAA and therefore is not addressed in Exhibit F, Part I of this Agreement, the HIPAA Business Associate Addendum.
- C. The IEA Agreement referenced in A.2) above requires the Department to extend its substantive privacy and security terms to subcontractors who receive data provided to DHCS by the Social Security Administration. If Contractor receives data from DHCS that includes data provided to DHCS by the Social Security Administration, Contractor must comply with the following specific sections of the IEA Agreement: E. Security Procedures, F. Contractor/Agent Responsibilities, and G. Safeguarding and Reporting Responsibilities for Personally Identifiable Information ("PII"), and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the Social Security Administration. Contractor must also ensure that any agents, including a subcontractor, to whom it provides DHCS data that includes data provided by the Social Security Administration, agree to the same requirements for privacy and security safeguards for such confidential data that apply to Contractor with respect to such information.
- D. The terms used in this Exhibit F, Part II, but not otherwise defined, shall have the same meanings as those terms have in the above referenced statute and

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Agreement. Any reference to statutory, regulatory, or contractual language shall be to such language as in effect or as amended.

2. Definitions

- A. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.
- B. "Breach of the security of the system" shall have the meaning given to such term under the California Information Practices Act, Civil Code § 1798.29(d).
- C. "CMPPA Agreement" means the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).
- D. "Department PI" shall mean Personal Information, as defined below, accessed in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services specified in this Agreement on behalf of the Department.
- E. "IEA" shall mean the Information Exchange Agreement currently in effect between the Social Security Administration (SSA) and the California Department of Health Care Services (DHCS).
- F. "Notice-triggering Personal Information" shall mean the personal information identified in Civil Code section 1798.29(e) whose unauthorized access may trigger notification requirements under Civil Code § 1709.29. For purposes of this provision, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering Personal Information includes PI in electronic, paper or any other medium.
- G. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the IEA and CMPPA.
- H. "Personal Information" (PI) shall have the meaning given to such term in California Civil Code § 1798.3(a).
- I. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production

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of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

- J. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PI, or confidential data utilized in complying with this Agreement; or interference with system operations in an information system that processes, maintains or stores PI.

3. Terms of Agreement**A. Permitted Uses and Disclosures of Department PI and PII by Contractor**

Except as otherwise indicated in this Exhibit F, Part II, Contractor may use or disclose Department PI only to perform functions, activities or services for or on behalf of the Department pursuant to the terms of this Agreement provided that such use or disclosure would not violate the California Information Practices Act (CIPA) if done by the Department.

B. Responsibilities of Contractor

Contractor agrees:

- 1) **Nondisclosure.** Not to use or disclose Department PI or PII other than as permitted or required by this Agreement or as required by applicable state and federal law.
- 2) **Safeguards.** To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of Department PI and PII, to protect against anticipated threats or hazards to the security or integrity of Department PI and PII, and to prevent use or disclosure of Department PI or PII other than as provided for by this Agreement. Contractor shall develop and maintain a written information privacy and security program that include administrative, technical and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities, which incorporate the requirements of Section 3, Security, below. Contractor will provide DHCS with its current policies upon request.
- 3) **Security.** Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:
 - a) Complying with all of the data system security precautions listed in Attachment A, Business Associate Data Security Requirements; and

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- b) Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III- Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.
 - c) If the data obtained by User(s) from DHCS includes PII, User(s) shall also comply with the substantive privacy and security requirements in the Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health and Human Services Agency (CHHS) and in the Agreement between the SSA and DHCS, known as the Information Exchange Agreement (IEA), which are attached as Attachment B and are incorporated into this Agreement. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. The User(s) also agree to ensure that any agents, including a subcontractor, to whom they provide DHCS PII agree to the same requirements for privacy and security safeguards for confidential data that apply to the User(s) with respect to such information.
- 4) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PI or PII by Contractor or its subcontractors in violation of this Exhibit F, Part II.
 - 5) **Contractor's Agents and Subcontractors.** To impose the same restrictions and conditions set forth in this Exhibit F, Part II on any subcontractors or other agents with whom Contractor subcontracts any activities under this Agreement that involve the disclosure of Department PI or PII to the subcontractor.
 - 6) **Availability of Information to DHCS.** To make Department PI and PII available to the Department for purposes of oversight, inspection, amendment, and response to requests for records, injunctions, judgments, and orders for production of Department PI and PII. If Contractor receives Department PII, upon request by DHCS, Contractor shall provide DHCS with a list of all employees, contractors and agents who have access to Department PII, including employees, contractors and agents of its subcontractors and agents.
 - 7) **Cooperation with DHCS.** With respect to Department PI, to cooperate with and assist the Department to the extent necessary to ensure the Department's compliance with the applicable terms of the CIPA including, but not limited to, accounting of disclosures of Department PI, correction of

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errors in Department PI, production of Department PI, disclosure of a security breach involving Department PI and notice of such breach to the affected individual(s).

- 8) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:
- a) **Initial Notice to the Department.** (1) To notify the Department **immediately by telephone call plus email or fax** upon the discovery of a breach of unsecured Department PI or PII in electronic media or in any other media if the PI or PII was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, or upon discovery of a suspected security incident involving Department PII. (2) To notify the Department **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of Department PI or PII in violation of this Agreement or this Exhibit F, Part I, or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Contractor.
 - b) Notice shall be provided to the Department Program Contract Manager and the Department Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic Department PI or PII, notice shall be provided by calling the Department Information Security Officer. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link:
<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>
 - c) Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of Department PHI, Contractor shall take:
 - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and

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- ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

- d) **Investigation and Investigation Report.** To immediately investigate such suspected security incident, security incident, breach, or unauthorized access, use or disclosure of PHI . Within 72 hours of the discovery, Contractor shall submit an updated "Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the Department Program Contract Manager and the Department Information Security Officer:

- e) **Complete Report.** To provide a complete report of the investigation to the Department Program Contract Manager and the Department Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten(10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and individual notifications are required, and the corrective action plan.

- f) **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PI or PII is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in CIPA, § 1798.29(a) – (d) and as may be required under the IEA. Contractor shall bear all costs of required notifications to individuals as well as any costs associated with the breach. The Department Program Contract Manager and the Department Information Security Officer and Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications

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are made. The Department will provide its review and approval expeditiously and without unreasonable delay. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

- g) **Department Contact Information.** To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

Department Program Contract Manager	DHCS Privacy Officer	DHCS Information Security Officer
See the Exhibit A, Scope of Work for Program Contract Manager information	Privacy Officer c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 Email: privacyofficer@dhcs.ca.gov	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Telephone: ITSD Service Desk (916) 440-7000 or (800)

- 9. **Designation of Individual Responsible for Security.** Contractor shall designate an individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying out the requirements of this Exhibit F, Part II and for communicating on security matters with the Department.

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Part III: Miscellaneous Terms and Conditions Applicable to Exhibit F

1. Disclaimer

The Department makes no warranty or representation that compliance by Contractor with this Exhibit F, HIPAA or the HIPAA regulations will be adequate or satisfactory for Contractor's own purposes or that any information in Contractor's possession or control, or transmitted or received by Contractor, is or will be secure from unauthorized use or disclosure. Contractor is solely responsible for all decisions made by Contractor regarding the safeguarding of the Department PHI.

2. Amendment

A. The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Exhibit F may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations. Upon either party's request, the other party agrees to promptly enter into negotiations concerning an amendment to this Exhibit F embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations. The Department may terminate this Agreement upon thirty (30) days written notice in the event:

- 1) Contractor does not promptly enter into negotiations to amend this Exhibit F when requested by the Department pursuant to this section; or
- 2) Contractor does not enter into an amendment providing assurances regarding the safeguarding of Department PHI that the Department deems is necessary to satisfy the standards and requirements of HIPAA and the HIPAA regulations.

3. Judicial or Administrative Proceedings

Contractor will notify the Department if it is named as a defendant in a criminal proceeding for a violation of HIPAA or other security or privacy law. The Department may terminate this Agreement if Contractor is found guilty of a criminal violation of HIPAA. The Department may terminate this Agreement if a finding or stipulation that the Contractor has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Contractor is a party or has been joined. DHCS will consider the nature and seriousness of the violation in deciding whether or not to terminate the Agreement.

4. Assistance in Litigation or Administrative Proceedings

Contractor shall make itself and any subcontractors, employees or agents assisting Contractor in the performance of its obligations under this Agreement, available to the

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Department at no cost to the Department to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Department, its directors, officers or employees based upon claimed violation of HIPAA, or the HIPAA regulations, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, employee or agent is a named adverse party.

5. No Third-Party Beneficiaries

Nothing express or implied in the terms and conditions of this Exhibit F is intended to confer, nor shall anything herein confer, upon any person other than the Department or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

6. Interpretation

The terms and conditions in this Exhibit F shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, and the HIPAA regulations. The parties agree that any ambiguity in the terms and conditions of this Exhibit F shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations.

7. Conflict

In case of a conflict between any applicable privacy or security rules, laws, regulations or standards the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Contractor must comply within a reasonable period of time with changes to these standards that occur after the effective date of this Agreement.

8. Regulatory References

A reference in the terms and conditions of this Exhibit F to a section in the HIPAA regulations means the section as in effect or as amended.

9. Survival

The respective rights and obligations of Contractor under Section 3, Item D of Exhibit F, Part I, Responsibilities of Contractor, shall survive the termination or expiration of this Agreement.

10. No Waiver of Obligations

No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

11. Audits, Inspection and Enforcement

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From time to time, and subject to all applicable federal and state privacy and security laws and regulations, the Department may conduct a reasonable inspection of the facilities, systems, books and records of Contractor to monitor compliance with this Exhibit F. Contractor shall promptly remedy any violation of any provision of this Exhibit F. The fact that the Department inspects, or fails to inspect, or has the right to inspect, Contractor's facilities, systems and procedures does not relieve Contractor of its responsibility to comply with this Exhibit F. The Department's failure to detect a non-compliant practice, or a failure to report a detected non-compliant practice to Contractor does not constitute acceptance of such practice or a waiver of the Department's enforcement rights under this Agreement, including this Exhibit F.

12. Due Diligence

Contractor shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Exhibit F and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Exhibit F.

13. Term

The Term of this Exhibit F shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 C.F.R. § 164.504(e)(2)(ii)(I), and when all Department PI and PII is destroyed in accordance with Attachment A.

14. Effect of Termination

Upon termination or expiration of this Agreement for any reason, Contractor shall return or destroy all Department PHI, PI and PII that Contractor still maintains in any form, and shall retain no copies of such PHI, PI or PII. If return or destruction is not feasible, Contractor shall notify the Department of the conditions that make the return or destruction infeasible, and the Department and Contractor shall determine the terms and conditions under which Contractor may retain the PHI, PI or PII. Contractor shall continue to extend the protections of this Exhibit F to such Department PHI, PI and PII, and shall limit further use of such data to those purposes that make the return or destruction of such data infeasible. This provision shall apply to Department PHI, PI and PII that is in the possession of subcontractors or agents of Contractor.

EXHIBIT F
Privacy and Information Security Provisions

Attachment A
Business Associate Data Security Requirements

1. Personnel Controls

- A. **Employee Training.** All workforce members who assist in the performance of functions or activities on behalf of the Department, or access or disclose Department PHI or PI must complete information privacy and security training, at least annually, at Contractor's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following termination of this Agreement.
- B. **Employee Discipline.** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- C. **Confidentiality Statement.** All persons that will be working with Department PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to Department PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for Department inspection for a period of six (6) years following termination of this Agreement.
- D. **Background Check.** Before a member of the workforce may access Department PHI or PI, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years.

2. Technical Security Controls

- A. **Workstation/Laptop encryption.** All workstations and laptops that store Department PHI or PI either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the Department Information Security Office.
- B. **Server Security.** Servers containing unencrypted Department PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

EXHIBIT F

Privacy and Information Security Provisions

- C. **Minimum Necessary.** Only the minimum necessary amount of Department PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. **Removable media devices.** All electronic files that contain Department PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- E. **Antivirus software.** All workstations, laptops and other systems that process and/or store Department PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- F. **Patch Management.** All workstations, laptops and other systems that process and/or store Department PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release. Applications and systems that cannot be patched within this time frame due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.
- G. **User IDs and Password Controls.** All users must be issued a unique user name for accessing Department PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed at least every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- 1) Upper case letters (A-Z)
 - 2) Lower case letters (a-z)
 - 3) Arabic numerals (0-9)
 - 4) Non-alphanumeric characters (punctuation symbols)
- H. **Data Destruction.** When no longer needed, all Department PHI or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the Department Information Security Office.

EXHIBIT F

Privacy and Information Security Provisions

- I. **System Timeout.** The system providing access to Department PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
 - J. **Warning Banners.** All systems providing access to Department PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
 - K. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for Department PHI or PI, or which alters Department PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If Department PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
 - L. **Access Controls.** The system providing access to Department PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.
 - M. **Transmission encryption.** All data transmissions of Department PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing Department PHI can be encrypted. This requirement pertains to any type of Department PHI or PI in motion such as website access, file transfer, and E-Mail.
 - N. **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting Department PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.
3. **Audit Controls**
- A. **System Security Review.** Contractor must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing Department PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
 - B. **Log Reviews.** All systems processing and/or storing Department PHI or PI must have a routine procedure in place to review system logs for unauthorized access.
 - C. **Change Control.** All systems processing and/or storing Department PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

EXHIBIT F

Privacy and Information Security Provisions

4. Business Continuity / Disaster Recovery Controls

- A. **Emergency Mode Operation Plan.** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of Department PHI or PI held in an electronic format in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.
- B. **Data Backup Plan.** Contractor must have established documented procedures to backup Department PHI to maintain retrievable exact copies of Department PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore Department PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of Department data.

5. Paper Document Controls

- A. **Supervision of Data.** Department PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. Department PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. **Escorting Visitors.** Visitors to areas where Department PHI or PI is contained shall be escorted and Department PHI or PI shall be kept out of sight while visitors are in the area.
- C. **Confidential Destruction.** Department PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
- D. **Removal of Data.** Only the minimum necessary Department PHI or PI may be removed from the premises of the Contractor except with express written permission of the Department. Department PHI or PI shall not be considered "removed from the premises" if it is only being transported from one of Contractor's locations to another of Contractor's locations.
- E. **Faxing.** Faxes containing Department PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- F. **Mailing.** Mailings containing Department PHI or PI shall be sealed and secured from damage or inappropriate viewing of such PHI or PI to the extent possible.

EXHIBIT F

Privacy and Information Security Provisions

Mailings which include 500 or more individually identifiable records of Department PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of the Department to use another method is obtained.

**INFORMATION EXCHANGE AGREEMENT
BETWEEN
THE SOCIAL SECURITY ADMINISTRATION (SSA)
AND
THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES**

A. PURPOSE: The purpose of this Information Exchange Agreement (“IEA”) is to establish terms, conditions, and safeguards under which SSA will disclose to the State Agency certain information, records, or data (herein “data”) to assist the State Agency in administering certain federally funded, state-administered benefit programs (including state-funded, state supplementary payment programs under Title XVI of the Social Security Act) identified in this IEA. By entering into this IEA, the State Agency agrees to comply with:

- the terms and conditions set forth in the Computer Matching and Privacy Protection Act Agreement (“CMPPA Agreement”) attached as **Attachment 1**, governing the State Agency’s use of the data disclosed from SSA’s Privacy Act System of Records; and
- all other terms and conditions set forth in this IEA and Attachments 2 through 6.

B. PROGRAMS AND DATA EXCHANGE SYSTEMS: (1) The State Agency will use the data received or accessed from SSA under this IEA for the purpose of administering the federally funded, state-administered programs identified in **Table 1** below. In **Table 1**, the State Agency has identified: (a) each federally funded, state-administered program that it administers; and (b) each SSA data exchange system to which the State Agency needs access in order to administer the identified program. The list of SSA’s data exchange systems is attached as **Attachment 2**. **Attachment 2** provides a brief explanation of each system, as well as use parameters, as necessary.

TABLE 1

FEDERALLY FUNDED BENEFIT PROGRAMS	
Program	SSA Data Exchange System(s)
<input checked="" type="checkbox"/> Medicaid	BENDEX/SDX/SVES IV/SOLQ/SVES-1-Citizenship/Quarters of Coverage/PUPS
<input type="checkbox"/> Temporary Assistance to Needy Families (TANF)	
<input type="checkbox"/> Supplemental Nutrition Assistance Program (SNAP- formally Food Stamps)	
<input type="checkbox"/> Unemployment Compensation	
<input type="checkbox"/> State Child Support Agency	
<input type="checkbox"/> Low-Income Home Energy Assistance Program (LI-HEAP)	
<input type="checkbox"/> Workers Compensation	
<input type="checkbox"/> Vocational Rehabilitation Services	



Exhibit F, Attachment B

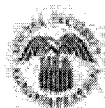
<input type="checkbox"/> Foster Care (IV-E)	
<input checked="" type="checkbox"/> State Children's Health Insurance Program (CHIP)	BENDEX/SDX/SVES IV, SVES-1 Citizenship
<input type="checkbox"/> Women, Infants and Children (W.I.C.)	
<input checked="" type="checkbox"/> Medicare Savings Programs (MSP)	LIS File
<input checked="" type="checkbox"/> Medicare 1144 (Outreach)	Medicare 1144 Outreach File
<input checked="" type="checkbox"/> Other Federally Funded, State-Administered Programs (List Below)	
Program	SSA Data Exchange System(s)
Medi-Cal Access Program (MCAP)	BENDEX/SDX/SVES IV

(2) The State Agency will use each identified data exchange system *only* for the purpose of administering the specific program for which access to the data exchange system is provided. SSA data exchange systems are protected by the Privacy Act and Federal law prohibits the use of SSA's data for any purpose other than the purpose of administering the specific program for which such data is disclosed. In particular, the State Agency will:

- a) use the **tax return data** disclosed by SSA only to determine individual eligibility for, or the amount of, assistance under a program listed in 26 U.S.C. § 6103(1)(7) and (8).
- b) use **citizenship status data** disclosed by SSA only to determine entitlement of *new applicants* to: (a) the Medicaid program and CHIP pursuant to the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3; or (b) federally funded, state-administered health or income maintenance programs approved by SSA to receive the *SSA Data Set* through the Centers for Medicare & Medicaid Services' (CMS) Federal Data Services Hub (Hub).

Applicants for Social Security numbers (SSN) report their citizenship data at the time they apply for their SSNs; there is no obligation for an individual to report to SSA a change in his or her immigration status until he or she files a claim for benefits.

C. PROGRAM QUESTIONNAIRE: Prior to signing this IEA, the State Agency will complete and submit to SSA a program questionnaire for each of the federally funded, state-administered programs checked in **Table 1** above. SSA will not disclose any data under this IEA until it has received and approved the completed program questionnaire for each of the programs identified in **Table 1** above.



D. TRANSFER OF DATA: SSA will transmit the data to the State Agency under this IEA using the data transmission method identified in Table 2 below:

TABLE 2

TRANSFER OF DATA
<input type="checkbox"/> Data will be transmitted directly between SSA and the State Agency.
<input checked="" type="checkbox"/> Data will be transmitted directly between SSA and The California Office of Technology (State Transmission/Transfer Component ("STC")) by File Transfer Management System (FTMS), a secure mechanism approved by SSA. The STC will serve as the conduit between SSA and the State Agency pursuant to the State STC Agreement.
<input type="checkbox"/> Data will be transmitted directly between SSA and CMS' Hub by a secure method of transfer approved by SSA. CMS will transmit the <i>SSA Data Set</i> between SSA and the State Agency pursuant to an agreement between SSA and CMS regarding the use of the Hub.
<input type="checkbox"/> Data will be transmitted [<i>select one: directly between SSA and the Interstate Connection Network ("ICON") or through the [name of STC Agency/Vendor] as the conduit between SSA and the Interstate Connection Network ("ICON")</i>]. ICON is a wide area telecommunications network connecting state agencies that administer the state unemployment insurance laws. When receiving data through ICON, the State Agency will comply with the "Systems Security Requirements for SSA Web Access to SSA Information Through the ICON," attached as Attachment 3 .

E. SECURITY PROCEDURES: The State Agency will comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. § 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. § 3541, et seq.), and related National Institute of Standards and Technology guidelines. In addition, the State Agency will comply with SSA's "Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with the Social Security Administration," attached as **Attachment 4**, as well as the Security Certification Requirements for use of the *SSA Data Set* transmitted via CMS' Hub, attached as **Attachment 5**. The SSA security controls identified under **Attachment 4** of this IEA prevail for all SSA data received by the State Agency, as identified in Table 1 of this IEA. For any tax return data, the State Agency will also comply with the "Tax Information Security Guidelines for Federal, State and Local Agencies," Publication 1075, published by the Secretary of the Treasury and available at the following Internal Revenue Service (IRS) website: <http://www.irs.gov/pub/irs-pdf/p1075.pdf>. This IRS Publication 1075 is incorporated by reference into this IEA.

F. STATE AGENCY'S RESPONSIBILITIES: The State Agency will not direct individuals to SSA field offices to obtain data that the State Agency is authorized to receive under this IEA in accordance with Table 1. Where disparities exist between individual-supplied data and SSA's data, the State Agency will take the following steps before referring the individual to an SSA field office:



- Check its records to be sure that the data of the original submission has not changed (e.g., last name recently changed);
- Contact the individual to verify the data submitted is accurate; and,
- Consult with the SSA Regional Office Contact to discuss options before advising individuals to contact SSA for resolution. The Regional Office Contact will inform the State Agency of the current protocol through which the individual should contact SSA, i.e., visiting the field office, calling the national network service number, or creating an online account via my Social Security.

G. CONTRACTOR/AGENT RESPONSIBILITIES: The State Agency will restrict access to the data obtained from SSA to only those authorized State employees, contractors, and agents who need such data to perform their official duties in connection with purposes identified in this IEA. At SSA's request, the State Agency will obtain from each of its contractors and agents a current list of the employees of its contractors and agents who have access to SSA data disclosed under this IEA. The State Agency will require its contractors, agents, and all employees of such contractors or agents with authorized access to the SSA data disclosed under this IEA, to comply with the terms and conditions set forth in this IEA, and not to duplicate, disseminate, or disclose such data without obtaining SSA's prior written approval. In addition, the State Agency will comply with the limitations on use, duplication, and redisclosure of SSA data set forth in Section IX. of the CMPPA Agreement, especially with respect to its contractors and agents.

H. SAFEGUARDING AND REPORTING RESPONSIBILITIES FOR PERSONALLY IDENTIFIABLE INFORMATION ("PII"):

1. The State Agency will ensure that its employees, contractors, and agents:
 - a. properly safeguard PII furnished by SSA under this IEA from loss, theft, or inadvertent disclosure;
 - b. understand that they are responsible for safeguarding this information at all times, regardless of whether or not the State employee, contractor, or agent is at his or her regular duty station;
 - c. ensure that laptops and other electronic devices/media containing PII are encrypted and/or password protected;
 - d. send emails containing PII only if encrypted or if to and from addresses that are secure; and
 - e. limit disclosure of the information and details relating to a PII loss only to those with a need to know.
2. If an employee of the State Agency or an employee of the State Agency's contractor or agent becomes aware of suspected or actual loss of PII, he or she must immediately contact the State Agency official responsible for Systems Security designated below or his or her delegate. That State Agency official or delegate must then notify the SSA Regional Office Contact and the SSA Systems Security Contact identified below. If, for any reason, the responsible State Agency official or delegate is unable to notify the SSA Regional Office or the SSA Systems Security Contact within 1 hour, the responsible State Agency official or delegate must report the incident by contacting SSA's National Network Service Center at 1-877-697-4889. The responsible State Agency official or delegate will use the worksheet, attached as Attachment 6, to quickly gather and



Exhibit F, Attachment B

organize information about the incident. The responsible State Agency official or delegate must provide to SSA timely updates as any additional information about the loss of PII becomes available.

3. SSA will make the necessary contact within SSA to file a formal report in accordance with SSA procedures. SSA will notify the Department of Homeland Security's United States Computer Emergency Readiness Team if loss or potential loss of PII related to a data exchange under this IEA occurs.
4. If the State Agency experiences a loss or breach of data, it will determine whether or not to provide notice to individuals whose data has been lost or breached and bear any costs associated with the notice or any mitigation.

I. POINTS OF CONTACT:

FOR SSA

San Francisco Regional Office:

Nancy Borjon
Data Exchange Coordinator
Frank Hagel Federal Building
1221 Nevin Avenue
Richmond, CA 94801
Phone: (510) 970-8256
Fax: (510) 970-8101
Email: Nancy.Borjon@ssa.gov

Data Exchange Issues:

Sarah Reagan
Government Information Specialist
Office of the General Counsel
Office of Privacy and Disclosure
617 Altmeyer
6401 Security Boulevard
Baltimore, MD 21235
Phone: (410) 965-9127
Fax: (410) 594-0115
Email: Sarah.Reagan@ssa.gov

Program and Policy Issues:

Michael Wilkins
State Liaison Program Manager
Office of Retirement and Disability Policy
Office of Data Exchange and Policy
Publications
Office of Data Exchange
3609 Annex Building
6401 Security Boulevard
Baltimore, MD 21235
Phone: (410) 966-4965
Fax: (410) 966-4054
Email: Michael.Wilkins@ssa.gov

Systems Security Issues:

Sean Hagan, Acting Director
Division of Compliance and
Assessments
Office of Information Security
Office of Systems
Social Security Administration
3829 Annex Building
6401 Security Boulevard
Baltimore, MD 21235
Phone: (410) 965-4519
Fax: (410) 597-0845
Email: Sean.Hagan@ssa.gov

Systems Issues:

Michelle J. Anderson, Branch Chief
DBIAE/Data Exchange and Verification
Branch



Office of Information Technology Business
Support
Office of Systems
3-D-1 Robert M. Ball Building
6401 Security Boulevard
Baltimore, MD 21235
Phone: (410) 965-5943
Fax: (410) 966-3147
Email: Michelle.J.Anderson@ssa.gov

FOR STATE AGENCY

Agreement Issues:

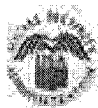
Rocky Evans
Chief, Eligibility Administration Section
Program Review Branch
Medi-Cal Eligibility Division (MCED)
1501 Capitol Avenue
Sacramento, CA 95814
Phone: (916) 319-8434
Fax: (916) 552-9477
Email: Rocky.Evans@dhes.ca.gov

Technical Issues:

YK Chalamcherla
Chief, Application Development &
Support Branch
Enterprise Innovative Technology
Services (EITS)
1501 Capitol Avenue
Sacramento, CA 95814
Phone: (916) 322-8044
Fax: (916) 440-7065
Email: YK.Chalamcherla@dhes.ca.gov

Sean Wieland
Chief, Business & Application
Integration Section
Enterprise Innovative Technology
Services (EITS)
1501 Capitol Avenue
Sacramento, CA 95814
Phone: (916) 550-7088
Fax: (916) 440-7065
Email: Sean.Wieland@dhes.ca.gov

- J. DURATION:** The effective date of this IEA is March 6, 2017. This IEA will remain in effect for as long as: (1) a CMPPA Agreement governing this IEA is in effect between SSA and the State or the State Agency; and (2) the State Agency submits a certification in accordance with Section K, below at least 30 days before the expiration and renewal of such CMPPA Agreement.
- K. CERTIFICATION AND PROGRAM CHANGES:** At least 30 days before the expiration and renewal of the State CMPPA Agreement governing this IEA, the State Agency will certify in writing to SSA that: (1) it is in compliance with the terms and conditions of this IEA; (2) the data exchange processes under this IEA have been and will be conducted without change; and (3) it will, upon SSA's request, provide audit reports or other documents that demonstrate review and oversight activities. If there are substantive changes in any of the programs or data exchange processes listed in this IEA, the parties will modify the IEA in



accordance with Section L. below and the State Agency will submit for SSA's approval new program questionnaires under Section C, above describing such changes prior to using SSA's data to administer such new or changed program.

L. MODIFICATION: Modifications to this IEA must be in writing and agreed to by the parties.

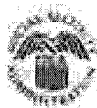
M. TERMINATION: The parties may terminate this IEA at any time upon mutual written consent. In addition, either party may unilaterally terminate this IEA upon 90 days advance written notice to the other party. Such unilateral termination will be effective 90 days after the date of the notice, or at a later date specified in the notice.

SSA may immediately and unilaterally suspend the data flow under this IEA, or terminate this IEA, if SSA, in its sole discretion, determines that the State Agency (including its employees, contractors, and agents) has: (1) made an unauthorized use or disclosure of SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this IEA or the CMPPA Agreement.

N. INTEGRATION: This IEA, including all attachments, constitutes the entire agreement of the parties with respect to its subject matter. There have been no representations, warranties, or promises made outside of this IEA. This IEA shall take precedence over any other document that may be in conflict with it.

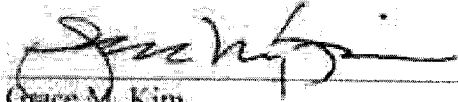
ATTACHMENTS

- 1 - CMPPA Agreement
- 2 - SSA Data Exchange Systems
- 3 - Systems Security Requirements for SSA Web Access to SSA Information Through ICON
- 4 - Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with the Social Security Administration
- 5 - Security Certification Requirements for use of the SSA Data Set Transmitted via CMS Hub
- 6 - PHI Loss Reporting Worksheet



O. AUTHORIZED SIGNATURES: The signatories below warrant and represent that they have competent authority on behalf of their respective agency to enter into the obligations set forth in this IEA.

SOCIAL SECURITY ADMINISTRATION
REGION IX



Grace M. Kim
Regional Commissioner

05/03/2017

Date

THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES



Jennifer Keht
Director, California Department of Health Care Services

4/7/17

Date

