

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

23-30312

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of Health Care Services

CONTRACTOR NAME

County of Sonoma

2. The term of this Agreement is:

START DATE

January 1, 2024

THROUGH END DATE

December 31, 2027

3. The maximum amount of this Agreement is:

\$5,011,781.69 (Five Million, Eleven Thousand, Seven Hundred Eighty-One Dollars, and Sixty-Nine Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
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Exhibit C *	General Terms and Conditions	GTC 4/2017
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Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

County of Sonoma

CONTRACTOR BUSINESS ADDRESS

3725 Westwind Boulevard, 1st Floor

CITY

Santa Rosa

STATE

CA

ZIP

95403

PRINTED NAME OF PERSON SIGNING

Angela Struckmann

TITLE

Director of Human Services

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 23-30312	PURCHASING AUTHORITY NUMBER (If Applicable)
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STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Health Care Services

CONTRACTING AGENCY ADDRESS

1501 Capitol Avenue, MS 4200

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

W&l Code 14132.991(c)

Exhibit A Scope of Work

1. Service Overview

The Contractor, operating as an organized health care delivery system, agrees to provide the Department of Health Care Services (DHCS) with Administrative services, as described in Exhibit A, Attachment I, and Comprehensive Care Management services, as described in Exhibit A, Attachment II, under the Medi-Cal Home and Community-Based Alternatives (HCBA) Waiver authorized by Section 1915(c) of Title XIX of the Social Security Act; and described herein. Waiver programs authorized by Section 1915(c) manage the provision of home and community-based services to eligible Medi-Cal members who would otherwise receive care in an intermediate care facility, a skilled nursing facility, a subacute facility, or an acute care hospital. The goal of the HCBA Waiver program is to ensure the safe transition of eligible Medi-Cal members from facilities to the community; or, to offer home-based services to members currently residing in the community who are at risk of being placed in a long-term care facility within the next thirty days. As with all 1915(c) Waiver programs, the total aggregate cost for members' combined Waiver and state plan services received in the community must not exceed 100% of the total aggregate cost of services that would be provided to the same population in an institution, as demonstrated in Appendix J of the Waiver, available at: [https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-\(HCB\)-Alternatives-Waiver.aspx](https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-(HCB)-Alternatives-Waiver.aspx). Home and Community-Based Services (HCBS) and supports include, but are not limited to, private duty nursing and case management services.

2. Service Location

The HCBA Waiver services shall be provided to HCBA Waiver participants residing in Sonoma County.

3. Service Hours

The Contractor's administrative services must be available during the normal business hours of 8:00 a.m. to 5:00 p.m., PST, Monday through Friday. Authorized HCB services and supports shall be made available to HCBA Waiver participants twenty-four (24) hours per day, seven (7) days per week, as approved.

Exhibit A
Scope of Work

4. Project Representative

A. The project representatives during the term of this Agreement will be:

<p>Department of Health Care Services</p> <p>Contract Manager: Marianne Coombes Telephone: (916) 610-2129 Email: marianne.coombes@dhcs.ca.gov</p>	<p>County of Sonoma</p> <p>Contract Manager: Sara Avery Telephone: (707) 565-6722 Email: savery@schsd.org</p>
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B. Direct all inquiries to:

<p>Department of Health Care Services</p> <p>Contract Management and Processing Unit Attention: Jessica Vitela Mail Station Code 4502 1515 K Street P.O. Box 997437 Sacramento, CA 95899-7437 Telephone: (916) 713-8351 Email: jessica.vitela@dhcs.ca.gov</p>	<p>County of Sonoma</p> <p>Attention: Tiffany Lewis Address: 3725 Westwind Boulevard, 2nd Floor Santa Rosa, CA 95403 Telephone: (707) 326-3961 Email: tlewis@schsd.org</p>
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C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this Agreement.

5. Americans with Disabilities Act

Contractor agrees to ensure that deliverables developed and produced, pursuant to this Agreement shall comply with the accessibility requirements of Section 508 of the Rehabilitation Act and the Americans with Disabilities Act of 1973 as amended (29 U.S.C. § 794 (d)), and regulations

Exhibit A
Scope of Work

implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations. In 1998, Congress amended the Rehabilitation Act of 1973 to require Federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. California Government Code section 11135 codifies section 508 of the Act requiring accessibility of electronic and information technology.

6. Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that will be grounds for termination of this agreement. The State must provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination will be at the sole discretion of the State.

Exhibit A, Attachment I
Waiver Administrative Services

1. HCBA Waiver Program Administrative Responsibilities

A. Verification of HCBA Waiver Participant Eligibility

- 1) Contractor shall only provide HCBA Waiver services to individuals determined to be eligible for the HCBA Waiver program. To be eligible for the Waiver, individuals must meet all of the following criteria:
 - a. Individuals must be enrolled in, or be eligible for, Medi-Cal, with or without a share of cost, as defined in the HCBA Waiver.
 - b. Individuals who, but for the provision of such services, would require placement in a medical care facility, for at least 90 days, at one of the three levels of care (LOC) identified below and as defined in 42 CFR §440. Applicants must continue to meet one of the three LOC to remain enrolled in the Waiver.
 - i. **Acute LOC** – Individuals at the acute level of care are characterized by their need for continuously available nursing and medical care, as is available at an acute care facility, which includes the need for daily physician visits. Individuals who meet the acute level of care require the services available in an acute hospital setting for 90 consecutive days or greater pursuant to CCR, Title 22, §51173.1 and meet the criteria as described in CCR, Title 22, §51344 (a) and (b).
 - ii. **Subacute LOC** – Individuals at the subacute level of care require more intensive licensed skilled nursing care than is provided to the majority of patients in a skilled nursing facility, but do not require continuous availability of nursing and medical care. These individuals must require NF Subacute Care services, pursuant to Title 22, CCR, §51124.5; or NF Pediatric Subacute Care services, pursuant to Title 22, CCR, §51124.6
 - iii. **Nursing Facility LOC (NF-A, NF-B)** – Individuals at the nursing facility LOC require care that is characterized by scheduled and predictable nursing needs. Pursuant to W&I Code, §14059.5, these individuals require protective and supportive care, without the need for continuous, licensed nursing, for 90 consecutive days or greater in an inpatient NF providing the following types of care:

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Waiver Administrative Services

- (a) **NF Level A** – Intermediate Care services pursuant to Title 22, CCR, §51120 and 51334.
 - (b) **NF Level B** – Skilled Nursing Facility services pursuant to Title 22, CCR §511224 and 51335.
 - c. Individuals who require the provision of at least one Waiver service, as documented in the Person-Centered Plan of Treatment (POT), at least once a month; or, if the need for services is less than monthly, the participant must require regular monthly monitoring, as documented in the POT.
- 2) When a Waiver applicant meets the Waiver eligibility criteria, but special rules need to be applied to determine a Waiver Applicant's Medi-Cal eligibility (because of their pending enrollment in the HCBA Waiver), the Contractor shall send a letter to the applicant's county Medi-Cal office to notify the County that the applicant meets the medical criteria for the Waiver. When applicable, the letter must identify when spousal impoverishment rules (if the applicant is over 18 and married) or institutional deeming rules (if the applicant is a child under 18) are to be used to determine the applicant's Medi-Cal status. DHCS will supply a letter template for this purpose.

B. Participant Waiver Enrollment

- 1) The Contractor shall be responsible for participant enrollment in the HCBA Waiver in the designated geographical area and as directed by DHCS. This responsibility includes processing Waiver applications received directly from or on behalf of applicants. Applications shall be submitted to the Contractor by mail, FAX, electronically, or in-person.
- 2) Contractor must develop and maintain an intake process using the MedCompass Case Management Database to accept, log, track, process, and store all enrollment-related forms and transactions. Access to the MedCompass Case Management Database is subject to the terms and conditions detailed in Exhibit G, the HIPAA Business Associate Addendum.
- 3) In addition, the Contractor is responsible for administering the following participant enrollment responsibilities:

Exhibit A, Attachment I
Waiver Administrative Services

- a. Conducting Waiver intake processing, activities, including accepting applications from individuals applying to enroll in the Waiver, in the order in which their applications are received, unless otherwise required by law.
- b. When necessary, referring individuals to the County Medi-Cal office for the determination of Medi-Cal eligibility and/or disability.
- c. Ensuring enrollment applications are recorded in MedCompass within three business days of receipt.
- d. Ensuring each application is screened by a Registered Nurse (RN) to determine if the applicant meets the minimum HCBA Waiver eligibility requirements.
- e. Working in conjunction with DHCS to ensure:
 - i. HCBA Waiver enrollment is limited to the maximum number of Waiver slots that can be authorized at any point of time within each Waiver year. DHCS will inform the Contractor when the Waiver is nearing the maximum number of Waiver slots, and will provide instructions on the waitlist enrollment process, see sub-provision C. "Waitlist", below.
 - ii. Eligible Waiver participants are only enrolled in a single 1915(c) Waiver program at a time. Waiver agencies must verify the applicant is not enrolled in another 1915 (c) Waiver during application screening and during the face-to-face visits. If the Waiver Agency discovers the applicant is enrolled in another 1915 (c) Waiver, the Waiver Agency must work with the entity administering the other 1915 (c) Waiver to educate the applicant/participant in making an informed choice between 1915 (c) Waivers and disenroll the applicant/participant from the Waiver that they did not choose. The Waiver Agency must offer the appropriate choice form and document the choice in MedCompass.
 - iii. Waiver services are not furnished to individuals who are current in-patients of a facility, in accordance with 42 CFR §441.301(b)(1)(ii), except for temporary Waiver Personal Care Services (WPCS) and Transitional Care Management that

Exhibit A, Attachment I
Waiver Administrative Services

may be provided, according to the specifications of the HCBA Waiver in Appendix C: Participant Services, C-1/C-3 Service Specification, Service: Personal Care, Alternative Service Title Waiver Personal Care Services (WPCS). "WPCS providers may be paid while the participant is admitted to a health care facility (as defined in Health and Safety Code §1250) for services provided outside the health care facility setting for a maximum of seven (7) days for each admission to a health care facility (or for the length of the admission to the health care facility, whichever period is shorter)."

- iv. Medi-Cal members who are actively enrolled in a Special Needs Plan- Fully Integrated Dual Eligible (SNP- FIDE) cannot enroll or continue enrollment in the HCBA Waiver if they are enrolled in SNP-FIDE.
- f. Ensuring the Care Management Team (CMT) schedules a face-to-face visit with the applicant within 60 days of receipt of a qualified application and/or notification of an available waiver slot to assess the individual for LOC, provide the applicant, and or legal representative/legally responsible adult, with information on the HCBA Waiver, and to obtain the information necessary to complete a case report.
- g. If Contractor determines that an applicant for enrollment does not meet minimum LOC for eligibility, or that there are apparent health and safety risks that would warrant denying enrollment, Contractor shall refer the case to DHCS for review. DHCS will issue the NOA if DHCS determines that the individual does not meet LOC or cannot safely reside in the community with the services and supports available through the HCBA. If DHCS determines that the individual does meet LOC, the case will be returned to contractor to complete intake process and submit for enrollment review.
- h. Ensuring that a case report is completed and uploaded in MedCompass within one week after the intake onsite visit for a DHCS Medical Consultant to determine if the applicant is eligible for waiver enrollment.
- i. DHCS will notify the Contractor when an applicant is approved for enrollment, and the Contractor shall notify the applicant by phone and by

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mailing a written Informing Notice, to inform the applicant that he or she:

- i. Has met the criteria for enrollment into the Waiver,
 - ii. Must work with his or her CMT to identify direct waiver service provider(s), and
 - iii. Has 90 days to submit a physician-signed POT from the date of the Informing Notice.
- j. If DHCS determines an applicant is not eligible for enrollment into the Waiver, DHCS will notify the Contractor that the applicant is not eligible for the Waiver, and DHCS will issue a Notice of Action (NOA) to the applicant.
- k. Contractor must provide DHCS with a primary care physician-signed POT, within 90 days from the date of the Informing Notice, that meets the requirements outlined in Appendix D of the HCBA Waiver, available at: <https://www.dhcs.ca.gov/services/ltc/Documents/HCBA-Waiver-Amendment-12-16-19.pdf>.
- l. Ensuring the following HCBA Waiver enrollment composition:

Percent of Waiver Enrollment	Population Seeking Enrollment
At least 60%	Individuals living in an institution, or aging out of EPSDT
No more than 40%	Individuals residing in the community at risk of institutionalization

- m. Ensuring reserve capacity enrollment prioritization for individuals residing in an institutional setting for at least 60 days, or individuals transitioning from Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), or similar programs. To qualify for reserve capacity enrollment, an individual must meet one of the following criteria:
- i. The individual has been in an institutional setting for at least 60 days, and will remain there if not for the provision of HCBA Waiver services

Exhibit A, Attachment I
Waiver Administrative Services

in the home or community setting of his or her choice; or

- ii. The individual must be a current Medi-Cal member who will turn 21 years of age during the current Waiver year and has been receiving, or has been authorized to receive, private duty nursing services for at least six months prior to his or her 21st birthday, through programs such as EPSDT, California Children's Services (CCS), and the Pediatric Palliative Care (PPC) Waiver; and must be medically eligible for placement into the HCBA Waiver.
- n. If the applicant is not eligible for reserve capacity enrollment prioritization and a Waiver slot is not available, the Contractor will notify DHCS of the need to place the applicant on the Waitlist, and will send a letter to notify the applicant that his or her name has been placed on a waitlist.

C. Waitlist

- 1) DHCS will maintain the master HCBA Waiver Waitlist.
- 2) DHCS will notify the Contractor when a Waiver slot becomes available for any of the applicants on the Waitlist within the Contractor's geographic service area.
- 3) Upon notification of an available Waiver slot from DHCS, if a comprehensive needs assessment visit has not yet occurred, the Contractor will schedule an intake assessment_ meeting (within 60 days of the notification of an available Waiver slot) to assess the individual for enrollment, provide the applicant, and/or legal representative/legally responsible adult, with information on the HCBA Waiver, and to obtain the information necessary to complete a case report within 30 days after the visit.
- 4) The Contractor submits the case report and supporting information to DHCS, and a DHCS Medical Consultant reviews the case report to determine if the applicant is eligible for waiver enrollment. If approved for enrollment, DHCS will notify the Contractor, and the Contractor shall notify the applicant by phone and by mailing an Informing Notice. The Informing Notice informs the applicant that he or she:
 - a. Has met the criteria for enrollment into the Waiver,

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- b. Must work with their CMT to identify direct waiver service provider(s), and
 - c. Has 90 days to submit a physician-signed POT.
- 5) Contractor must provide DHCS with a primary care physician-signed POT that meets the requirements outlined in Appendix D of the HCBA Waiver, available at: [http://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-\(HCB\)-Alternatives-Waiver.aspx](http://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-(HCB)-Alternatives-Waiver.aspx).

If the POT is more than six months old at the time the Contractor is notified that a waiver slot is available, the Contractor must work with the applicant, his or her legal representative, and the applicant's primary care physician, to reassess the applicant and update the applicant's POT, as necessary, to ensure it continues to meet his or her need(s).

D. Comprehensive Care Management

- 1) Contractor shall ensure Comprehensive Care Management is only provided to HCBA Waiver participants by a qualified CMT comprised of a Registered Nurse and Social Worker with at least a Bachelor's Degree in Social Work or in related fields, including: gerontology, marriage and family therapy, psychology, etc., when supervised by a Social Worker with at least a Master's degree in Social Work (MSW).
- 2) Comprehensive Care Management is intensive, ongoing case management and is described in detail in Exhibit A, Attachment II – Comprehensive Care Management, of this Contract.
- 3) Contractor will ensure through regular monitoring and oversight that the CMT coordinates all Waiver services with service providers included in the participants' POT, and performs all services required under the Comprehensive Care Management Services benefit as described in detail in Exhibit A, Attachment II, Comprehensive Care Management, of this Contract.

E. Utilization Management

HCBA Waiver service providers submit service Authorization Requests to the Contractor for authorization of all HCB Alternatives Waiver services (except the WPCS benefit, which is paid through a separate payroll system, see Exhibit B, Provision 2) prior to providing the services.

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- 1) Contractor shall review service authorization requests for medical necessity to ensure services are authorized in accordance with Waiver requirements and the participant's POT.

Medical necessity is defined as set forth in Welfare and Institutions Code 14059.5, as follows: A service is "medically necessary" or of a "medical necessity" when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.

- 2) When the Contractor does not authorize a service authorization request because the service(s) is not medically necessary, Contractor must issue a NOA to inform the participant of the denial. See Provision 4.H. for more information on NOA requirements.
- 3) Contractor must monitor service utilization to ensure the amount of services is within the levels authorized in the participant's POT by developing, implementing, and maintaining review procedures to identify instances when participants are not receiving services as authorized in the POT, or when the amount of services being utilized is substantially less than the amount authorized, so that potential problems with participant service access can be identified and resolved.

F. Ensuring Participant Access to HCBA Waiver Services

- 1) Contractor shall have a formal Waiver service provider sub-contracting process to engage qualified providers for all Waiver services and to monitor the provision of services by the contracted providers. Sub-contract agreements must be in writing. Sub-contracting agreements must conform to and may not supersede or modify any requirement within the HCBA Waiver, this Contract, or federal and state regulations.
- 2) Contractor shall ensure all HCBA Waiver service providers are enrolled as Medi-Cal Providers, and shall submit the legal names of prospective waiver providers to DHCS to check against the Temporary Suspension list prior to execution of a sub-contract.
- 3) Contractor shall maintain an adequate provider network made up of provider types identified in the HCBA Waiver to ensure Waiver participants receive all services necessary to remain safely in their home.

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- 4) Contractor shall provide participants and DHCS with an up-to-date list of available qualified providers within the provider network each quarter.
- 5) Contractor shall ensure all existing HCBA Waiver service providers within the contracted service area are given the option to enter into a network provider sub-contract with the Contractor, to continue to provide direct HCBA Waiver services to participants under the Waiver.
- 6) Contractor shall collect current copies of licenses and accreditations to ensure all licensed providers meet state licensure requirements and the Standards of Participation (SOP) as described in Appendix C of the HCBA Waiver.
- 7) Contractor shall ensure the continuous availability and accessibility of all services included in each participant's POT by sub-contracting with qualified service providers, such as: licensed home health agencies, durable medical equipment companies, individual nurse providers, licensed clinical social workers, marriage and family therapists, personal care agencies, non-profit organizations, professional corporations, individual personal care providers, and certain community residential facilities; and/or a separate division of the provider's organization pending DHCS approval.
- 8) Contractor shall implement strategies to recruit, retain, and promote a diverse staff at all levels of the organization and leadership that is representative of the demographic characteristics of the service area.
- 9) Contractor shall ensure participants receive effective and respectful care provided in a manner that is compatible with their cultural health beliefs, practices, and preferred language.
- 10) Contractor shall document that non-licensed providers have received onboarding and training from the California Department of Social Services, or the Department of Rehabilitation; and, that non-licensed providers attend annual training from the Contractor to ensure they have the necessary skills and abilities to provide services as described in the Waiver participant's POT.
- 11) Contractor shall document all training provided to unlicensed and

Exhibit A, Attachment I
Waiver Administrative Services

licensed providers as outlined in provision 6.G. of this contract, and on the provision of care by provider type as required under the Waiver, refer to Appendix C of the Waiver for more information about the requirements for provider-specific training.

G. Ensuring Participant Access to HCBA Waiver Services When There Are No Qualified Service Providers

- 1) Contractor shall ensure access to the following HCBA Waiver services:
 - a. Assistive Technology
 - b. Community Transition
 - c. Environmental Accessibility Adaptations
 - d. Medical Equipment Operating Expense
 - e. Personal Emergency Response System (PERS) Installation and Testing
 - f. PERS Monthly Service
- 2) When there are no qualified service providers available to provide the above HCBA Waiver services, the Contractor shall either purchase the services from a qualified vendor or provide the services itself by hiring staff to ensure participant access to qualified service providers. DHCS must approve the Contractor's request to provide direct services itself.
- 3) A 'qualified vendor' is an entity or person that holds all necessary licenses and/or certifications to provide the requested HCBA Waiver service, but does not have a pathway to enroll as a direct Medi-Cal HCBA Waiver services provider. All necessary licenses and/or certifications must be current and active.
- 4) When purchasing goods and services from a qualified vendor, the Contractor shall submit an authorization request to DHCS with the appropriate documentation and the current POT to obtain prior authorization for the services to be provided by the qualified vendor. For services that require monthly or reoccurring payments, one authorization request may be submitted in advance for a period of six months to a year.
- 5) Contractor shall monitor the provision of services provided by the qualified vendor. Once the Contractor has ensured that the services are rendered as described in the POT, the contractor shall bill the Medi-Cal Fiscal

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Intermediary (FI) for the Waiver service and reimburse the qualified vendor.

H. Authorization Requests & Service Reimbursement

- 1) Contractor must process undisputed service authorization requests submitted by a provider within 30 days of submission from the Waiver service provider.
- 2) If the Contractor is submitting to the Medi-Cal FI the invoices for provided Waiver services on behalf of the service providers and qualified vendors, the Contractor must reimburse the Waiver service providers no less than the Medi-Cal Fee-For-Service reimbursement rate specified within the Waiver or the Department's fee schedule within 45 calendar days if the service provider submits an undisputed claim for providing authorized Waiver services.

I. Contractor as the Only Qualified Provider

- 1) In areas where the Contractor is the only willing and qualified provider, the Contractor shall be responsible for providing POT development and Waiver services directly to the participant. In such instances:
 - a. Contractor shall develop Policies & Procedures that describe the specific responsibilities of the Contractor, CMT, and the Waiver service providers.
 - b. Contractor shall sign a formal agreement with DHCS verifying the organization's willingness to ensure that there is a clear separation between lines of supervision, the CMT's provision of Comprehensive Care Management, and the staff who provide Waiver services.
 - c. Ensure the CMT and staff providing Waiver services sign agreements acknowledging their understanding of, and willingness to, comply with mandated separation of Comprehensive Care Management and Waiver service functions.
 - d. Contractor shall submit signed agreements to DHCS and receive DHCS' approval prior to staff having any contact with newly enrolled Waiver participants.
- 2) Contractor's CMTs will provide the participant with a full disclosure form to review and sign prior to his or her enrollment in the Waiver in areas where

Exhibit A, Attachment I
Waiver Administrative Services

the Contractor is the only willing and qualified direct service provider. The form will be provided by DHCS and will include the following:

- a. Full disclosure and assurances that participants are supported in exercising their right of free choice in providers;
- b. Describing the individual dispute resolution process;
- c. Full disclosure that the Contractor is the only willing and qualified provider available to provide case management and Waiver services in the participant's geographical service area;
- d. Assurance that the Contractor will separate Comprehensive Case Management and the provision of direct Waiver services (different staff with different lines of supervision);
- e. Assurance that the Contractor providing Comprehensive Care Management and Waiver services does so only with the approval of DHCS; and
- f. That DHCS will provide direct oversight and periodic evaluation of the effectiveness and appropriateness of established safeguards.

J. DHCS Final Review and Approval of Waiver Enrollment

- 1) The Contractor shall notify DHCS that a case file, with a signed POT and all necessary documentation supporting the service needs assessment and medical necessity of services, is ready for DHCS review.
- 2) Contractor must not authorize services until DHCS has approved the applicant's enrollment into the waiver. Contractor shall maintain all documentation to support service needs assessments in the participant's case file in MedCompass.
- 3) DHCS will review the documentation supporting the service needs assessment and medical necessity and will provide the final determination for HCBA Waiver enrollment.

DHCS will then notify Contractor that waiver enrollment has been approved. If DHCS determines that enrollment cannot be authorized, then DHCS will send a NOA to the applicant and notify the Contractor.

K. Quality Assurance and Performance Improvement Activities

Exhibit A, Attachment I
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- 1) Contractor shall implement quality assurance and performance improvement activities in accordance with the Performance Measures in the Waiver and this Contract. Contractor shall monitor, evaluate, and take effective action to address any needed improvements in the quality of care delivered by all providers rendering services on its behalf, in any setting. Contractor shall be accountable for the quality of all Waiver services regardless of the number of contracting and subcontracting layers between Contractor and the provider. This Provision does not create a cause of action against the Contractor on behalf of a Medi-Cal beneficiary for malpractice or negligence committed by a subcontractor.
- 2) Contractor shall implement and maintain a written description of a quality assurance and performance improvement plan that shall include, but is not limited to, the following:
 - a. Organizational commitment to the delivery of quality health care services as evidenced by goals and objectives that are periodically evaluated and updated.
 - b. Description of the processes and procedures designed to ensure all medically necessary Waiver services are available and accessible to all Waiver participants, and that all Waiver services are provided in a culturally and linguistically appropriate manner.
 - c. Description of the mechanisms used to continuously review, evaluate, and improve the quality of Waiver services, which may include, but is not limited to, customer satisfaction surveys, aggregated data trend analysis, internal audits, etc.
- 3) As part of the ongoing oversight of network providers, Contractor shall collaborate with DHCS, and take action as required by DHCS, to ensure that all providers subject to Electronic Visit Verification (EVV) are compliant with the federally-mandated Section 12006(a) of the Cures Act. Welfare and Institutions Code section 14043.51 implements EVV as follows:
 - a. Gives DHCS authority to implement an EVV System as required by federal law, in collaboration with other governmental entities;
 - b. Requires providers rendering Medi-Cal services subject to EVV to comply with EVV requirements established by DHCS and partners or be

Exhibit A, Attachment I
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subject to non-compliance actions; and

- c. Authorizes DHCS and its partners to implement the EVV System through Provider Bulletins and Letters.
- 4) Contractor shall ensure ongoing oversight of network providers by monitoring provider performance on an ongoing basis, identify and report deficiencies, and work closely with service providers to develop a plan of corrective action to remediate deficiencies. Contractor shall cooperate with DHCS to perform discovery and remediation activities for the Waiver and develop mechanisms for overall systems improvements. These activities may result in additional quality assurance measures to ensure compliance with federal, state, and Waiver requirements, as determined by DHCS.

2. HCBA Waiver Services

- A. In addition to assessing clinical need(s) and coordinating medically necessary services and supports, Comprehensive Care Management includes the coordination and utilization of existing community resources to enable Waiver participants to transition from a health care facility to the community or to continue living at home in lieu of facility placement. The HCBA Waiver Comprehensive Care Management service includes participant assessment, care planning, service arrangement, and Waiver participant and service provider monitoring. Refer to Exhibit A, Attachment II for more information on the Contractor's obligations for Comprehensive Care Management under this Contract.
- B. Contractor shall ensure the provision of all the HCBA Waiver services included below, as medically necessary for each individual Waiver participant, and as defined in Appendix C of the HCBA Waiver:
 - 1) Assistive Technology
 - 2) Habilitation
 - 3) Home Respite
 - 4) Community Transition Services
 - 5) Continuing Nursing and Supportive Services
 - 6) Environmental Accessibility Adaptation
 - 7) Facility Respite

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- 8) Family/Caregiver Training
- 9) Medical Equipment Operating Expenses
- 10) Paramedical Services
- 11) Personal Emergency Response System (PERS) Installation and Testing
- 12) PERS Monthly Service
- 13) Private Duty Nursing (PDN) – Including home health aide and shared services
- 14) Waiver Personal Care Services

3. Contractor-Enforced Waiver Participant Rights

A. Person-Centered Planning

- 1) Contractor shall ensure Waiver participants are given the opportunity to lead the person-centered planning process when desired and possible; the individuals' legal representatives should have a participatory role, if applicable. Contractor must ensure the person-centered planning process:
 - a. Includes people the participant chooses to support him or her in the person- centered planning process.
 - b. Provides necessary information and support to the participant to ensure he or she directs the process to the maximum extent possible and is enabled to make informed choices and decisions.
 - c. Is timely and occurs at times and locations of convenience to the participant.
 - d. Reflects cultural considerations of the participant and is conducted by providing information in plain language and in a manner that is accessible to individuals with disabilities and persons who are limited English proficient.
 - e. Includes strategies for solving conflict or disagreement within the process, including clear conflict-of-interest guidelines for all planning participants.

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- f. Providers of Waiver services for the individual, or those who have an interest in or are employed by a provider of Waiver services are not also responsible for developing the POT, except when the Contractor demonstrates that they are the only willing and able entity available to develop the POT, and have been authorized to do so by DHCS.
 - g. Offers information to the participant so he or she can make informed choices about the services and supports he or she receives, and about available providers.
 - h. Includes a method for the participant to request updates to the plan, as needed.
 - i. Records each of the alternative home and community-based settings that were considered by the individual.
- 2) Opportunity for Participant-Directed Services

HCBA Waiver participants or their legal representative have the opportunity to select and dismiss licensed and unlicensed care providers who, under the direction of the participant or legal representative, can provide waiver services as described in Appendix C of this application. HCB Waiver Alternatives participants can elect to terminate participant direction of services at any time.

- a. Involuntary termination of participant-directed services must always be authorized by DHCS. The Contractor must submit requests to terminate participant-directed services to DHCS with a clear explanation of the need to terminate participant-directed services and supporting documentation. Some incidents that may contribute to the need to terminate participant-directed services include, but are not limited to:
 - i. Lack of a participant's current primary care physician-signed POT describing all the participant's care services, provider(s) of services, and/or the frequency of the services;
 - ii. Participant or legal representative require the provider to provide services that are not included in the POT or beyond the scope of practice of the licensed provider; and
 - iii. Participant or legal representative are unable to keep providers as demonstrated by frequent voluntary termination of the services by

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the provider, and/or the participant's or legal representative's refusal to follow the provider enrollment process as described in the provider information packets.

- b. Contractor shall provide the participant with a NOA informing him or her of the DHCS-authorized decision to terminate participant-directed Waiver services and/or enrollment, as well as his or her appeal rights.
 - c. Contractor shall ensure safeguards to ensure participant health and welfare, and the continuity of services during the transition of service provider(s). These safeguards must include documented coordination between DHCS, the Contractor, the CMT, and the existing and/or new provider(s) to ensure the quality of care is maintained and there is no break in services.
- 3) Person-Centered Risk Mitigation Plan
- a. Contractor shall develop an initial person-centered risk mitigation plan with every applicant and participant that does not have such a plan in place, which identifies potential risks to the health and welfare of the individual and strategies for mitigating those risks.
 - b. When incidents occur, Contractor shall modify, in collaboration with the participant or legally responsible adult, any existing risk mitigation plans as appropriate in order to resolve and/or reduce the risk of similar incidents in the future.

B. Freedom of Choice

In compliance with 42 CFR §431.51, Contractor shall:

- 1) Ensure all participants are given the option to select any willing and qualified service provider to provide Waiver services included in their POTs;
- 2) Establish and implement policies and procedures for assuring that willing and qualified providers (selected by participants to provide Waiver services included in their POTs) will be paid at least the Medi-Cal fee-for-service rate for providing authorized Waiver services, even if the provider refuses to enter into a network provider subcontract;
- 3) Ensure willing and qualified providers who choose not to subcontract

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- with the Contractor are not excluded from providing HCBA Waiver services. HCBS providers may bill Medi-Cal directly, rather than through the Waiver Agency; however, authorization to provide services must be adjudicated through the Waiver Agency and the provider must provide proof of the service authorization from the Waiver Agency when submitting claims to the Medi-Cal Fiscal Intermediary (FI) for payment;
- 4) Enter into sub-contracts with a sufficient number of HCBS providers within the service area, for each Waiver service, and with willing and qualified providers selected by the participant.
 - 5) Ensure the participant and/or legal representative is advised of the participant's right to assess the performance of any provider. Contractor shall also ensure a process is in place to allow the participant or legal representative to inform the CMT and/or the Contractor of any issues or problems with the provider(s), and to notify the appropriate law enforcement agency, child or adult protective services, county In-Home Supportive Services (IHSS) office, and/or licensing board in the event of abuse, neglect, and/or exploitation.

C. Circle of Support

Contractor must ensure their CMTs assist Waiver participants in identifying and establishing a circle of support comprised of individuals and/or organizations willing and able to support the participant in the community. A participant cannot be denied enrollment into the waiver due to lack of circle of support. A participant's circle of support can include, but is not limited to, family, friends, neighbors, teachers, classmates, coworkers, community groups, faith-based groups, and anyone else the participant wants to invite to be part of their circle of support. Individuals and organizations included in a participant's circle of support are unpaid. In this context "support" may include, but is not limited to:

- 1) Providing emotional support and/or companionship.
- 2) Checking on the participant to ensure he or she does not become isolated.
- 3) Assist the participant in setting goals that aid in independence and development.
- 4) Bringing the participant into the community.
- 5) Staying with the participant if the scheduled caregiver does not show in the

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event of an emergency.

D. Backup Waiver Service Providers

Contractor must develop and maintain a system to ensure qualified backup Waiver service providers are available to provide authorized services to Waiver participants in the event that the scheduled Waiver provider is not available or does not arrive at the scheduled time.

E. Continuity of Care

- 1) Contractor shall develop and institute processes and policies for their CMTs to ensure there are no gaps in participants' care when an individual:
 - a. Transitions onto the Waiver
 - b. Changes providers of authorized services identified in the POT
 - c. Discharges from a short-term institutionalization
- 2) Some of the ways the Contractor shall ensure continuity of care include, but are not limited to: appropriate and timely referrals of participants needing specialty health care services, documentation of referral services in participant case records, monitoring participants' medical appointments, documentation of participant emergency medical encounters, etc.

F. Safe Home Environment

- 1) Contractor shall ensure the safety and accessibility of the applicant or participant's living environment and submit a home safety evaluation to DHCS with the initial Waiver application and service needs evaluation.
- 2) Contractor shall complete a home safety evaluation to determine if the participant's home environment is safe and conducive to the successful implementation of a home and community-based services program.

G. Community Integration

Contractor shall ensure and uphold all provisions within the Centers for Medicare & Medicaid Services CMS' home and community-based (HCB) settings regulations that define HCB settings based on individual experience and outcomes with the purpose of maximizing the opportunities for individuals

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receiving Medi-Cal HCB services to receive those services in community-integrated settings.

1) Non-Provider Owned or Controlled Setting

Consistent with CMS' HCB settings rules, non-provider-owned or controlled private residential home settings qualify as HCB settings, because: the Waiver participants are able to access the benefits of community living, including opportunities to seek employment and work in competitive integrated settings; these settings do not isolate the participant from the broader community, and do not have the characteristics of an institution; and these settings do not control the personal resources of the participant, or utilize interventions or restrictions that exist in institutional settings.

The following types of non-provider owned or controlled private residential settings qualify as HCB settings:

- a. Private residences owned, leased or rented by the participant, a relative of the participant, a conservator, or any other individual legally authorized to represent the participant.
- b. A Single-family home, apartment, rental unit, or any other residential space in the greater community.
- c. A private residence where the participant pays for part, or all, of the lease with the assistance of federal, State, or local funding.

2) HCBA Waiver Provider Owned/Controlled Setting - Congregate Living Health Facility (CLHF) Requirements

Consistent with CMS' HCB settings rules, provider-owned or controlled settings do not qualify as HCB settings; therefore, the Contractor must ensure all of the following:

- a. Participants must be given the ability and necessary support to allow them full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medi-Cal HCBS.
- b. Participants must have the opportunity to select from among various

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setting options, including non-disability specific settings, and an option for a private unit in a residential setting.

- c. Contractor must uphold and protect the participants' rights of privacy, dignity and respect, and freedom from coercion and restraint.
 - d. Contractor must optimize the autonomy and independence of participants in making life choices, including daily activities, physical environment, and with whom to interact.
 - e. Contractor must facilitate choice regarding the participants' services, supports, and providers.
- 3) Medi-Cal Provider-Owned/Controlled Residential Setting
- Consistent with CMS' HCB settings rules, Medi-Cal provider-owned or controlled residential settings do not qualify as HCB settings; therefore, the Contractor must offer all of the following:
- a. A legally enforceable agreement between the provider and the participant that allows him or her to own, rent, or occupy the residence, and to be protected against eviction.
 - b. Privacy in units including lockable doors, choice of roommates, and freedom to furnish and decorate the unit.
 - c. Options for participants to control their own schedules including access to food at any time.
 - d. Freedom to have visitors at any time.
 - e. A physically accessible setting.

4. Resolution of Issues**A. Event/Issue Report**

- 1) Contractor, in conjunction with the CMT, will act on and document all reported or observed critical events or issues that may affect the health, safety, and/or welfare of Waiver participants or their service/care providers, as they are discovered.
- 2) Critical events or incidents are incidents of participant abuse, (verbal, sexual, physical, or mental) or neglect, incidents posing an imminent danger

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- to the participant or service/care provider(s), fraud or exploitation (including misuse of participant's funds and/or property), or a dangerous physical environment.
- 3) Contractor is required to report immediately all incidents of possible abuse, neglect, or exploitation to the appropriate local or State agencies such as Adult Protective Services (APS), Child Protective Services (CPS), local law enforcement, the California Department of Public Health (CDPH) Licensing and Certification (L&C) Division, as well as DHCS.
 - 4) Contractor must document all critical events or incidents, which includes reports, referrals, and follow-up by the Contractor, in the participant's case record, documentation must also include the agency and person(s) who received the report and the person(s) responsible for conducting the investigation.
 - 5) If the Contractor and/or subcontractor is informed of, witnesses, or has reason to believe that a Waiver participant suffered an incident of abuse, as defined in Welfare & Institutions Code section 14043.1(a), or negligence by someone present in the CLHF, the Contractor must report the information to DHCS using the Event/Issue Report form within one business day. DHCS will work with the Contractor to investigate the facts of the incident, and if appropriate, remove Waiver participant(s) from the facility. The Contractor will coordinate with DHCS A&I to implement a temporary suspension of new enrollments if DHCS determines that such an action is appropriate. DHCS will continue to pay the facility for the participant up to one month after the initiation of the temporary suspension, or until the participant is relocated, whichever occurs first.
- B. When directed to do so by DHCS, Contractor will identify an alternate placement location and will work in coordination with DHCS to move the Waiver participant to the alternate location within 30 days. During this 30-day period, the Contractor and the CMT will continue to work with the Waiver service providers, the participant's current primary care physician, the participant and her or his legal representative, and circle of support to ensure that the participant receives his or her medically necessary services. If there is an imminent danger to the participant, immediate removal from a CLHF can be actuated by working in coordination with DHCS, APS/CPS and the local

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Ombudsman, as DHCS deems appropriate to the situation. This placement may be temporary until an alternative, permanent, and safe residence is secured for the participant. The CMT will continue to visit the participant in the facility to ensure his or her safety throughout the transition process.

- C. California's CPS and APS programs have primary responsibility to resolve reported events/incidents of abuse, neglect, and/or exploitation. In the event that CPS or APS does not take timely and appropriate action, the Contractor will notify local law enforcement if the issue continues. APS and CPS conduct investigations independently from DHCS and according to their own timeline. Their timeframe and processes for informing necessary parties of the results of any investigations, including Medi-Cal, are on an "as requested" basis. When CPS, APS, and/or local law enforcement are involved, Contractor is required to continue to monitor the Waiver participant's health and safety to ensure he or she continues to receive all medically necessary waiver services to maintain the participant safely in the community, if possible, or arrange for the participant to transfer to a facility if safe community placement cannot be accomplished.

D. Incident Reporting to State Agencies

- 1) Contractor must use the Event/Issue Report form to communicate with DHCS and the CDPH L&C Division on events/issues affecting participants that involve HHAs, CLHFs, and CHHAs. L&C will determine if the provider is in compliance with the California Health and Safety Code Sections 1736-1736.7

(CHHA), 1760-1761.8 (PDHC), 1250(i) (CLHF). After the Contractor consults with DHCS, DHCS forwards the completed confidential Event/Issue Report to L&C with a request that L&C investigate when there has been:

- a. Failure by the service provider to report abuse or neglect of a participant. L&C will also notify the appropriate local or State agencies.
- b. Failure to notify the participant's current primary care physician of a change in the participant's condition, if the participant is harmed by the failure of this action.
- c. Failure to inform the participant and/or his or her legal representative/legally responsible adult(s) of the participant's "Patient

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Rights”;

- d. Failure to comply with the participant’s “Patient Rights”;
 - e. Failure to complete the appropriate documentation and/or notify the participant’s current primary care physician of an incident;
 - f. Failure to provide services or supplies included in the POT, ordered by the participant’s current primary care physician, and that the provider agreed to provide;
 - g. Inadequate or inappropriate evaluation of the participant’s needs (e.g., weight loss not assessed);
 - h. Inadequate notification to the participant when services or supplies are changed or terminated; and,
 - i. Failure to act within a professional’s scope of practice.
- 2) Contractor will continue to work with Waiver service providers, the participant’s current primary care physician, and the participant during L&C’s investigation, to ensure the participant receives needed services and is able to continue to reside safely in the home.
 - 3) Contractor shall implement and maintain written grievance policies and procedures describing the submission, documentation, evaluation, and resolution of all participant grievances.

E. Responding to Verbal and Written Complaints

- 1) A verbal complaint consists of any expression of dissatisfaction by a participant to the Contractor or subcontractor, in person or by telephone.
- 2) The Contractor and/or subcontractor responds to verbal complaints verbally. Verbal complaints are usually resolved within 72 hours. The Contractor and/or subcontractor is responsible for documenting the verbal complaint and resolution.
- 3) A written complaint is considered a formal complaint and consists of any written expression of dissatisfaction by a participant to the Contractor and/or subcontractor.
- 4) When written complaints are received, the Contractor must record each

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- complaint in a complaint log. Different levels of staff may be involved in the written complaint review process.
- 5) Contractors must provide written assurances that any participant who requests or needs assistance with the submission of a complaint shall receive it.
 - 6) All Contractor complaint policies and procedures must be provided to the participant and/or the participant's legal representative, in writing, at the time of enrollment and upon request, and must address/include the following:
 - a. A description of the process and general timelines for complaint resolution. The Contractor must provide DHCS' accurate contact information to a participant upon request.
 - b. Written information about the Contractor's grievance policies, procedures, and form(s), must be provided to the participant at the time of enrollment and upon request; and, must include telephone numbers for obtaining information on State Fair Hearing appeal rights.
 - c. All grievances must be brought to the attention of the participant's CMT for first-level resolution, and must be included in the next QAR.
 - d. All grievances must be reviewed by the Contractor following the submission of the grievance, and appropriate action, as outlined below.
 - e. If a verbal complaint cannot be resolved by the participant's CMT, the CMT must document the grievance and treat it as a formal, written complaint.
 - f. If a verbal complaint becomes a written complaint, the Contractor must notify DHCS of the grievance in the subsequent Quarterly Performance Report (QPR) and provide DHCS information pertaining to the case. If the grievance is resolved, the Contractor must notify DHCS of the resolution that was reached and/or the outcome.
 - g. Contractors must immediately report serious issues involving licensed providers to DHCS in writing.¹

¹ DHCS immediately reports serious incidents involving licensed providers to CDPH L&C.

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- h. If a participant is unwilling to substantiate a complaint, or provide details necessary to perform an investigation, the Contractor is not obligated to continue investigating the complaint and/or seek resolution, and may close the case. The Contractor shall notify the participant of its decision in writing.
- 7) Contractor will keep the participant and/or his or her legal representative or legally responsible adult(s) informed of the progress of the investigation and will continue to follow-up with the participant until the issue is resolved. If the issue is not resolved within 30 days, the Contractor will discuss the issue(s) with DHCS and develop an alternative plan for resolution.
- 8) If the Contractor is notified of a complaint that constitutes a critical incident that occurred in a facility within the Contractor's provider network, the Contractor must complete an Event/Issue Report form, immediately report the incident to the appropriate local agency, and send the report to DHCS by email or by mail within two business days.
- 9) Contractors are required to submit a list of grievances and complaints that have been filed and resolution of the grievances and complaints to DHCS on a quarterly basis as part of their QPRs.
- 10) Contractor's grievance policies and procedures are subject to review and approval by DHCS during QAR and as necessary. DHCS provides technical assistance to Contractors handling complaints, grievances, and complicated situations. Contractors report all complaints, grievances, and outcomes in their QPRs.
- 11) Contractor shall instruct participants on how and when to notify the Contractor if the participant is subjected to abuse, neglect, or exploitation.
- 12) Contractor shall instruct participant on how to report abuse, neglect, or exploitation to the appropriate authority.
- 13) If the Contractor's CMT observes or learns that restraints are being used on a participant, the CMT must:
- a. Determine within 24-hours:
 1. If the use of restraints is ordered by the participant's current primary care physician;

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2. If a plan with criteria for the use and monitoring of restraints is documented in the participant's POT; and
 3. If the plan is being followed by the caregivers and/or providers.
- b. Complete an Event/Issue Report, submit a copy to DHCS, and include the report in the participant's case file.
- F. Use of Restraints
- 1) Contractor must maintain policies and procedures regarding provider use of restraints that reflect state laws, regulations, and policies and include provider training requirements.
 - 2) The Contractor's CMT will ensure the providers/caregivers in the home have been adequately trained in the application and monitoring of physical restraints. This is achieved by home visits to observe the participant, evaluate caregiver competency, and review of the POT.
 - 3) The use of physical restraints must be supported by a specific assessed need and justified in the POT. If restraints are being used, the following information must be documented in the POT:
 - a. A specific and individualized assessed need for the restraints.
 - b. The positive interventions and supports used prior to any modification(s) to the person-centered service plan.
 - c. The less restrictive methods that were attempted to meet the identified need, and explain why they were not successful.
 - d. A clear description of the condition/diagnosis that is directly proportionate to the specific assessed need.
 - e. Regular collection and review of data to measure the ongoing effectiveness of the modification(s).
 - f. Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.
 - g. Documented informed consent of the individual and/or his or her legally authorized representative if the individual is unable to give informed consent.
 - h. Include an assurance that the restraints, interventions, and supports

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will cause no harm to the participant.

- 4) Contractor shall provide training to the CMT on the legal use of restraints based on the requirements included above. Training must be conducted at least annually, and the dates of each training and all who attended must be documented.
- 5) Contractor will ensure the CLHF maintains internal policies and procedures that include staff education and training in the administration and monitoring of restraints. A CLHF may use physical restraints only in compliance with state and federal regulations and statutes.
- 6) If a facility is found to have used unauthorized restraints, the Contractor will assist Waiver participants and/or authorized representatives to arrange for appropriate alternative placement, and will report the incident to DHCS, CDPH, adult or child protective services, and law enforcement.
- 7) If the Contractor determines that physical restraints used for a participant living in his or her home are appropriately authorized, but the POT does not address preventative interventions, the Contractor's CMT will assist the participant or legal representative to identify alternative methods specific to the participant for inclusion in the POT, and as ordered by the physician.
- 8) If the Contractor determines that the participant's current primary care physician has not authorized the use of restraints, or the use of the restraints is not in compliance with the POT, the Contractor's CMT must notify DHCS of that fact in writing within two business days, and contact appropriate law enforcement and child or adult protective services to report the incident.

G. Medication Management

- 1) Private Residence
 - a. Contractor's CMT shall conduct second-line medication monitoring as a part of the ongoing monthly contact with all Waiver Participants to detect potentially harmful practices, ask about changes in medications and possible side-effects, reviewing medication administration (e.g., frequency, dosage, storage, preparation), etc.

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- b. If the CMT identifies medication mismanagement or abuse, Contractor shall submit an EIR to DHCS and notify the prescribing physician, caregivers and circle of support, legal representative, and/or authorities, as appropriate.
 - c. The Contractor shall document all findings of harmful and/or noncompliant medication management practices within the private residence, assess and incorporate conclusions in the participant's person-centered risk mitigation plan, and track remediation efforts.
- 2) CLHF Residence
- a. Contractor must work with the CLHF to ensure the nursing staff is responsible for the administration of medications for HCBA Waiver participants, and that they are trained to ensure appropriate medication management and client education. Monitoring medication management and administration is to detect potentially harmful practices through ongoing onsite review and evaluation of medication related policies, procedures, documentation, and clinical practices. Monitoring of medication management in a CLHF is conducted by CDPH, DHCS, and the Contractor.
 - b. The Contractor shall document all findings of harmful and/or noncompliant medication management practices within the CLHF, follow up with DHCS with a plan for resolution, and track remediation efforts to improve program performance in all community settings. To help ensure proper medication management and administration, the Contractor, DHCS, and CDPH review the following:
 - i. Medication storage;
 - ii. Self-administered medications;
 - iii. Medication procedures;
 - iv. Medication documentation;
 - v. Scheduled and controlled drugs, usage and storage; and
 - vi. "As needed" medications, usage and disposal.
- 3) The Contractor shall collect, follow-up on, and report medication errors on a quarterly basis in the QPR.

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H. Notice of Action (NOA)

- 1) Contractor will issue a NOA form to the HCBA Waiver participant for the following reasons, among others:
 - a. The participant loses Waiver services because of changes to his or her Medi-Cal eligibility.
 - b. Waiver services are denied or modified, or when previously approved services are reduced.
 - c. There is no evidence establishing the medical necessity for the requested Waiver services.
 - d. The participant moves from the geographical area in which the HCBA Waiver services were authorized to a new area where there is no contracted Waiver Agency. In this circumstance, the NOA will inform the participant that he or she must contact DHCS to be re-enrolled in the waiver to receive Waiver services administered by DHCS.
 - e. The participant's medical condition is unstable, as demonstrated by frequent emergency department visits and/or unplanned hospitalizations, and the Waiver providers are unable to provide enough medically necessary services and supports to ensure the participant's health and safety in the community.
 - f. The participant or the legal representative refuses to comply with the participant's current primary care physician's orders in the POT, and the Contractor or DHCS determines that such compliance is necessary to assure the health, safety, and welfare of the participant.
 - g. The participant or the legal representative does not cooperate in attaining or maintaining the POT goals, thereby jeopardizing the participant's health and welfare.
 - h. The identified support network system or a backup caregiver cannot be identified, is not able, or is no longer willing or available, to assume the responsibility to act as a back-up caregiver for the participant. When this happens, the Contractor will work with the participant and responsible persons to develop a POT and identify providers so the participant can continue to reside safely in a home-like setting, when possible.

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- i. The home safety evaluation completed by the CMT documents an environment that does not support the participant's health, safety, and welfare, or is otherwise not conducive to the provision of HCBS Waiver services.
- j. The Waiver service providers are unwilling or unable to provide the amount of authorized services in the participant's POT and/or primary care physician's order. If a provider's unwillingness or inability to provide the amount of services authorized in the POT, and the reduction of services impacts the participant's health or safety, the Contractor shall work with the participant to identify a licensed health care facility in which he or she can receive services until another Waiver service provider is able and willing to provide the entire amount of authorized services to the participant in a home or community setting.
- k. The Contractor, direct service provider, or DHCS finds the participant to be a threat or harmful to others, including but not limited to, caregivers or service providers, care managers, or the community at large; or is unable to ensure the health and safety of the participant's circle of support.
- l. The participant or their legal representative and circle of support are requesting direct care Waiver services that exceed 24 hours per day, that DHCS has not authorized after review, and do not agree to a reduction of services so as not to duplicate services.
- m. The participant receives 360 hours per month of combined IHSS and WPCS, does not have two (2) or more personal care providers, and has not submitted and obtained an exemption request through DHCS, in compliance with Section 12300.4 of the WIC.
- n. Contractor does not submit a complete and current POT that is signed by the participant's current primary care physician within 90 days of notification that they are eligible for enrollment in the HCBA Waiver, or within 60 days of the end-date of the previous POT.
- o. Contractor and DHCS have not authorized a Waiver service within 90 days of notification that the participant is eligible for enrollment in the HCBA Waiver, or within 60 days of the termination date of the last authorized Waiver services.

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- p. An enrolled Waiver participant returned to an institutional setting for more than 30 consecutive days.
- I. Appeals and Fair Hearing Process
- 1) The NOA form must advise the participant of the decision and the reason(s) to:
 - a. Terminate or deny Waiver enrollment; or
 - b. Reduce, terminate, or modify requests for Waiver services or benefits.
 - 2) The NOA includes instructions advising the participant and/or his or her authorized representative(s) on how to request a State Fair Hearing before an Administrative Law Judge (ALJ).
 - 3) The participant must request a State Fair Hearing within 90 calendar days after the date the NOA is mailed. The request must be received within ten calendar days for the participant to continue receiving services as previously authorized without interruption.
 - 4) The NOA must inform the participant or legal representative that he or she is responsible for submitting the request for a State Fair Hearing before the action takes place.
 - 5) A copy of the NOA and the Fair Hearing request form must be filed in the participant's case record maintained by the Contractor.
 - 6) DHCS shall notify the Contractor when a participant or legal representative has requested a State Fair Hearing in response to the Contractor's decision to deny, modify, or reduce Waiver services. Contractor shall provide written position statements about their decisions to deny, modify, or reduce Waiver services, and shall designate staff to act as its representative and to provide testimony at State Fair Hearings at the scheduled time and place of the State hearing. Contractor responsibilities regarding State Fair Hearings are pursuant to Welf. & Inst. Code sections 10950 through 10962, and Cal. Code Regs., tit. 22, sections 51014.1, 51014.2, 53261 and 53452. Additional clarification of Contractor responsibilities related to State Fair Hearings shall be provided to Contractor by DHCS.

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5. Corrective Action Plans (CAP) and Quality Assurance Reviews (QAR)

- A. Contractor must cooperate with DHCS in the review and approval of initial waiver enrollment determinations, changes to participants' eligibility, and ongoing monitoring and oversight of sub-contracted CMTs and network providers.
- B. Contractor shall monitor the provider network to ensure providers maintain Medi-Cal enrollment, that they have not been suspended, and that they are providing the services as authorized and as described in the POT.
- C. The Contractor shall issue a CAP to a Waiver service provider when the Contractor, or DHCS, identifies issues of noncompliance through regular monitoring and oversight. The Contractor and DHCS will monitor and follow-up on the CAP until the issue is resolved.
- D. When determined necessary by DHCS, and at DHCS' sole discretion, DHCS may conduct an audit to assess Contractor's performance. DHCS may require Contractor to submit a CAP to DHCS at any time for any identified instances of Contractor failing to perform its obligations under this Agreement, or for failure to meet the requirements set out in the current Waiver, statute, regulation, DHCS policy letter, manual, bulletin, or any guidance or direction DHCS has issued to Contractor.
 - 1) Contractor shall ensure the CAP is specific about the actions to be taken, the personnel who will take the actions, and when the corrective action will be completed.
 - 2) Upon receipt of the CAP, DHCS monitors the Contractor's resolution process to ensure complete remediation of the deficiency.
 - 3) Once the CAP is reviewed by DHCS, the Contractor is given an opportunity to implement the developed strategy.
 - 4) Once a CAP is implemented, DHCS may conduct an on-site follow-up visit to the Contractor to evaluate the effectiveness of the new practice, and/or may request additional records for review.
 - 5) Contractor will not receive a CAP approval letter until complete resolution has been verified by DHCS. Technical assistance is provided throughout the process on an as-needed basis.
- E. On an annual basis, DHCS performs onsite, desk, and/or virtual reviews

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Waiver Administrative Services

of each Contractor, called a Quality Assurance Reviews (QARs). If a CAP is required DHCS will notify the Contractor in writing following the QAR.

- F. During the QAR, DHCS reviews the Contractor's case files to ensure that all required performance measures are being met; confirm that assessments, re-assessments and authorizations are performed on a timely basis; confirm that provider payments align with set rates and negotiated agreements; verify the resolution of grievances/appeals and special incidents; etc.
- G. DHCS may also schedule Waiver participant and provider interviews.
- H. DHCS aggregates the results of the QARs and discovery information to develop a statewide remediation approach that includes policy dissemination through the periodic Contractor meetings, the HCBA Waiver Agency Manual updates and policy letters, if needed. DHCS uses this aggregate data to prioritize training needs to schedule multi-Waiver Agency training events.
- I. DHCS also provides technical assistance onsite or through on-going email and telephone contact between the Contractor and DHCS.
- J. DHCS regularly reviews provider payments as part of the internal monitoring and oversight.
- K. Claims data is stored in the DHCS Data Warehouse and allows DHCS to monitor the services being provided, at what frequency, and to which participants. This information allows the State to validate the information documented in participants' POTs and in the service needs evaluations and care management acuity level assessments.
- L. If DHCS finds a discrepancy through the claims monitoring and validation process, an audit may be triggered prior to the annual scheduled QAR.
- M. DHCS shall collect QPRs from the Contractor, which must include enrollment levels, fiscal performance, and quality assurance activities.
- N. Waiver Agencies, at the direction of and in conjunction with DHCS shall ensure HCBA settings meet the CMS final rule described in the Statewide Transition Plan (STP).

6. Minimum Program Requirements

- A. Contractor must be an active Medi-Cal provider in good standing with Medi-

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Cal. For the purposes of this Agreement, “good standing” shall mean that the Contractor’s Medi-Cal provider number has not been de-activated or suspended, temporarily or permanently.

- B. Contractor must maintain a participant caseload ratio that complies with the caseload thresholds in Provision 3. Care Management Team Caseload Thresholds, in Exhibit A, Attachment II of this Contract.
- C. Contractor shall maintain employees and/or contracted providers assigned specifically to the HCBA Waiver program and shall ensure the following minimum staffing requirements:
- 1) The Contractor shall designate a local HCBA Waiver program lead who shall assume, but not be limited to, the following responsibilities:
 - a. Provide oversight of the day-to-day operations of the Contractor’s HCBA Waiver program to ensure their organization remains in compliance with the terms of this Agreement;
 - b. Ensure appropriate, trained personnel perform their functions within the organization;
 - c. Notify and provide on-going updates to employees and contracted providers on the local HCBA Waiver program’s policies and procedures; and
 - d. Attend DHCS meetings, teleconferences, and trainings; or ensure a knowledgeable proxy attends in the place of the program lead to ensure the transfer the information.
 - 2) Contractor shall maintain RNs licensed to practice in the State of California, in the number sufficient to be part of a CMT and provide Comprehensive Care Management services to HCBA Waiver participants in the Contractor’s assigned geographical area.
 - 3) Maintain Social Workers with at least a Bachelor’s Degree or those with Bachelor’s level degrees in related fields, including: gerontology, marriage and family therapy, psychology, etc., in the number sufficient to be part of a CMT and provide Comprehensive Care Management Services to HCBA Waiver participants in the Contractor’s assigned geographical area. Social Workers with a Bachelor’s Degree or those with a Bachelor’s degree in related fields must be supervised by a

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- Social Worker with at least a Master's Degree in Social Work (MSW).
- 4) Maintain sufficient support staff to conduct Contractor's daily business in an orderly manner.
- D. Contractor shall maintain and have on file up-to-date duty statements for all employees assigned to work on the HCBA Waiver Program, and a written description and an organizational chart that outlines the structure of supervision and authority within the program and under the parent organization. If Contractor is planning a change in the organizational structure, Contractor must provide DHCS with written notification of the planned change at least 14 calendar days before the change would take effect.
- E. Contractor shall establish and maintain its own policies and procedures (P&Ps) on the ways in which the organization implements the HCBA Waiver Program in compliance with the approved 1915(c) HCBA Waiver, state and federal law, and the terms of this Agreement. Contractor's P&Ps must remain current, through ongoing updates and revisions based on official DHCS Policy and Guidance Letters and/or contract amendments. The Contractor's P&Ps shall be available to DHCS upon request; and must, at a minimum include:
- 1) The assurance that all Medi-Cal members transitioned to the community are informed that they must have a community primary care provider within 60 days after the date of the transition to continue participation in the Waiver.
 - 2) Descriptions of how the organization will:
 - a. Monitor the coordination of care provided to participants, including but not limited to, all medically necessary Medi-Cal and non-Medi-Cal services.
 - b. Provide and track training provided to staff and subcontracted service providers.
 - c. Distribute/communicate HCBA Waiver program updates to staff and subcontracted service providers.
 - d. Collect and respond to verbal and written participant complaints and grievances.
 - e. Collect and report incidents or events to DHCS that threaten the

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welfare, safety, or health of any participant or provider. Examples of reportable incidents include injuries, abuse, neglect, exploitation, and medication errors.

- f. Maintain and secure participant records, which must include, but shall not be limited to:
 - i. Storing and securing records containing protected health information (PHI) and personal confidential information (PCI) in compliance with this contract as well as state and federal law, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA); and
 - ii. Release of information and obtaining consent to access members' protected personal information.
- g. Develop and maintain documented protocols to manage medical and nonmedical emergencies and disasters that are likely to threaten the health or safety of the members, and for obtaining emergency medical assistance from sources outside the Contractor's organization and/or working hours, when needed.

F. Participant Case Files

Contractor shall utilize MedCompass (see sub-provision I. below) to maintain an up-to-date, centralized, secured case file record for each Waiver participant, as outlined in the HCBA Waiver Provider Manual available on the DHCS webpage. Contractor shall implement and maintain a system to review case files for compliance with Waiver requirements and delegate an individual to be responsible for the reviews.

G. Training

- 1) Contractor shall ensure all service providers receive information or training regarding the HCBA Waiver program to enable full compliance with approved 1915(c) HCBA Waiver application, state and federal statute, and the terms of this Agreement.
- 2) Contractor shall ensure provider training relates to HCBA Waiver services, policies, procedures, and any modifications to existing services, policies or procedures; and that it is conducted within 10 working days after hiring new service providers or entering into a new, standardized subcontract for

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services.

- 3) At a minimum, Contractor shall ensure service provider training includes information on all participant rights specified in this Contract, including the participant's right to full disclosure of available options for care and the right to actively participate in health care decisions.
- 4) Contractor shall train new CMT staff and provide recurring annual training to all CMT staff on the development and ongoing evaluation of person-centered risk mitigation plans. When incidents occur, Contractor shall modify such training as appropriate in order to resolve and/or reduce the risk of similar incidents in the future.
- 5) Contractor shall ensure that all WA staff who develop and implement POTs are required to take the STP training annually. New hires are required to take the training within 60 days.
- 6) Contractor shall ensure that ongoing information or training is provided when deemed necessary by the Contractor or DHCS.
- 7) Contractor shall maintain a record of all training provided to employees and subcontractors providing services under this Agreement. The training record must include the subject matter and date(s) of the training, and the name, title, affiliation, and contact information of every attendee. Contractor's training record shall be available to DHCS upon request.

H. Information Technology Requirements

Contractor shall secure, at its own cost, local information technology support services and infrastructure that include but are not limited to, the following:

- 1) System Capacity
 - a. Computer software that is compatible with Microsoft Office version 2010, software compatible to open and read portable document format (PDF) documents, and encryption software to ensure PHI/PII is secure when transferring electronic information to, or receiving electronic information from contracted Waiver providers.
 - b. Telecommunications, hardware, and network security, including but not limited to, the ability to send and receive zipped, secure, and

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encrypted communication and data, which may contain PHI/PCI.

- c. Security patches and upgrades as they become available to keep virus software up-to-date on all systems.
- I. Management Information System (MIS)
- 1) Contractor shall utilize the Management Information System known as MedCompass that has been created to support DHCS Waiver programs. MedCompass assists case managers, support staff, and management to oversee and manage cases covered under the HCBA Waiver.
 - 2) The MedCompass tool will provide automation that will facilitate reporting, the creation of letters and forms, secure messaging and email between the Contractor and DHCS staff, as well as capabilities for alerts, task assignments and queues that will provide immediate notifications between the Contractor and DHCS.
 - 3) The MedCompass solution is HIPAA compliant and meets the capabilities for the Care Management business area as required in CMS' Conditions and Standards - 42 CFR §433.112(b)(10)-(16) and the new conditions at § 433.112(b)(17)-(22).
 - 4) MedCompass enables DHCS and the Contractor to provide Administration and Comprehensive Care Management to HCBA Waiver participants in designated geographical locations to:
 - a. Provide secure access to MedCompass from within a private cloud infrastructure
 - b. Web based access for nursing staff in the field performing patient reviews and assessments for treatment
 - c. One comprehensive system for easier tracking and program reviews
 - d. Centralizing Care Management data to reduce redundancy and increasing the ability of divisions and contracted providers to leverage and share data
 - e. Standardization of Medical Treatment Referrals
 - f. Automation of the Business Process
 - g. Maintaining of case files electronically

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- h. Enabling electronic communications between DHCS staff and Waiver Agencies
 - i. Completing assessment reports electronically
 - j. Calculating "Utilization of approved annual amount of care" electronically
 - k. Maintaining treatment plans electronically
 - l. Access to Medi-Cal eligibility data on all Waiver participants
 - m. Contracted provider claims status and payments data; and
 - n. Provider network information
- J. MedCompass Requirements

MedCompass is an integrated Care Management Commercial Off the Shelf (COTS) Cloud-Based Software as a Service (SaaS) with comprehensive features and functions specifically designed to support government-sponsored healthcare programs and is an integrated care management tool with functionality for utilization management, case management, disease management, population health, wellness management, and eligibility.

MedCompass is built on a service-oriented architecture (SOA) 100 percent Web-based technology platform, consisting of the latest Microsoft technologies, and scalable to meet the needs of DHCS and its partners.

Contractor will share data with DHCS via MedCompass and will, therefore, be required to have and maintain, at its own cost, all of the following IT components:

- 1) Microsoft Office
- 2) Google Chrome

7. Authority of DHCS

- A. DHCS retains sole authority to establish, define, or determine the reasonableness, necessity, level, and Scope of Work under the program administered through this Contract, or the eligibility of beneficiaries to participate in that program, shall reside with DHCS.
- B. DHCS retains sole authority to establish or interpret HCBA Waiver policy, including but not limited to its application related to the above-described areas.

Exhibit A, Attachment II
Comprehensive Care Management

1. Comprehensive Care Management Overview

Contractor agrees to provide authorized Comprehensive Care Management services to HCBA Waiver participants according to the HCBA Waiver, available at: [https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-\(HCB\)-Alternatives-Waiver.aspx](https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-(HCB)-Alternatives-Waiver.aspx) and as described herein. Comprehensive Care Management is a collaborative and interdisciplinary approach concentrated on the coordination and monitoring of cost-effective, quality direct care services for individuals enrolled in the HCBA Waiver to meet their complex medical needs and personal goals. When the HCBA Waiver is renewed or amended, Contractor shall provide authorized Comprehensive Care Management services to HCBA Waiver participants according to the provisions of the most recent CMS approved Waiver renewal or amendment.

Comprehensive Care Management must be provided to HCBA Waiver participants by a qualified CMT comprised of a Registered Nurse and a Social Worker with at least a Bachelor's degree in Social Work, or in related fields, including: gerontology, marriage and family therapy, psychology, etc., when supervised by a Social Worker with at least a Master's degree in Social Work (MSW), who are either directly employed by or who subcontract with the Contractor. The CMT works with the participant, the legal representative, and/or the circle of support, to identify and coordinate medically necessary State Plan and Waiver services, in addition to any other non-Medi-Cal services potentially available to the participant from across multiple delivery systems, regardless of the funding source, with the goal of maintaining the participant safely in their home and community. However, when a waiver participant is enrolled in a Managed Care plan, the plan is responsible for coordinating state plan services for their enrolled members. Therefore, the Contractor should coordinate directly with the plan for the provision of state plan services.

The Contractor receives a tiered per member per month (PMPM) payment for the provision of the Comprehensive Care Management service, based on the acuity of each participant. Only the Contractor is authorized to bill for and provide, and/or subcontract for, the Comprehensive Care Management Waiver service.

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2. Services to Be Provided

- A. The services identified as being furnished face-to-face must be done in person. Effective November 12, 2023, the following services can have an option to be provided via telehealth, if the participant agrees to have these services be provided via telehealth and all Waiver requirements are met:
- 1) Case Management
 - 2) Community Transition Service
 - 3) Comprehensive Care Management
 - 4) Family/ Caregiver Training
 - 5) Transitional Case Management
- B. Contractor shall employ, or subcontract with a CMT to provide Comprehensive Care Management services to Waiver participants.
- 1) The Contractor must ensure their employed/contracted CMTs consist of a Registered Nurse and a Social Worker with at least a Bachelor's degree, or those with Bachelor's level degrees in related fields, including: gerontology, marriage and family therapy, psychology, etc., when supervised by a Social Worker with at least a Master's degree (MSW).
 - 2) CMTs are responsible for:
 - a. Conducting a comprehensive health and psychosocial assessment of participants' medical needs, diagnosis, functional and cognitive abilities, and environmental and social needs, to determine which service(s) are required to meet participants' needs and preferences in the community.
 - b. Working with the participants, their legal representatives, circles of support, and primary care physicians to develop goals associated with the participant's assessed needs, individual circumstances, and preferences.
 - c. Working with the participants, their legal representatives, circles of support, and primary care physicians to develop a POT to mitigate risk and minimize disruptions in services.
 - d. Working with the participants, their legal representatives, circles of support

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to identify when services identified in the POT are available through friends, family, and/or publicly funded programs.

- e. Working with the participants, their legal representatives, circles of support, to implement the POT, which includes identifying service providers and community resources to help assure the timely, effective, and efficient mobilization and allocation of the services.
 - f. Working with the participants, their legal representatives, and circles of support to identify (and train, if necessary), backup caregivers who are willing and able to provide unpaid support if and when waiver service providers do not arrive when scheduled.
 - g. Providing information, education, counseling, and advocacy to, and on behalf of, participants.
 - h. Establishing a care coordination schedule based on the needs and acuity of the participant as determined by their initial service needs assessment and subsequent reassessments.
 - i. Monitoring the delivery of HCBA Waiver services to ensure participants are receiving services as authorized in their POTs.
 - j. Monitoring the quality of the authorized services by maintaining ongoing contact with participants (including a monthly face-to-face visit or telephone call) to monitor for changes in health, mood, social integration, functionality, and overall well-being.
 - k. Conducting annual face-to-face visits, reassessments, and care plan updates; and, following up with the participant after Emergency Department and inpatient facility admissions.
- C. Contractor shall ensure Comprehensive Care Management includes the provision of Transitional Case Management and the coordination of any Community Transition services when needed.
- 1) Transitional Case Management supports participant transitioning from an inpatient setting to a community setting, and may include coordinating services such as housing, equipment, supplies or transportation that may be necessary to leave a health care facility.

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2) Coordination of Community Transition Services is organizing and prioritizing non-recurring set-up expenses for individuals who are transitioning from a Medi-Cal licensed health care facility to a living arrangement in a private residence where the person is directly responsible for his or her own living expenses.

D. All costs associated with Comprehensive Care Management are included in the per member, per month payment for Comprehensive Care Management. For this reason, Case Management cannot be billed separately. The participant's actual community transition costs (e.g., security deposit, set-up fees or deposits for utility or service access, etc.) are billable as separate services.

3. Care Management Team Caseload Thresholds

Contractor shall ensure that Registered Nurses and Social Workers assigned to CMTs do not exceed the caseload thresholds, based on participants' acuity levels, included in the table below. Contractor may request a temporary exception to these caseload thresholds by submitting a written request to DHCS. Notwithstanding any DHCS approved exception, Contractor shall, at all times, have sufficient CMT staff to meet the needs of Waiver participants in accordance with all requirements of the HCBA Waiver. More detailed descriptions of Waiver participant acuity levels and the Case Management Acuity System are available in sub-provision 4.E.

CMT Caseload Thresholds

Acuity Level	Frequency of Visits and Reassessments	Registered Nurse	Social Worker
Level 4 - Intensive	Participants at a level 4 acuity must receive face-to-face CMT contact at least once a month and must be reevaluated more frequently than once every 180 days ¹ .	1:40 to 1:60	1:25 to 1:35
Level 3 - High	Participants at a level 3 acuity must receive face-to-face CMT contact at least once a month, and must be reevaluated at least once every 180 to 270 days.	1:61 to 1:80	1:36 to 1:45
Level 2 - Medium	Participants at a level 2 acuity must receive CMT contact by telephone or face-to-face at least once a month, and must be reevaluated at least once every 270 to 365 days.	1:81 to 1:100	1:46 to 1:55

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Level 1	Participants at a level 1 acuity must receive CMT	1:101	1:56
-	contact by telephone or face-to-face at least once a	to	To
Low	month, and must be reevaluated every 365 days.	1:120	1:65

¹ Any reference to "days" in the contract is amended to read "calendar days", unless otherwise specified in the contract (i.e. "business days", "working days", "consecutive days").

4. Comprehensive Care Management Services

A. The Contractor's CMT shall schedule and complete a face-to-face home visit with the applicant within 60 days of the applicant receiving notification of potential Waiver eligibility.

1) At the face-to-face home visit, the CMT:

- a. Provides the applicant with information about the HCBA Waiver services and provider options.
- b. Completes a comprehensive health and psychosocial assessment of the applicant using the Intake Medical Summary (IMR).
- c. Confirms home setting meets the HCB setting requirements as set forth in 42 CFR 441.301 and the DHCS Statewide Transition Plan at the initial assessment and at each reassessment.
- d. Reviews the Menu of Health Services (MOHS), which is a list of possible service and provider choices, with the applicant.
- e. Completes a home safety evaluation. The home safety evaluation assesses participant accessibility, structural barriers, utilities, evacuation plans, and communication and fire safety systems and devices. Any issues identified should be addressed in the POT.
- f. Completes a person-centered POT to the extent possible.
- g. Determines if Waiver Personal Care Services (WPCS) are medically necessary to maintain the health and safety of the Waiver participant in the community, as well as the number of hours that are required.

B. Contractor's CMT shall conduct a service needs evaluation using the criteria established in Title 22, California Code of Regulations (CCR), Sections 51173.1, 51120, 51124, 51124.5, 51124.6, 51334 and 51335; Health and Safety Code

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Section 1250(m); as well as information submitted to support medical necessity for the services as defined in Title 22, CCR §51003.

- 1) The CMT must use the IMS / Case Management Report (CMR) forms provided by DHCS for all service needs evaluations and reevaluations to document that participants meet and continue to meet HCBA Waiver medical criteria and eligibility requirements.
 - 2) The CMT must conduct service needs reevaluations at least every 365 days.
 - 3) Within 30 days of the reevaluation, all reevaluation documentation must be completed and made available to DHCS through the MedCompass case management database.
 - 4) The CMT must maintain all documentation to support service needs assessments in the participant's case file in MedCompass.
 - 5) DHCS will review the documentation supporting the comprehensive health and psychosocial assessment and medical necessity and will be responsible for final approval of HCBA Waiver enrollment.
 - 6) Contractor shall refer to DHCS any participant that does not appear to meet minimum LOC for continued enrollment in the HCBA Waiver. The determination that an individual requires a LOC specified in the HCBA Waiver may only be made directly by the Medicaid agency or another government agency that has been designated by the Medicaid agency, in accordance with 42 CFR Section 431.10. Where DHCS ultimately determines that the person does not meet the minimum LOC, DHCS will issue a NOA to disenroll the participant. If DHCS determines that the individual does meet LOC, the case will be returned to contractor to complete intake process and submit for enrollment review.
- C. At the initial face-to-face home visit and at each of the participants reevaluations, the Contractor's CMT will use the MOHS as a planning tool to assist the participant in making informed choices about the services and providers available.
- D. After the Contractor's CMT has met with the participant to discuss preferences, goals, and desired outcomes, the CMT is responsible for developing a comprehensive POT, which includes:

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- 1) Assisting the applicant or participant with identifying Waiver and State Plan services that will meet the applicant's or participant's medically necessary care needs. If Contractor determines that a participant or applicant requires more than 24 hours of direct care services to ensure their health and welfare in the community, Contractor must inform DHCS and request approval to authorize additional direct care services.
 - a. Managed Care plans are responsible for coordinating state plan services for their enrolled members. In these cases, the Waiver Agency should coordinate directly with the plan for the provision of state plan services. At the participant's or legally responsible adult's request, Contractor is responsible for coordinating PDN services for participants in managed care plans who are under 21 years old.
- 2) Providing information on participant direction, which includes a participant's right to select and dismiss providers, and on determining the roles and responsibilities of the participant, Contractor, CMT, primary care physician, HCBS service providers, and DHCS.
- 3) The Contractor's CMT shall develop a current person-centered POT signed by the current primary care physician and submit the plan to DHCS within 90 days of notifying the participant of his or her eligibility for enrollment in the HCBA Waiver.
 - a. The POT must include:
 - i. Participant's demographic information
 - ii. Treating and current primary care physician's information
 - iii. Medical information and diagnosis
 - iv. Care Management Level of Acuity
 - v. All medically necessary Waiver services, including the amount, frequency, duration, and Waiver service provider type
 - vi. State plan services
 - vii. Required durable medical equipment
 - viii. Medication plan

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- ix. Nutritional requirements
 - x. Treatment plan for the home program
 - xi. Participant's functional limitations
 - xii. Permitted activities
 - xiii. Mental status
 - xiv. Medical supplies
 - xv. Ongoing therapies and therapy referrals
 - xvi. Treatment goals, including rehabilitation potential
 - xvii. Training needs for the participant, family member(s), and caregivers
 - xviii. Identification of backup caregivers, and their contact information
- b. HCBA Waiver participants may choose to be involved in all aspects of the design, delivery, and modification of their services, as well as determining when, where, how, and by whom they receive services. Participants may request a review of their POT at any time.
 - c. Modifications to the POT can only be made with the approval of the participant or his or her legal representative.
 - d. If adjustments related to services ordered by the PCP are made to the POT, it must be returned to the PCP for signature.
- 4) Authorizing WPCS Hours
- a. Before including WPCS in a participant's POT, the CMT must ensure that the participant has been authorized to receive In-Home Support Services (IHSS). If the participant is enrolling in the Waiver from the community, the CMT must contact DHCS' IHSS/WPCS Unit to verify that the participant is receiving IHSS, and to confirm the number of IHSS hours they have been authorized to receive.
 - b. After the CMT confirms that the participant is, or is authorized to receive IHSS, the CMT must determine if WPCS hours medically necessary to maintain the participant's health and safety in the community, as well as the number of hours that are required to do so.

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- c. Upon determining the number of WPCS hours that are medically necessary to maintain the health and safety of the participant in the community, the CMT must complete and submit a WPCS Authorization Request to DHCS' IHSS/WPCS Unit to enter the Waiver participant into the California Department of Social Services' (CDSS') Case Management, Information and Payrolling System II (CMIPS II).
 - d. No more than 24 hours of combined IHSS and WPCS hours may be authorized in a single day, unless additional hours are approved by DHCS in advance. No single WPCS provider may be authorized to provide more than 12 hours of WPCS hours in a single day. More detailed information on the Contractor's responsibilities related to the authorization of WPCS shall be provided to Contractor by DHCS.
- E. Case Management Acuity System
- 1) Contractor's CMT is responsible for determining the periodicity of reevaluation and the intensity of the required participant case management using the Case Management Acuity System described in Appendix B of the approved HCBA Waiver.
 - 2) The Contractor's CMT will conduct a home visit to assess the participant's status 90 days after DHCS approves the participant's enrollment into the HCBA Waiver and the participant begins receiving Waiver services. The CMT reviews the POT with the participant and/or the legal representative or established circle of support to verify that services are being provided as described in the POT.
 - 3) The CMT will use the Level of Case Management Acuity system to determine the minimum frequency of home visits based upon the participant's risk factors and the complexity of their home program. The Case Management Acuity system identifies four levels of case management of increasing acuity. The level of acuity must be reevaluated at each home visit and when there are changes to the participant's medical care needs, support system, and/or provider types.
 - 4) The Level of Case Management Acuity System is described below:
 - a. **Level 1** – Participants are medically stable, have not been hospitalized or

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received emergency care within the previous 12-month period and have no Medi-Cal eligibility issues or Waiver provider turnover. These participants are to receive CMT contact by telephone or face-to-face on at least a monthly basis and must receive a service needs reevaluation in person through a home visit every 365 days.

- b. **Level 2** – Participants have had three or fewer unscheduled hospitalizations and/or visits to the emergency department and/or skilled nursing facility (SNF) stays within the previous 12 month period. Participants may have experienced Waiver provider turnover once or twice, and/or durable medical equipment issues. These participants are to receive CMT contact by telephone or face-to-face on at least a monthly basis and must receive a service needs reevaluation in person through a home visit at least once every 270 to 365 days.
- c. **Level 3** – Participants have had four or more unscheduled hospitalizations and/or visits to the emergency department and/or skilled nursing facility (SNF) stays within the previous 12-month period. Participants may have a high turnover of Waiver providers, and/or had difficulty in obtaining the medically necessary services ordered by their current primary care physician. These participants must be evaluated after every hospital and inpatient facility discharge, which must include medication management review. In addition, participants are to have face-to-face CMT contact at least once a month and must receive a service needs reevaluation in person through a home visit at least once every 180 to 270 days.
- d. **Level 4** – Participants require frequent monitoring and interventions by the CMT to address issues that affect their health and safety and are at an elevated risk for hospitalization. The CMT conducts frequent on-site visits to work with the participant, legal representative, and/or circle of support and the HCB Waiver providers responsible for rendering Waiver services when there are issues requiring a plan of correction and follow-up. These participants must receive face-to-face CMT contact at least once a month and must be reevaluated after every hospital/SNF discharge and visit to the emergency department. Evaluation is to include medication management review. In addition, participants must receive a service needs reevaluation in person through a home visit more frequently than

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once every 180 days.

F. Service Needs Reevaluations

- 1) At each service needs reevaluation, the CMT must ensure the following:
 - a. Verify the participant's POT is current and signed by the participant's current primary care physician. Copies of the current and past POTs are filed in the participant's case file.
 - b. Review the POT with the participant, the legal representative, and/or members of their circle of support, and discuss the recommendations for Waiver and non-Waiver services and service providers.
 - c. Ensure the POT meets the participant's medically necessary health care needs and personal goals to enable the participant to live safely in the community. During the on-site home visit, the CMT must assess and document if the participant is receiving all the services identified in the POT, whether the participant is satisfied with the care being delivered, and if the participant is receiving the services needed to remain safely at home.
 - d. Ensure there is a complete and accurate written medical record, including diagnoses, complete evaluation, treatment plan, and prognosis that is available when determining the medical necessity for the Waiver services described in the POT.
 - e. Review the back-up plan in the event a provider is not available. The CMT shall assist the participant and the legal representative or members of the circle of support in identifying back-up caregivers and community resources as part of his or her back-up plan.
 - f. Instruct the participant, the legal representative, and/or circle of support on how to recognize and report abuse, neglect, and exploitation, and document their understanding in writing. The POT should include any risk of abuse, neglect, and exploitation, as well as strategies on how such incidents will be prevented.
 - g. Ensure the written home safety evaluation has been completed and that all identified issues are addressed in the POT by working with the

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participant, legal representative, and/or circle of support to remediate identified home safety deficiencies. The home safety evaluation assesses participant accessibility, structural barriers, utilities, evacuation plans, and communication and fire safety systems and devices.

- h. Confirm and document that the participant's home is, or has been made, safe.
 - i. If the private residence of a prospective Waiver enrollee would pose a risk to the individual's health or safety, and the residence is not made safe, the individual will need to find an alternative safe residence in the community or the CMT must not enroll the individual in the Waiver.
 - ii. If a Waiver participant's private residence is determined not to be safe, and is not made safe, the individual will need to find an alternative safe residence in the community or be admitted to an in-patient nursing facility, and the CMT must dis-enroll the individual from the waiver.
 - i. Document all health and safety issues described in the POT in the CMR and the Event/Issue Report.
- G. Provision of Services
- 1) Contractor's CMTs shall monitor the provision of all of the HCBA Waiver services included below, and as defined in the Waiver and HCBS Billings Codes and Reimbursement Rates section of the Medi-Cal Providers' Manual available on the DHCS website.²
 - a. Assistive Technology
 - b. Habilitation
 - c. Home Respite
 - d. Continuing Nursing and Supportive Services
 - e. Environmental Accessibility Adaptation
 - f. Facility Respite

² The Medi-Cal Providers' Manual is available at: http://files.medi-cal.ca.gov/pubsdoco/Manuals_menu.asp

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Comprehensive Care Management

- g. Family/Caregiver Training
 - h. Medical Equipment Operating Expenses
 - i. Paramedical Services
 - j. PERS Installation and Testing
 - k. PERS Monthly Service
 - l. Private Duty Nursing – Including home health aide and shared services
 - m. Waiver Personal Care Services
- H. Coordination with Managed Care Plans
- 1) When a waiver participant is enrolled in a Managed Care Plan (MCP), the MCP is responsible for providing the waiver participant Medi-Cal services covered by the MCP's Medi-Cal managed care contract, as well as Comprehensive Case Management, including Coordination of Care Services. At the participant's or legally responsible adult's request, Contractor is responsible for coordinating PDN services for participants in managed care plans who are under 21 years old.
 - 2) Contractor and MCPs must work collaboratively and promptly exchange all relevant information regarding the beneficiary, their health care needs, services, and efforts to obtain non Medi-Cal related assistance.
 - 3) The MCPs and Contractor are authorized to share beneficiary information with each other because they are both DHCS contractors in DHCS administration of the Medi-Cal program, with Business Associate Agreements, and they are sharing the information with each other as part of their contractual duties. (45 CFR sections 164.502(a)(1)(ii), 164.502(a)(3) and 164.506(c).)
 - 4) The MCP and Contractor may, but are not required to, enter into Memorandums of Understanding (MOU) documenting the information sharing obligations and procedures. MCPs and Waiver Agencies cannot delay the sharing of information based on the lack of an MOU. If a Contractor is unable to timely obtain beneficiary information from an MCP, the Contractor must promptly notify DHCS of that fact in writing, providing information regarding the efforts made by the Contractor to obtain the information from the MCP.
- I. Coordination with California Community Transitions
- 1) When a waiver applicant is receiving California Community Transition (CCT)

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- services, the contractor and the CCT Lead Organization are authorized to share beneficiary information because they are both DHCS contractors in DHCS administration of the Medi-Cal program, with Business Associate
- 2) Agreements, and they are sharing the information with each other as part of their contractual duties. (45 CFR sections 164.502(a)(1)(ii), 164.502(a)(3) and 164.506(c).)
 - 3) Contractor and CCT Lead Organization must work collaboratively and promptly exchange all relevant information regarding the beneficiary, their health care needs, services, and efforts to obtain non Medi-Cal related assistance.
 - 4) Contractor shall inform prospective applicants who are residing in an institutional setting of the CCT program, and the services offered through CCT. Contractor may utilize CCT for pre-transition services and transitional case management, home setup, environmental accessibility adaptations and rental assistance if the applicant voluntarily opts to enroll in the CCT program.
- J. Comprehensive Care Management Services for Private Duty Nursing Authorized for Medi-Cal Beneficiaries Under the Age of 21

Contractor shall provide Comprehensive Care Management Services to arrange private duty nursing services for Medi-Cal eligible waiver participants under the age of 21 as set forth in HCBA Policy Letter 20-001, a copy of which is located at: <https://www.dhcs.ca.gov/services/Documents/HCBA-PL-20-001.pdf>. In the event that HCBA Policy Letter 20-001 is updated by a superseding HCBA Policy Letter, Contractor shall follow the requirements of the superseding HCBA Policy Letter.

5. Ensure Waiver Participant Rights

A. Person-Centered Planning

- 1) The CMT shall ensure that the Waiver participant leads the person-centered planning process when possible; even when he or she has a legal representative. The CMT must ensure that the planning process is person-centered as follows:
 - a. The planning process includes people chosen by the participant.

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- b. The CMT provides necessary information and support to ensure that the participant directs the process to the maximum extent possible and is enabled to make informed choices and decisions.
- c. The planning process is timely and occurs at times and locations convenient to the participant.
- d. The planning process reflects cultural considerations of the participant and is conducted by providing information in plain language and in a manner that is accessible to individuals with disabilities and persons with limited English proficiency.
- e. The planning process includes strategies for solving conflict or disagreement within the process, including clear conflict-of-interest guidelines for all planning participants.
- f. The CMT offers informed choices to the participant regarding the services and supports he or she receives and from whom.
- g. The planning process includes a method for the participant to request updates to the POT as needed.
- h. Records the alternative home and community-based settings that were considered by the participant.

B. Freedom of Choice

- 1) The CMT shall be responsible for informing Waiver applicants and/or his or her legal representatives of their right to accept or decline Waiver enrollment and Waiver services during the initial evaluation for enrollment in the HCBA Waiver.
- 2) The CMT shall provide information to the applicant and/or his or her legal representative verbally and in writing with the use of the Informing Notice. The Informing Notice describes the roles and responsibilities of the participant or legally responsible adult, the Contractor, the CMT, Waiver providers, and the applicant's current primary care physician.
- 3) The CMT shall send out an Informing Notice to the participant or the legally responsible adult whenever there is a change in Waiver providers.
- 4) All participants must sign a Freedom of Choice document at the onset of

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Comprehensive Care Management

- Waiver enrollment before the services are authorized, and/or when the participant denies Waiver services or enrollment.
- 5) After the CMT conducts the initial evaluation for HCBA Waiver enrollment, it shall send the applicant and/or the legal representative the Informing Notice and the Freedom of Choice form.
 - 6) The Freedom of Choice is the applicant's signed acknowledgement that the CMT has described the services available under the Waiver, and that the CMT advises the applicant and/or legal representative of the participant's right to utilize the qualified Waiver service providers of his or her choice.
 - 7) The CMT shall ask the applicant to return the signed and dated Freedom of Choice form within five days of receipt. The CMT may not authorize Waiver services for the applicant until the signed Freedom of Choice is received by the Contractor and is submitted to DHCS as part of a complete application packet.
 - 8) If the signed Freedom of Choice is not received by the Contractor within 30 days of the date the Freedom of Choice was mailed to the applicant, enrollment in the HCBA Waiver will be considered "Declined" and the case will be closed.
 - 9) The CMT must include the signed Freedom of Choice form in the participant's case file.

C. Circle of Support

The CMT shall assist the participant in identifying and establishing a reliable circle of support to provide ongoing care and support to the participant in the community. Individuals included in a participant's circle of support are unpaid informal caregivers, and may include family members, legal representative, and any other individual named by the participant.

D. Backup Care Providers

- 1) The Contractor's CMT must develop a reliable backup plan for each Waiver participant to ensure the participant's health and safety are not put at risk in the event that an authorized Waiver service provider does not arrive at the scheduled time.

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- 2) The Contractor's CMT must ensure back up Waiver service providers are available to provide services in the event that an authorized Waiver service provider does not arrive at the scheduled time.
- 3) If a Waiver participant's health or safety is at risk because the Contractor is not able to provide a reliable backup system, the CMT must help the individual return to a facility, find an alternative community residence (e.g., a group-home), and/or dis-enroll from the Waiver.

E. Continuity of Care

- 1) The Contractor's CMTs must ensure there are no gaps in participants' care when an individual:
 - a. Transitions onto the Waiver,
 - b. Changes providers of authorized services identified in the POT, or
 - c. Discharges from a short-term institutionalization.
- 2) Some of the ways the CMT shall ensure continuity of care include but are not limited to: appropriate and timely referrals of participants needing specialty health care services, documentation of referral services in participant case records, monitoring participants' medical appointments, and documentation of participant emergency medical encounters.

F. Safe Home Environment

- 1) The CMT shall evaluate the safety and accessibility of the applicant's living environment and complete a home safety evaluation that it submits to DHCS with the initial Waiver application and service needs evaluation. The CMT must complete and submit to DHCS a new home safety evaluation if the participant changes his or her place of residence.
- 2) The home safety evaluation must demonstrate that the participant's home environment is safe and conducive to the successful implementation of a home and community-based services program and include the following:
 - a. Assurance that the area where the participant will be cared for can accommodate the use, maintenance, and cleaning of all medical devices and equipment. Assurance that there is sufficient storage for supplies

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necessary to safely and comfortably maintain the participant in the home and to facilitate the nursing care required;

- b. Assurance that primary and back-up utility, communication, and fire safety systems and devices are available, installed, and in working order, including grounded electrical outlets, smoke detectors, fire extinguisher, and telephone services;
 - c. Evidence that local emergency and rescue services and utility services have been notified that a person with special needs resides in the home;
 - d. Assurance that all medical equipment, supplies, primary and back-up systems, and other services and supports, are in place and available in working order, or have been ordered and will be in place at the time the participant is placed in the home;
 - e. Provide instruction to the participant to ensure they are knowledgeable about how to report and to whom to report abuse, neglect, or exploitation if incidents do occur;
 - f. Document any discussion and instruction regarding abuse, neglect or exploitation in the participant's case file;
 - g. Document that the back-up caregivers are knowledgeable of the care needs of the participant.
- G. DHCS Final Review and Approval of Waiver Enrollment
- 1) Within three business days the Contractor shall notify DHCS that a case file, with all necessary documentation supporting the service needs evaluation, is ready for DHCS review and final approval. No services may be authorized prior to DHCS final approval of an applicant's eligibility.
 - 2) The Case file must include, but is not limited, to the following:
 - a. Waiver Application
 - b. Completed health and psychosocial assessment
 - c. Completed service needs evaluation based on medical necessity
 - d. Home safety evaluation
 - e. Completed POT signed by current primary care physician and all Waiver

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providers

- f. Medical documentation supporting medical necessity for authorized services
- g. Participant Freedom of Choice signed by participant accepting Waiver services in lieu of facility placement
- h. Informing Notice for participant and primary care physician
- i. Current MOHS provided to the participant
- j. Disclosure Form signed by participant if the Contractor is the only provider of Waiver and Comprehensive Care Management services
- k. List of available providers in provider network provided to the participant
- l. Service Authorization requests submitted by HCBS service providers

H. Critical Incident Reporting

- 1) The CMT will act on, and document all reported or observed critical events or issues that may affect the health, safety, and/or welfare of the Waiver participant or their service/care providers, as they are discovered.
- 2) The CMT will use the Event/Issue Report form to document concerns or problems expressed by the participant, their legal representative, service/care providers, and/or circle of support to ensure timely investigation and resolution.
- 3) The CMT will update the Event/Issue Report form to document the resolution of the event/issue and shall keep it with the participant's case file.
- 4) The CMT shall include a description of the identified deficiencies/issues, the plan to address/resolve the deficiency/issues, and the resolution of the deficiency/issues within each Event/Issue Report.
- 5) The CMT must submit a copy of all Event/Issue Reports to DHCS within 48 hours.
- 6) The CMT must also report issues of abuse, neglect, or exploitation to the appropriate local or State agencies such as APS, CPS, local law enforcement, CDPH's L&C, and DHCS, when events or issues are identified that would have a negative impact on the health or safety of a participant.

Exhibit A, Attachment II
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I. Use of Restraints

If the CMT observes or learns that restraints are being used, the CMT must complete an Event/Issue Report form and submit it to the Contractor, who must then submit it to DHCS. The Event/Issue Report shall document the following, along with the description of the restraints:

- 1) Whether the use of restraints is ordered by the participant's current primary care physician.
- 2) If there is a plan for use and monitoring of restraints in the participant's POT, and is the plan being followed by caregivers and/or providers.

J. Other Complaints

- 1) The CMT must respond to verbal complaints verbally. A verbal complaint consists of any expression of dissatisfaction by a participant to the CMT. Verbal complaints are usually resolved within 72 hours. The CMT must document the verbal complaint and resolution in the participant's case file.
- 2) A written complaint is considered a formal complaint and consists of any written expression of dissatisfaction by the participant to the CMT. The CMT must submit the report to the Contractor within two business days for documentation and follow-up.

Exhibit B

Budget Detail and Payment Provisions

1. Invoicing and Payment

- A. For Home and Community- Based Alternatives (HCBA) Waiver services satisfactorily rendered to HCBA Waiver participants residing in the Contractor's service area, Department of Health Care Services (DHCS) will compensate the service providers in accordance with the HCBA Waiver as follows:
- 1) **Fee-For-Service Reimbursement for HCBA Waiver Services:** DHCS will pay for HCBA Waiver services (excluding Waiver Personal Care Services, Waiver Administrative services, and Comprehensive Care Management services, which will be paid separately) at the Medi-Cal provider rates published in the current California Medi-Cal Fee Schedule, which is located in the Medi-Cal Provider Manual and can be accessed at http://files.medi-cal.ca.gov/pubsdoco/Manuals_menu.aspx, as applicable.
 - a. Contractor shall authorize requests for services under the HCBA Waiver in accordance with the participant's Plan of Treatment (POT), medical necessity, and the terms of the Waiver.
 - b. To seek payment for Contractor-authorized HCBA Waiver services (other than Waiver Personal Care Services (WPCS), Waiver Administrative services, and Comprehensive Care Management services), the service provider must submit claims on the standardized Medi-Cal billing forms through the approved California Medicaid Management Information System (CA-MMIS), administered by the Medi- Cal fiscal intermediary (FI), using the Contractor's Medi-Cal number, and identifying the rendering provider and provider number, if applicable, on the submitted claim. If the Contractor is submitting the claims for waiver services on behalf of the service providers, then the Contractor is responsible for reimbursing the service provider at least the fee-for-service rate published in the current California Medi-Cal Fee Schedule, referenced above.
 - c. The service provider must only submit claims for HCBA Waiver services identified and described in the HCBA Waiver.
 - d. If the Contractor is billing the Medi-Cal FI for the direct Waiver services and reimbursing the direct service providers and qualified vendors, then the Contractor must ensure direct service providers are only paid for providing HCBA Waiver services that were pre-authorized by the Contractor's Care Management Team (CMT) (in accordance with the

Exhibit B**Budget Detail and Payment Provisions**

participant's POT, medical necessity, and the terms of the HCBA Waiver) and provided within the authorized period of time.

- e. If the Contractor is billing the Medi-Cal FI for the direct Waiver services and reimbursing the direct service providers, then the Contractor is responsible for ensuring that Waiver services are rendered to the Waiver participant prior to submitting an invoice for payment.
- 2) **Reimbursement for Waiver Personal Care Services:** Contractor's CMT determines the number of necessary WPCS hours, if necessary, based on medical necessity and the terms of the HCBA Waiver.
- a. When WPCS are included in a Waiver participant's authorized POT, the Contractor's CMT must ensure that the participant has been authorized to receive In-Home Supportive Services (IHSS) by contacting DHCS' IHSS/WPCS Unit to verify IHSS enrollment and to confirm the number of IHSS hours that have been authorized.
 - b. Once the CMT confirms that the Waiver participant is enrolled in IHSS, the CMT completes and submits a WPCS Authorization Letter for DHCS to review and enter the participant's authorized number of WPCS hours into the California Department of Social Services' (CDSS) Case Management Information and Payrolling System (CMIPS II).
 - c. DHCS will notify the Contractor when the authorized WPCS hours are entered into CMIPS II. Timesheets, and instructions on how to report the WPCS hours will be provided in the Electronic Timesheet Portal (ETS) to WPCS providers.
 - d. Waiver Agencies, or DHCS in areas of the state not covered by a Waiver Agency, will verify the following criteria are met prior to identifying legally responsible individuals as care providers in the POT:
 - i. Legally responsible individuals, including parents of minor children and spouses who meet Waiver Standards of Participation (SOP) and are enrolled as an IHSS provider of personal care and/or paramedical services, may receive payment to furnish WPCS and/or Paramedical Services under the Waiver when providing extraordinary care, and when all three of the following criteria are met:
 - (a) The legally-responsible adult quit a full-time job or can't get a full-time job because they must care for the disabled participant, AND

Exhibit B**Budget Detail and Payment Provisions**

- (b) No other suitable care provider is available (willing and able), AND
- (c) If services are not received, the participant will be at risk of out-of-home placement or inadequate care.

- 3) **Comprehensive Care Management Per Member Per Month (PMPM):** At the end of each month, DHCS will pay the Contractor a tiered PMPM amount for the provision of HCBA Waiver Comprehensive Care Management services to each participant based on monthly enrollment totals using MedCompass enrollment data and participants' authorized levels of acuity. The amount of the Comprehensive Care Management PMPMs are as follows:

Authorized Level of Acuity	Comprehensive Care Management PMPM
1	\$33.51
2	\$175.37
3	\$374.63
4	\$562.01

- 4) **Waiver Administration PMPM:** At the end of each month, DHCS will pay the Contractor a PMPM in the amount of \$186.56 for satisfactorily rendered HCBA Waiver Administration Services based on monthly enrollment totals using MedCompass enrollment data. As described in Exhibit A, Attachment I of this Contract, Waiver Agency administration functions include participant enrollment, service needs evaluations, and person-centered POT review and approval, waiver service authorization, utilization management, provider enrollment/network development, quality assurance activities, billing the DHCS FI, and provider claims adjudication.

2. Amounts Payable

A. The amounts payable under this Agreement shall not exceed:

- 1) \$466,502.64 for the budget period of 1/1/2024 through 6/30/2024.
- 2) \$1,070,122.32 for the budget period of 07/01/2024 through 6/30/2025.
- 3) \$1,252,945.27 for the budget period of 07/01/2025 through 6/30/2026.
- 4) \$1,435,768.49 for the budget period of 07/01/2026 through 6/30/2027.
- 5) \$786,442.97 for the budget period of 07/01/2027 through 12/31/2027.

Exhibit B**Budget Detail and Payment Provisions**

- B. Monthly payments shall be made for Administrative and Comprehensive Care Management services, up to the amount annually encumbered commensurate with the state fiscal year in which services are performed.
- C. Contractor must maintain records reflecting actual expenditures for each state fiscal year covered by the term of this Agreement.

3. Budget Contingency Clause

A. It is mutually agreed that if the Budget Act of the current year or any subsequent years covered under this Contract does not appropriate sufficient funds for the operation of the HCBA Waiver program, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Contract for the unfunded or underfunded time span. Further, should funding for any fiscal year of the HCBA Waiver be modified, reduced, or deleted by the Budget Act or by any action of the federal government, the State shall have the option to:

- 1) Cancel this Contract with no liability occurring to the State, or
- 2) Offer an amendment to Contractor to reflect the reduced or modified amount.

B. All payments and rate adjustments are subject to appropriations of Medi- Cal funds by the Legislature and may require Department of Finance approval. Further, all payments are subject to the availability of Federal congressional appropriation of funds.

If this Contract is cancelled or amended as a result of a change in or cancellation of state or federal funding, DHCS will issue guidance to the Contractor regarding the steps to be taken to safely transfer the care of the Home and Community-Based Services (HCBS) participants. Contractor agrees to cooperate with DHCS in performing the safe and timely transition of HCBS participants according to that guidance.

4. Accounting Requirements

Contractor shall establish accounting policies and procedures, maintain records and supply reports as specified in the HCBA Waiver and as requested by DHCS. Accounting policies and practices shall be in accordance with Generally Accepted Accounting Principles (GAAP), CMS federal accounting regulations, and the State Administrative Manual (SAM). The Contractor shall be responsible for establishing and maintaining additional accounting policies, processes, procedures, and records, as required to control and document its fiscal activities. These accounting

Exhibit B
Budget Detail and Payment Provisions

procedures shall remain the same for the entire Contract period, unless prior written approval of changes is received from the DHCS Contracting Officer.

A. Accounting Procedures Inclusions

The accounting procedures, policies, and records shall include, but not be limited to, the following:

- 1) Definitions of accounting relationships with other government Contracts, related business organizations, and subcontractors;
- 2) Procedures for personnel time reporting;
- 3) A cost accounting system in conformance with Title 48, Code of Federal Regulations, Part 31, which details costs by all contractual categories;
- 4) Allocation of expenses not totally dedicated to this Contract;
- 5) Accounting ledgers; and
- 6) Allocation (internal and external) methodologies for Cost Reimbursement.

B. Accounting Records Supplied to DHCS

Specific accounting records and practices shall be subject to federal and State acceptance. At DHCS Contracting Officer's request, the Contractor shall provide DHCS all fiscal records within the timeframe and in the manner requested by DHCS.

5. Supplemental Payment Clause

- A. Contractor may enter into agreements with Waiver service providers to pay a negotiated supplemental payment for providing authorized HCBA Waiver services to ensure all Waiver services are available to participants within the Contractor's service area. Supplemental payments are made in addition to, and do not replace, payments the service providers receive based on the Medi-Cal claiming process through the FI.

6. Expense Allowability / Fiscal Documentation

- A. Claims accepted and/or submitted for payment by DHCS shall not be deemed evidence of allowable contract costs.
- B. Contractor shall maintain for review and/or audit, and shall supply to DHCS upon request, adequate documentation of all claimed expenses, pursuant to this Contract, to permit a determination of allowable expenses.

Exhibit B**Budget Detail and Payment Provisions**

- C. If DHCS cannot determine whether an expense is allowable or appropriate because the claim detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles or practices, DHCS may disallow the expense and withhold payment for that expense. If the Contractor provides adequate documentation supporting a disallowed expense, DHCS may reimburse the amount substantiated and deemed allowable.
- D. DHCS may recover from the Contractor any costs and/or expenses paid by DHCS that are later determined to be unallowable.

7. Financial Accountability Review

Contractor must enroll as a Medi-Cal provider and obtain a Medi-Cal provider number. The terms of the Medi-Cal Provider Agreement, the Medi-Cal enrollment application, and all other Medi-Cal enrollment documents apply to the Contractor, in addition to the terms set forth in this Contract.

- A. All claims processed through the FI are subject to random post-adjudication, pre-payment verification for detection of errors, irregularities, and potential for waste, fraud, or abuse.

Contractor shall be subject to auditing activities conducted by DHCS and any other entity with authority to audit Medi-Cal claims. This includes, but is not limited to, DHCS accessing Medi-Cal claims data to obtain a random representative sample of all Direct Waiver Service claims, determining if the claims were correctly authorized and billed appropriately.

Based upon DHCS' findings and the Contractor's level of compliance, DHCS may, if appropriate, notify the Contractor that the Contractor is required to develop and implement a remediation plan within 30 days. DHCS will evaluate the effectiveness of the Contractor's remedial actions within 30 days of receipt of the Contractor's remediation plan and take any appropriate action for the deficiency at issue, including but not limited to termination of this Contract.

DHCS will re-evaluate the Contractor at the next scheduled Quality Assurance Review (QAR). For issues concerning fraud and/or abuse, DHCS refers the issue to its Audits and Investigation Division.

8. Recovery of Overpayments

- A. In addition to any recovery authorized or required by law or under the Provider Agreement, DHCS shall have the right to recover amounts paid to

Exhibit B**Budget Detail and Payment Provisions**

Contractor or Waiver service provider in the following circumstances:

- 1) DHCS determines that a participant has either been improperly enrolled, due to ineligibility of the participant to enroll in the Waiver, the participant resides outside of Contractor's service area, or the participant should have been disenrolled with an effective date in a prior month. DHCS may recover all PMPM payments made to Contractor, as well as any other payments made by DHCS to the Contractor during the period of ineligibility.
- 2) DHCS determines that an erroneous or improper payment has been made for some other reason, including but not limited to the claimed direct Waiver service not actually being provided to the participant, or the claimed direct Waiver service not being medically necessary for the participant.

B. Contractor agrees that Medi-Cal claims of a DHCS overpayment to the Contractor based upon a contractual agreement or an audit finding and/or an audit finding that is appealed and upheld, will be recovered by DHCS. The recovery options include, but are not limited to those set forth in Article 5.3, of Chapter 7, of Part 3, of Division 9, of the Welfare & Institutions Code, such as:

- 1) Contractor's payment to DHCS of the full amount of the audit exception within 30 days following DHCS' request for repayment;
- 2) A repayment schedule that is agreeable to both DHCS and the Contractor, which could include an offset from future PMPM payments or direct Waiver service claim payments. DHCS reserves the right to select the process for recovering the overpayment that will be employed, and the Contractor will be notified by DHCS in writing of the process to be utilized.

C. If the Contractor files a valid appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached. If the Contractor loses the final administrative appeal, the Contractor shall repay to DHCS the over-claimed or disallowed expenses, plus accrued interest and penalties as set forth in Welfare & Institutions Code section 14171.6.

9. Requirements for Payments of Retroactive Administrative PMPM and Comprehensive Care Management PMPM for Eligible Members

A. Contractor may submit to DHCS a request for payment of retroactive Waiver Administration and Comprehensive Care Management payments for HCBA Waiver participants that continued to receive services offered by the Contractor, but for whom PMPM payments were not made by DHCS due to the

Exhibit B**Budget Detail and Payment Provisions**

member's eligibility being placed on hold status.

- B. Requests for retroactive PMPM payments shall be made immediately upon clearance of the member's eligibility status or no later than 30 days after the member's eligibility status has been restored. Retroactive PMPM payments are subject to the discretion of DHCS, and will be made only if all of the following conditions have been met:
- 1) Contractor's request for retroactive PMPM payments provides adequate and sufficient verifiable documentation for each request, including all information requested by DHCS;
 - 2) Enrollment in the Waiver has been verified through the Medi-Cal Eligibility Data System (MEDS) for each month retroactive PMPM payments are being requested;
 - 3) During the period for which Contractor is requesting retroactive PMPM payments, the Contractor has continued to satisfactorily demonstrate that it reconciles and reports eligibility for all members on a monthly basis;
 - 4) The request for retroactive payments for participants with a previous unmet share of cost has been reconciled and submitted on a monthly basis; and
 - 5) Contractor is, in DHCS' determination, in substantial compliance with all contractual requirements at the time a request for retroactive payment is made.
- C. Retroactive payment requests shall be made within 30 days from the end of the month during which the member for whom retroactive payments are being requested has had their eligibility status removed from hold status. Under no circumstances will DHCS consider retroactive payment requests more than six months from the time the member's eligibility status has been restored.
- D. All decisions by DHCS with respect to approval or denial of a request for retroactive payments shall be final.
- E. Contractor may be required to submit documentation to DHCS, which may include, but is not limited to the following:
- 1) Medi-Cal Eligibility Verification from MedCompass that indicates Medi-Cal eligibility has been restored and/or Notice of Action issued from the County for the requested month(s) of retroactive reimbursement;

Exhibit B

Budget Detail and Payment Provisions

- 2) Letter from the County in which the member resides to verify the participant's residence and date of residency; and
 - 3) Monthly share of cost for the requested month(s) of retroactive payments, with the member's name and share of cost amount highlighted.
- F. For the purpose of processing retroactive requests, DHCS shall have available and shall provide to Contractor upon request, a form for the Contractor to use when submitting all required member information to DHCS to review in support of Contractor's request for retroactive reimbursement.
- G. DHCS may require the Contractor to perform a time study to support the PMPM payments.

Department of Health Care Services

23-30312
Exhibit D(F)

Exhibit D(F)
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.

Index of Special Terms and Conditions

1. Federal Equal Employment Opportunity Requirements	20. Debarment and Suspension Certification
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14. Confidentiality of Information	33. Contract Uniformity (Fringe Benefit Allowability)
15. Documents, Publications, and Written Reports	34. Suspension or Stop Work Notification
16. Dispute Resolution Process	35. Public Communications
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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.

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- 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 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 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 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,

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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

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- 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

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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.

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(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

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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.

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- (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.

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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.
- 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.

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- 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.

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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. (Government Code Section 8546.7, Public Contract Code (PCC) Sections 10115 et seq., Code of California Regulations Title 2, Section 1896.77.) The Contractor shall comply with the above and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC Section 10115.10.
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of six years for all records related to Disabled Veteran Business Enterprise (DVBE) participation (Military and Veterans Code 999.55), if this Agreement involves DVBE participation, and three years for all other contract records 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 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

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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.

- f. The Contractor shall, if applicable, comply with the Single Audit Act and the audit requirements set forth in 2 C.F.R. § 200.501 (2014).

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. Termination**a. For Cause**

The State may terminate this Agreement, in whole or in part, and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such

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termination, the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand. If this Agreement is terminated, in whole or in part, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials, related to the terminated portion of the Contract, including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The State shall pay contract price for completed deliverables delivered and accepted and items the State requires the Contractor to transfer as described in this paragraph above.

b. For Convenience

The State retains the option to terminate this Agreement, in whole or in part, without cause, at the State's convenience, without penalty, provided that written notice has been delivered to the Contractor at least ninety (90) calendar days prior to such termination date. In the event of termination, in whole or in part, under this paragraph, the State may require the Contractor to transfer title, or in the case of licensed software, license, and deliver to the State any completed deliverables, partially completed deliverables, and any other materials related to the terminated portion of the contract including but not limited to, computer programs, data files, user and operations manuals, system and program documentation, training programs related to the operation and maintenance of the system, and all information necessary for the reimbursement of any outstanding Medicaid claims. The Contractor will be entitled to compensation upon submission of an invoice and proper proof of claim for the services and products satisfactorily rendered, subject to all payment provisions of the Agreement. Payment is limited to expenses necessarily incurred pursuant to this Agreement up to the date of termination.

11. 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

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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

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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.

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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

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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

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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.

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12. 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 by law.

- a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 7606) section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations.
- 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 Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

13. 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.

14. 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.

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- 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.

15. 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.

16. 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

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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.

17. 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**

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- (3) ***If the Contractor is a State or Local Government entity or Nonprofit organization*** and expends \$750,000 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 2 C.F.R. 200.501 entitled "Audit Requirements". 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 a 2 C.F.R. 200.501 audit, the Contractor must also submit a certification indicating the Contractor has not expended \$750,000 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.

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- 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".

18. 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.

19. 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.

20. 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 2 CFR Part 180, 2 CFR Part 376

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- 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) violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, obstruction of justice, or the commission of any other offense indicating a lack of business integrity or business honesty that seriously affects its business honesty;
 - (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) Have not, within a three-year period preceding this application/proposal/agreement, engaged in any of the violations listed under 2 CFR Part 180, Subpart C as supplemented by 2 CFR Part 376.
 - (6) 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.
 - (7) 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 2 CFR Part 180 as supplemented by 2 CFR Part 376.
- 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.

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21. 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.

22. Drug Free Workplace Act of 1988

The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:

- a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.
- b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.

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- c. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
- d. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy that abuse of this drug will also not be tolerated in the workplace.
- e. Contractors of federal agencies are required to certify that they will provide drug-free workplaces for their employees.

23. 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.

24. 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.

25. 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.

26. 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.

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27. 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.

28. 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.

29. Use of Disabled Veteran's Business Enterprises (DVBE)

(Applicable to agreements over \$10,000 in which the Contractor committed to achieve DVBE participation. Not applicable to agreements and amendments specifically exempted from DVBE requirements by DHCS.)

- a. The State Legislature has declared that a fair portion of the total purchases and contracts or subcontracts for property and services for the State be placed with disabled veteran business enterprises.
- b. All DVBE participation attachments, however labeled, completed as a condition of bidding, contracting, or amending a subject agreement, are incorporated herein and made a part of this Agreement by this reference.
- c. Contractor agrees to use the proposed DVBEs, as identified in previously submitted DVBE participation attachments. Contractor understands and agrees to comply with the requirements set forth in Military and Veterans Code Section 999 et seq. in that should award of this contract be based on part on its commitment to use the DVBE subcontractor(s) identified in its bid or offer, per Military and Veterans Code section 999.5(g), a DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by both DHCS and the Department of General Services (DGS) prior to the commencement of any work by the proposed subcontractor. Changes to the scope of work that impact the DVBE subcontractor(s) identified in the bid or offer and approved DVBE substitutions will be documented by contract amendment.

Department of Health Care Services

- d. Requests for DVBE subcontractor substitution must include:
- (1) A written explanation of the reason for the DVBE substitution.
 - (2) A written description of the business enterprise that will be substituted, including its DVBE certification status.
 - (3) A written description of the work to be performed by the substituted DVBE subcontractor and an identification of the percentage share/dollar amount of the overall contract that the substituted subcontractor will perform.
- e. Failure of the Contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due to the State, and penalties as outlined in Military and Veterans Code § 999.9; Public Contract Code (PCC) §10115.10, or PCC §4110 (applies to public works only).
- f. Upon completion of this Contract, DHCS requires the Contractor to certify using the Prime Contractor's Certification – DVBE Subcontracting Report (STD 817), all of the following: .
- (1) The total amount the prime contractor received under the agreement;
 - (2) The name, address, Contract number and certification ID Number of the DVBE(s) that participated in the performance of this Contract;
 - (3) The amount and percentage of work the prime Contractor committed to provide to one or more DVBE(s) under the requirements of the Contract and the total payment each DVBE received from the prime Contractor;;
 - (4) That all payments under the Contract have been made to the DVBE(s); and
 - (5) The actual percentage of DVBE participation that was achieved. Upon request, the prime Contractor must provide proof of payment for the work.
- g. If for this Contract the Contractor made a commitment to achieve the DVBE participation goal, the Department will withhold \$10,000 from the final payment, or the full payment if less than \$10,000, until the Contractor complies with the certification requirements above. A Contractor that fails to comply with the certification requirement must, after written notice, be allowed to cure the defect. Notwithstanding any other law, if, after at least 15 calendar days but not more than 30 calendar days from the date of written notice, the prime Contractor refuses to comply with the certification requirements, DHCS will permanently deduct \$10,000 from the final payment, or the full payment if less than \$10,000. (Mil. & Vet. Code § 999.7.)
- h. A person or entity that knowingly provides false information will be subject to a civil penalty for each violation. (Mil. & Vet. Code § 999.5(d); Govt. Code § 14841.)

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- i. Contractor agrees to comply with the rules, regulations, ordinances, and statutes that apply to the DVBE program as defined in Section 999 of the Military & Veterans Code, including, but not limited to, the requirements of Section 999.5(d). (PCC§ 10230.)

30. 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.

- a. Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- b. 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.
- c. 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.
- d. 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.
- e. 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.

31. 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.)

32. 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:

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- 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.

33. 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

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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).

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(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.

34. 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.

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- 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.

35. Public Communications

“Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- a. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices.”

36. Compliance with Statutes and Regulations

- a. The Contractor shall comply with all California and federal law, regulations, and published guidelines, to the extent that these authorities contain requirements applicable to Contractor's performance under the Agreement.
- b. These authorities include, but are not limited to, Title 2, Code of Federal Regulations (CFR) Part 200, subpart F, Appendix II; Title 42 CFR Part 431, subpart F; Title 42 CFR Part 433, subpart D; Title 42 CFR Part 434; Title 45 CFR Part 75, subpart D; and Title 45 CFR Part 95, subpart F. To the extent applicable under federal law, this Agreement shall incorporate the contractual provisions in these federal regulations and they shall supersede any conflicting provisions in this Agreement.

37. 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

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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.

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23-30312
Exhibit D(F)

Attachment 1
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.

Name of Contractor	Printed Name of Person Signing for Contractor
Contract / Grant Number	Signature of Person Signing for Contractor
Date	Title

Department of Health Care Services

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

California Department of Health Care Services

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

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Attachment 2
CERTIFICATION REGARDING LOBBYING

Approved by OMB (0348-0046)

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

(See reverse for public burden disclosure)

1. Type of Federal Action:		2. Status of Federal Action:		3. Report Type:	
<input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance		<input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award		<input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ quarter _____ date of last report _____.	
4. Name and Address of Reporting Entity:			5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:		
<input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier ____, if known:					
Congressional District, If known:			Congressional District, If known:		
6. Federal Department/Agency			7. Federal Program Name/Description:		
			CDFA Number, if applicable: _____		
8. Federal Action Number, if known:			9. Award Amount, if known:		
10.a. Name and Address of Lobbying Registrant (If individual, last name, first name, MI):			b. Individuals Performing Services (including address if different from 10a. (Last name, First name, MI):		
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.					
Signature:					
Print Name:					
Title:					
Telephone Number:					
Date:					
Federal Use Only			Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)		

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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.

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Exhibit D(F)

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 E
Additional Provisions**1. Additional Incorporated Exhibits**

The following documents and any subsequent updates are not attached but are incorporated herein and made a part hereof by this reference. The Contractor is required to fully comply with the directives in each document incorporated by reference herein and each update thereto. These documents may be updated periodically by DHCS, as required by program directives, or changes in law or policy. Unless otherwise indicated, DHCS shall provide the Contractor with copies of the listed documents at the time, or before the Contract is presented to the Contractor for review, acceptance, and signature. Periodic updates to the below listed documents that are not electronically accessible via the Internet, an Extranet link or other mechanism will be presented to the Contractor under separate cover and acknowledgement of receipt will be required. DHCS will maintain on file, all documents referenced herein and any subsequent updates.

A. The California's State Medicaid Plan and Approved State Plan Amendments; available online at:

<http://www.dhcs.ca.gov/formsandpubs/laws/Pages/SPdocs.aspx>, and
<https://www.dhcs.ca.gov/formsandpubs/laws/Pages/ApprovedSPA.aspx>

B. The HCBA Waiver, available at:

[https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-\(HCB\)-Alternatives-Waiver.aspx](https://www.dhcs.ca.gov/services/ltc/Pages/Home-and-Community-Based-(HCB)-Alternatives-Waiver.aspx)

C. Policy and Guidance Letters issued by DHCS to Contractors; available online at:

<https://www.dhcs.ca.gov/services/ltc/Pages/HCBA-Policies.aspx>

D. The Medi-Cal Provider Manual, available online at:

http://files.medi-cal.ca.gov/pubsdoco/Manuals_menu.asp

E. The Medi-Cal Statewide Transition Plan, available online at:

<https://www.dhcs.ca.gov/services/ltc/Pages/HCBSStatewideTransitionPlan.aspx>.

Exhibit E
Additional Provisions

- F. The Medi-Cal Provider Application, available online at:
<https://www.dhcs.ca.gov/services/Pages/HCBSWaiver.aspx>
- G. Contractor's Solicitation for Application (SFA)

2. Term of the Contract

- A. The term of the Contract will be of no force or effect until it is approved by DHCS and signed by both parties. The Contract shall become effective January 1, 2024, and shall continue in full force and effect through December 31, 2027, with two optional extensions of one year each at the discretion of DHCS. The Contractor is advised not to commence performance until all approvals have been obtained. Should the Contractor commence performance before all approvals are obtained, services rendered prior to all approvals being obtained will be considered to have been volunteered by both the Contractor and any of its employees or subcontractors.
- B. The Contract term may change if the Department makes a selection earlier than expected or if the Department cannot execute the contract in a timely manner due to unforeseen delays. DHCS reserves the right to extend the term of the resulting contract via an amendment as necessary to complete or continue the services. Contract extensions are subject to satisfactory performance, funding availability, and approval by DHCS.

3. 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 the proposed changes/ amendments are accepted or rejected. If the changes or amendments are accepted, the agreed upon changes or amendments shall be made through DHCS's official contract amendment process, unless otherwise stipulated within this Contract. No amendment will be considered binding on either

Exhibit E
Additional Provisions

party until it is formally approved and signed by both parties.

4. Cancellation/Termination

- A. This Contract may be cancelled or terminated without cause by either party by giving advance written notice to the other party subject to the termination requirements set forth below. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements.
- B. Upon receipt of a notice of termination or cancellation from DHCS, Contractor shall take immediate steps to stop enrolling new HCBA Waiver participants and to cancel or reduce subsequent contract costs.
- C. 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.

5. Notice of Termination

- A. If state or federal Medicaid funding is reduced or deleted prior to the end date of this Contract, DHCS shall have the option to terminate this Contract.
- B. Termination without Cause
 - 1) DHCS may terminate performance of work under this Contract, in whole or in part, without cause if the Department determines that a termination is in the State's interest. DHCS shall terminate by delivering to the Contractor a *Notice of Termination* specifying the extent of termination and the effective date thereof. Such termination shall be effective 30 days from the delivery of the Notice of Termination unless DHCS determines that immediate termination is necessary to protect the health or safety of Medi-Cal members.
 - 2) After receipt of a *Notice of Termination*, and except as directed by DHCS, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting reimbursements. The Contractor shall:
 - a. Stop work as specified in the *Notice of Termination*;

Exhibit E
Additional Provisions

- b. Terminate all subcontracts to the extent they relate to the work terminated;
and
 - c. Submit a transition plan as specified in Provision 9, subparagraph F
of this Exhibit.
- C. Termination for Cause
- 1) DHCS may, by written Notice of Termination to the Contractor,
terminate this Contract, in whole or in part, as a consequence of any
of the following events:
 - a. In case of threat of life, health, or safety of the public (termination of
Contract shall be effective immediately);
 - b. A violation of the law or failure to comply with any condition of this
Contract;
 - c. Inadequate performance or failure to make progress so as to
endanger performance of this Contract;
 - d. Failure to comply with reporting requirements;
 - e. Evidence that the Contractor is in an unsatisfactory financial
condition as determined by DHCS or evidence of a financial
condition that endangers performance of this Contract;
 - f. Delinquency in payment of taxes or payment of costs for
performance of this Contract in the ordinary course of business;
 - g. Appointment of a trustee, receiver, or liquidator for all or a substantial
part of the Contractor's property, or institution of bankruptcy,
reorganization or the arrangement of liquidation proceedings by or
against the Contractor;
 - h. Service of any writ of attachment, levy of execution, or
commencement of garnishment proceedings against the
Contractor's assets or income;
 - i. The commission of an act of bankruptcy;
 - j. Finding of debarment or suspension; or
 - k. The Contractor's organizational structure has materially changed.

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Additional Provisions

- 2) Termination of this Contract shall take effect immediately in the case of a threat to life, health, or safety of the public; or in all other cases listed above, upon 30 days subsequent to written notice to the Contractor.
- 3) The *Notice of Termination* shall describe the action being taken, the date of termination, the reason for such action, and any conditions of the termination. The *Notice of Termination* shall also include the requirement to submit a transition plan, as identified in subparagraph F. of this Exhibit; and will inform the Contractor of any right to appeal such decision to DHCS and of the procedure for doing so.

D. Notice of Intent to Terminate by Contractor

The Contractor shall give DHCS written *Notice of Intent to Terminate* at least 180 days prior to the proposed effective date of termination. The notice shall include the reason for such action and the anticipated last day of work. Upon receipt of such notice, DHCS will work with the Contractor to develop a Transition Plan and terminate the Contract.

Without such notice, the Contractor does not have the authority to terminate the contract.

E. Contractor Obligations upon Notice of Termination

- 1) In the event of termination or anticipated termination of this Contract, in full or in part, the Contractor shall take immediate steps to ensure the health and welfare of Waiver participants served by the Contractor, until a new service provider(s) is/are able to assume responsibility to provide services to Waiver participants.
- 2) To maintain the continuity of services provided to Waiver participants in the event of termination or anticipated termination of this Contract, the Contractor shall:
 - a. Develop a written Transition Plan, with assistance from DHCS, to identify alternative services for each Waiver Participant;
 - b. Cooperate with any and all efforts to refer Waiver Participants to other service providers;
 - c. Provide DHCS, and anyone else designated by DHCS, with copies of

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Waiver Participants' files and other pertinent information necessary for the provision of efficient follow up, continuity of care and transition coordination services by another service provider, in either electronic form, paper form, or both as requested by DHCS, within five working days of the Notice of Termination; and

- d. Maintain sufficient staff to provide services during the course of transitioning Waiver participants to another service provider(s).

F. Transition Plan

- 1) The Contractor shall submit a *written transition plan* to DHCS within 15 days of delivery of the *Notice to Terminate* the Contract. The transition plan must be approved by DHCS and shall, at a minimum, include the following:
 - a. Current count of Waiver participants, their identifying information, and their current contact information;
 - b. Description of how Waiver participants will be notified about the change in their service provider(s);
 - c. Plan to communicate with other service providers and advocacy organizations that can assist in locating alternative services;
 - d. Plan to inform community referral sources of the pending termination of this Contract and what alternatives, if any, exist for future referrals;
 - e. Plan to transfer confidential Waiver participant files to a new Contractor, and/or DHCS;
 - f. Plan for sufficient staff to serve the Waiver participants during the course of transitioning them to another service provider(s); and
 - g. Additional information, as necessary, to ensure a safe transition of Waiver participants to another service provider(s).
- 2) The Contractor shall implement the Transition Plan as approved by DHCS. DHCS shall monitor the Contractor's progress in carrying out all elements of the Transition Plan.

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6. Subcontract Requirements

- A. This provision replaces and supersedes provision 5 of Exhibit D(F).
- B. The Contractor may elect to enter into subcontracts with other entities to fulfill the obligations of the contract, excluding the provision of Administrative services, as described in Exhibit A, Attachment I, and Comprehensive Care Management services, as described in Exhibit A, Attachment II, which must be provided by the Contractor. In doing so, the Contractor shall meet the subcontracting requirements outlined in this contract.
- C. Each Subcontract shall contain:
 - 1) Specification of the services to be provided by the Subcontractor.
 - 2) Specification that the subcontract shall be governed by and construed in accordance with all state and federal laws and applicable regulations governing this contract and the provision of services under the HCBA Waiver.
 - 3) Specification of the term of the subcontract, including the beginning and ending dates as well as methods of extension, renegotiation, and termination.
 - 4) Subcontractor's agreement to submit reports as required by the Contractor.
 - 5) Subcontractor's agreement to make all of its books and records pertaining to the goods and services furnished under the terms of the subcontract, available for inspection, examination, or copying:
 - a. By DHCS, the California Department of Justice (DOJ), the United States Department of Justice, the California Bureau of State Audits, the Center for Medicare and Medicaid Services (CMS), and anyone else acting on their behalf;
 - b. At all reasonable times at the subcontractor's place of business or at such other mutually agreeable location in California;
 - c. In a form maintained in accordance with the general standards applicable to such book or record keeping;
 - d. Comply with generally accepted accounting principles; and
 - e. For a term of at least three years from the close of DHCS' fiscal year in

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which the subcontract was in effect;

- 6) Full disclosure of the method and amount of compensation or other consideration to be received by the subcontractor from Contractor.
- 7) Subcontractor's agreement to hold harmless both the State and its members in the event the Contractor cannot or shall not pay for services performed by the Subcontractor pursuant to the Subcontract.
- 8) Subcontractor's agreement to allow DHCS to perform onsite inspections at any time with respect to the services and payment for Medi-Cal beneficiaries, and to provide DHCS with copies (hardcopy and/or electronic) of all records upon request.
- 9) Subcontractor's agreement to follow the statutes and regulations governing the Medi-Cal program.
- 10) Subcontractor's agreement to cooperate with the contractor in any transition plan following notice of termination of the waiver.

D. Public Records and Requests for Records

- 1) Subcontracts entered into by the Contractor and all information received in accordance with this subsection will be public records on file with DHCS, except as specifically exempted by statute or other legal authority. DHCS shall ensure the confidentiality of information and contractual provisions filed with DHCS to the extent they are specifically exempted by statute from disclosure, in accordance with the statutes providing the exemption.
- 2) If a Contractor or any of its subcontractors receive a request for public records or a subpoena for records related to the HCBA Waiver, including but not limited to information regarding enrollees, the Contractor or its subcontractor shall deliver the request or subpoena to DHCS so that it is received by DHCS no later than one business day after it is received by the Contractor or its subcontractor. The Contractor and its subcontractors must cooperate with DHCS in evaluating and preparing any response necessary to respond to the request or subpoena.

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7. Access to Records and Record Retention

- A. This provision replaces and supersedes provision 7 of Exhibit D(F).
- B. The Contractor and any subcontractors shall maintain electronic and/or paper books, records, documents, and other evidence of service performance, procedures, and practices sufficient to reflect all requirements related to performance of this contract. The foregoing constitutes “records” for the purpose of this provision.
- C. The Contractor and any subcontractor shall fulfill Waiver participants’, or their legal representatives’, requests for copies of the participants’ record(s) within 30 days of the request.
- D. The Contractor agrees that CMS, DHCS, the California Department of General Services, the California Bureau of State Audits, the United States Department of Justice, or their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this contract. The Contractor agrees to allow the auditor(s) access to review and copy 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 DHCS to audit records and interview staff concerning any subcontract related to performance of this Contract. (GC 8546.7, CCR Title 2, Section 1896).
- E. The Contractor shall make all administrative, general program, and fiscal records available to representatives of DHCS, State Controller’s Office, CMS, the United States Department of Justice, and other authorized state or federal representatives designated by federal CMS regulations/statutes, during normal business hours, for the purpose of inspecting, auditing, and/or photocopying such records. The Contractor is required to promptly transmit to DHCS, all requests for administrative, general program, and fiscal records, in either hard copy or electronic format.
- F. The Contractor shall comply with the above requirements and, by signing this Contract, is deemed to be aware of the penalties for violations of law such as fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.

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- G. Participant records are to be kept onsite at the Contractor's established place of business as long as the case is open and active. Following termination of this contract, participant records will be maintained onsite at the Contractor's established place of business for a period of three years following the year of case closure, or for a longer period if deemed necessary by DHCS. A longer period of retention may be established by the Contractor. After the authorized period has expired, confidential records shall be shredded and disposed of in a manner that will maintain confidentiality.
- H. The Contractor may, at its discretion, following the last day included within the term of this contract, reduce its accounts, books and records related to this contract to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor 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.

8. Avoidance of Conflicts of Interest by Contractor

- A. DHCS intends to avoid any real or apparent conflict of interest on the part of the Contractor, subcontractors, or employees, officers, or directors of the Contractor. Thus, DHCS reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest.
- B. DHCS' determination of a suspected or potential conflict of interest will be based on all the proposed contractor's business affiliations and contractual relationships.
- C. If a conflict of interest is determined to exist by DHCS and cannot be resolved to the satisfaction of DHCS, before or after the award or the contract, the conflict will be grounds for the proposal to be deemed nonresponsive and/or termination of the contract.
- D. A contract shall not be approved or renewed by the Department if any state officer or state employee, his or her spouse or child has a substantial financial interest in 1), 2) or 3) below. For the purposes of this subsection, state employee includes any Department employee in an analyst, auditor or medical

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personnel classification who has direct responsibility for the negotiation, development or management of a medical services or case management contract.

- 1) The contract or the contracting organization.
- 2) Any contract with the contracting organization.
- 3) Procurement of a contract for the contracting organization.

E. A contract shall not be approved or renewed if a state officer or state employee provides legal or management services to the contracting organization. A state officer or state employee shall not share in the income or any remuneration derived from the provision of legal or management services to a contracting organization.

F. A contract shall not be approved or renewed if any state officer or state employee receives anything of value for the purpose of influencing or attempting to influence the negotiations for approval or renewal of the contract.

G. Contractor shall not contract with any subcontractor if any of the following persons connected with Contractor have a substantial financial interest in the subcontractor:

- 1) Any person also having a substantial financial interest in the subcontractor.
- 2) Any director, officer, partner, trustee or employee of the subcontractor.
- 3) Any member of the immediate family of any person designated in 1) or 2).

9. Dispute Resolution

A. This provision replaces and supersedes provision 15 of Exhibit D(F).

B. A Contractor grievance exists whenever there is a dispute arising from DHCS' action in the administration of this Contract. If there is a dispute or grievance between the Contractor and DHCS, the Contractor must seek resolution using the procedure outlined below:

- 1) Filing a dispute will not preclude DHCS from recouping the value of the amount in dispute from the Contractor or from offsetting this amount from subsequent reimbursements until it is fully recouped.

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- 2) DHCS and Contractor agree to try to resolve all contractual issues by negotiation and mutual agreement at the State Program Contract Manager level without litigation. The parties recognize that the implementation of this policy depends on cooperation and the need for both sides to present adequate supporting information on matters in question.
- 3) Within 15 calendar days of the date of the dispute concerning performance of this Contract arises or otherwise becomes known to the Contractor, the Contractor will notify the State Program Contract Manager in writing of the dispute by submitting a Notification of Dispute, describing the conduct (including actions, inactions, and written or oral communications) which it is disputing. The Contractor's Notification of Dispute will state, on the basis of the most accurate information then available to the Contractor, the following:
 - a. That it is a dispute pursuant to this section;
 - b. The date, nature, and circumstances of the conduct which is subject of the dispute;
 - c. The names, phone numbers, function, and activity of each Contractor, subcontractor, DHCS/State official or employee involved in or knowledgeable about the dispute;
 - d. The identification of any documents and the substances of any oral communications involved in the dispute. Copies of all identified documents will be attached;
 - e. The reason the Contractor is disputing the conduct;
 - f. The cost impact to the Contractor directly attributable to the alleged disputed conduct, if any; and
 - g. The Contractor's desired remedy.
- C. The required documentation, including cost impact data, will be carefully prepared and submitted with substantiating documentation by the Contractor. This documentation will serve as the basis for any subsequent appeal.
- D. Following submission of the required notification and supporting documentation, the Contractor will diligently comply with the requirements of

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this contract, including matters identified in the Notification of Dispute.

E. Pursuant to a request by the Contractor, the State Program Contract Manager may provide for a dispute to be decided by an alternate dispute officer designated by DHCS, who is not the State Program Contract Manager and who is not directly involved with the Waiver program. Any disputes concerning performance of this Contract shall be decided by the State Program Contract Manager or the alternate dispute officer in a written decision stating the factual basis for the decision. Within 30 calendar days of receipt of a Notification of Dispute, the State Program Contract Manager or the alternate dispute officer, shall either:

- 1) Find in favor of Contractor, in which case the State Program Contract Manager or alternate dispute officer may:
 - a. Countermand the earlier conduct which caused Contractor to file a dispute; or
 - b. Reaffirm the conduct and direct DHCS to comply; or
- 2) Deny Contractor's dispute and, where necessary, direct the manner of future performance; or
- 3) Request additional substantiating documentation in the event the information in the Contractor's notification is inadequate to permit a decision to be made under 1) or 2) above, and shall advise the Contractor as to what additional information is required, and establish how that information shall be furnished. The Contractor shall have 30 calendar days to respond to the State Program Contract Manager's or alternate dispute officer's request for further information. Upon receipt of this additional, requested information, the State Program Contract Manager or alternate dispute officer shall have 30 calendar days to respond with a decision. Failure to supply additional information required by the State Program Contract Manager or alternate dispute officer within the time period specified above shall constitute a waiver by the Contractor of all claims.

F. A copy of the decision shall be served to the Contractor.

G. Appeal of State Program Contract Manager's or Alternate Dispute Officer's Decision

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- 1) Contractor shall have 30 calendar days following the receipt of the decision to file an appeal of the decision to the Director. All appeals shall be governed by Health and Safety Code Section 100171, except for those provisions of Section 100171(d)(1) relating to accusations, statements of issues, statement to respondent, and notice of defense. All appeals shall be in writing and shall be filed with DHCS' Office of Administrative Hearings and Appeals. An appeal shall be deemed filed on the date it is received by the Office of Administrative Hearings and Appeals. An appeal shall specifically set forth each issue in dispute, and include Contractor's contentions as to those issues. However, Contractor's appeal shall be limited to those issues raised in its Notification of Dispute filed pursuant to Paragraph A(3) above. Failure to timely appeal the decision shall constitute a waiver by the Contractor of all claims arising out of that conduct, the Contractor shall exhaust all procedures provided for in this Provision 9, Dispute Resolution, prior to initiating any other action to enforce this Contract.
- 2) Contractor's Duty to Perform; pending final determination of any dispute hereunder, the Contractor shall perform according to the terms of this Contract, and in accordance with the State Program Contract Manager's or alternate dispute officer's decision.
- 3) If pursuant to an appeal under Paragraph B. Appeal of State Program Contract Manager's or Alternate Dispute Officer's Decision above, the State Program Contract Manager's or alternate dispute officer's decision is reversed, the effect of the decision pursuant to Paragraph B. shall be retroactive to the date of the State Program Contract Manager's or alternate dispute officer's decision, and the Contractor shall promptly receive any benefits of such decision. DHCS shall not pay interest on any amounts paid pursuant to a State Program Contract Manager's or alternate dispute officer's decision or any appeal of such decision.

10. Insurance Requirements

- A. General Liability Insurance - Government Entities and Nonprofit Organizations must obtain Proof of Insurance that shall comply with the following insurance requirements:

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- 1) The Contractor must furnish to DHCS a certificate of insurance stating that commercial general liability insurance of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined is presently in effect for the Contractor. The commercial general liability insurance policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured agreement. The commercial general liability insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability.
 - 2) The certificate of insurance must identify the contract number for which the certificate of insurance applies and include the following provisions:
 - a. The insurer will not cancel the insured's coverage without giving 30 days prior written notice to DHCS, and
 - b. 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 of California under this contract.
- B. Automobile Liability Insurance - The Contractor shall maintain motor vehicle liability with limits of not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned motor vehicles being used to provide Waiver services, or to comply with requirements included under this contract.
- C. Appropriate Professional Liability Insurance - The Contractor shall maintain appropriate professional liability insurance of not less than \$1,000,000 as it appropriately relates to the services rendered under this contract. Coverage shall include errors and omissions.
- D. The Contractor agrees that the insurance required herein will remain in effect at all times during the term of the contract. In the event said insurance coverage expires or is terminated at any time or times during the term of this contract, the Contractor agrees to provide, at least 30 calendar days before said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract or for a

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period of not less than one year. DHCS may, in addition to any other remedies it may have, terminate this contract on the occurrence of such event.

- E. DHCS will not be responsible for any premiums, deductibles, or assessments on the insurance policy.

11. Contractor Notification of Financial Related Events to DHCS

- A. The contractor must notify DHCS in writing of any of the following events within five business days of their occurrence:

- 1) Delinquency in payment of taxes or payment of costs for performance of this Contract in the ordinary course of business;
- 2) Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor;
- 3) Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income;
- 4) The commission of an act of bankruptcy;
- 5) Finding of debarment or suspension; or
- 6) The Contractor's organizational structure has materially changed.

12. Federal Oversight Requirements

The Contractor and their subcontractors are considered contractors solely for the purposes of U.S. Office of Management and Budget Uniform Guidance (Title 2 of the Code of Federal Regulations, Part 200, and, specifically, 2 CFR 200.330). Consequently, as a contractor, as distinguished from sub-recipient, a Dun and Bradstreet Universal Numbering System (DUNS) number is not required.

13. Additional Reporting Requirements

When determined necessary by DHCS, and at DHCS' sole discretion, DHCS may require contractor to gather or obtain information and submit that information to DHCS in a form and at a frequency that DHCS directs. DHCS may require contractor to provide reports of non-incidents or non- occurrences of specified events, in addition to incidents or events that this agreement otherwise requires

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be reported in the Event/Issue Report or in another manner. Such reporting requirements may include, but are not limited to, periodic reporting of incidents and non-incidents of certain infections in the participant population, impacts or non-impacts of natural disasters or weather-related phenomena on the participant population, or other information.

Contractor's Release

Instructions to Contractor:**Final Invoice(s)**

Submit one original invoice signed by a person authorized to bind the Contractor. The original invoice may be submitted and signed electronically using an authorized electronic signature in accordance with California State Administrative Manual 1240. The only authorized form of electronic signature is a digital signature that meets requirements under California Government Code 16.5 and California Secretary of State Regulations for Digital Signatures.

Submission of Final Invoice

Pursuant to contract number 23-30312 entered into between the Department of Health Care Services (DHCS) and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via invoice number(s) _____, in the amount(s) of \$ _____ and dated _____.

If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

Release of all Obligations

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

Repayments Due to Audit Exceptions / Record Retention

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a minimum of 0% unless otherwise specified in writing of post-consumer material, as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether it meets the requirements of Public Contract Code Section 12209. Contractor specifies that printer or duplication cartridges offered or sold to the State comply with the requirements of Section 12156(e).

Reminder to Return State Equipment/Property (If Applicable)

(Applies only if equipment was provided by DHCS or purchased with or reimbursed by contract funds)

Unless DHCS has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another DHCS agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to DHCS, at DHCS' expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

Patents / Other Issues

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

ONLY SIGN AND DATE THIS DOCUMENT WHEN ATTACHING IT TO THE FINAL INVOICE

Contractor's Legal Name (as on contract): County of Sonoma

Signature of Contractor or Official Designee: _____

Printed Name/Title of Person Signing: _____

Date: _____

Distribution: Accounting (Original) Program

Business Associate Addendum

1. This Agreement has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act (HIPAA) and its implementing privacy and security regulations at 45 Code of Federal Regulations, Parts 160 and 164 (collectively, and as used in this Agreement)
2. The term "Agreement" as used in this document refers to and includes both this Business Associate Addendum and the contract to which this Business Associate Agreement is attached as an exhibit, if any.
3. For purposes of this Agreement, the term "Business Associate" shall have the same meaning as set forth in 45 CFR section 160.103.
4. The Department of Health Care Services (DHCS) intends that Business Associate may create, receive, maintain, transmit or aggregate certain information pursuant to the terms of this Agreement, some of which information may constitute Protected Health Information (PHI) and/or confidential information protected by Federal and/or state laws.
 - 4.1. As used in this Agreement and unless otherwise stated, the term "PHI" refers to and includes both "PHI" as defined at 45 CFR section 160.103 and Personal Information (PI) as defined in the Information Practices Act (IPA) at California Civil Code section 1798.3(a). PHI includes information in any form, including paper, oral, and electronic.
 - 4.2. As used in this Agreement, the term "confidential information" refers to information not otherwise defined as PHI in Section 4.1 of this Agreement, but to which state and/or federal privacy and/or security protections apply.
5. Contractor (however named elsewhere in this Agreement) is the Business Associate of DHCS acting on DHCS's behalf and provides services or arranges, performs or assists in the performance of functions or activities on behalf of DHCS, and may create, receive, maintain, transmit, aggregate, use or disclose PHI (collectively, "use or disclose PHI") in order to fulfill Business Associate's obligations under this Agreement. DHCS and Business Associate are each a party to this Agreement and are collectively referred to as the "parties."
6. The terms used in this Agreement, but not otherwise defined, shall have the same meanings as those terms in HIPAA and/or the IPA. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

7. Permitted Uses and Disclosures of PHI by Business Associate

Except as otherwise indicated in this Agreement, Business Associate may use or disclose PHI, inclusive of de-identified data derived from such PHI, only to perform functions, activities or services specified in this Agreement on behalf of DHCS, provided that such use or disclosure would not violate HIPAA or other applicable laws if done by DHCS.

7.1. Specific Use and Disclosure Provisions.

Except as otherwise indicated in this Agreement, Business Associate may use and disclose PHI if necessary for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. Business Associate may disclose PHI for this purpose if the disclosure is required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person. The person shall notify the Business Associate of any instances of which the person is aware that the confidentiality of the information has been breached, unless such person is a treatment provider not acting as a business associate of Business Associate.

8. Compliance with Other Applicable Law

8.1. To the extent that other state and/or federal laws provide additional, stricter and/or more protective (collectively, more protective) privacy and/or security protections to PHI or other confidential information covered under this Agreement beyond those provided through HIPAA, Business Associate agrees:

8.1.1. To comply with the more protective of the privacy and security standards set forth in applicable state or federal laws to the extent such standards provide a greater degree of protection and security than HIPAA or are otherwise more favorable to the individuals whose information is concerned; and

8.1.2. To treat any violation of such additional and/or more protective standards as a breach or security incident, as appropriate, pursuant to Section 18. of this Agreement.

8.2. Examples of laws that provide additional and/or stricter privacy protections to certain types of PHI and/or confidential information, as defined in Section 4. of this Agreement, include, but are not limited to the Information Practices Act, California Civil Code sections 1798-1798.78, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, Welfare and Institutions Code section 5328, and California Health and Safety Code section 11845.5.

- 8.3.** If Business Associate is a Qualified Service Organization (QSO) as defined in 42 CFR section 2.11, Business Associate agrees to be bound by and comply with subdivisions (2)(i) and (2)(ii) under the definition of QSO in 42 CFR section 2.11.

9. Additional Responsibilities of Business Associate

9.1. Nondisclosure

- 9.1.1.** Business Associate shall not use or disclose PHI or other confidential information other than as permitted or required by this Agreement or as required by law.

9.2. Safeguards and Security

- 9.2.1.** Business Associate shall use safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI and other confidential data and comply, where applicable, with subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the information other than as provided for by this Agreement. Such safeguards shall be based on applicable Federal Information Processing Standards (FIPS) Publication 199 protection levels.
- 9.2.2.** Business Associate shall, at a minimum, utilize a National Institute of Standards and Technology Special Publication (NIST SP) 800-53 compliant security framework when selecting and implementing its security controls and shall maintain continuous compliance with NIST SP 800-53 as it may be updated from time to time. The current version of NIST SP 800-53, Revision 5¹, is available online; updates will be available online through the Computer Security Resource Center website².
- 9.2.3.** Business Associate shall employ FIPS 140-3 validated encryption of PHI at rest and in motion unless Business Associate determines it is not reasonable and appropriate to do so based upon a risk assessment, and equivalent alternative measures are in place and documented as such. FIPS 140-3 validation can be determined online through the Cryptographic Module Validation Program³. In addition, Business Associate shall maintain, at a minimum, the most current industry standards for transmission and storage of PHI and other confidential information.

¹ <https://csrc.nist.gov/publications/detail/sp/800-53/rev-5/final>

² <https://csrc.nist.gov/publications/sp800>

³ <https://csrc.nist.gov/projects/cryptographic-module-validation-program/validated-modules/search>

- 9.2.4.** Business Associate shall apply security patches and upgrades, and keep virus software up-to-date, on all systems on which PHI and other confidential information may be used.
- 9.2.5.** Business Associate shall ensure that all members of its workforce with access to PHI and/or other confidential information sign a confidentiality statement prior to access to such data. The statement must be renewed annually.
- 9.2.6.** Business Associate shall identify the security official who is responsible for the development and implementation of the policies and procedures required by 45 CFR Part 164, Subpart C.

9.3. Business Associate's Agent

Business Associate shall ensure that any agents, subcontractors, subawardees, vendors or others (collectively, "agents") that use or disclose PHI and/or confidential information on behalf of Business Associate agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI and/or confidential information.

10. Mitigation of Harmful Effects

Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI and other confidential information in violation of the requirements of this Agreement.

11. Access to PHI

Business Associate shall make PHI available in accordance with 45 CFR section 164.524.

12. Amendment of PHI

Business Associate shall make PHI available for amendment and incorporate any amendments to protected health information in accordance with 45 CFR section 164.526.

13. Accounting for Disclosures

Business Associate shall make available the information required to provide an accounting of disclosures in accordance with 45 CFR section 164.528.

14. Compliance with DHCS Obligations

To the extent Business Associate is to carry out an obligation of DHCS under 45 CFR Part 164, Subpart E, comply with the requirements of the subpart that apply to DHCS in the performance of such obligation.

15. Access to Practices, Books and Records

Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI on behalf of DHCS available to DHCS upon reasonable request, and to the federal Secretary of Health and Human Services for purposes of determining DHCS' compliance with 45 CFR Part 164, Subpart E.

16. Return or Destroy PHI on Termination; Survival

At termination of this Agreement, if feasible, Business Associate shall return or destroy all PHI and other confidential information received from, or created or received by Business Associate on behalf of, DHCS that Business Associate still maintains in any form and retain no copies of such information. If return or destruction is not feasible, Business Associate shall notify DHCS of the conditions that make the return or destruction infeasible, and DHCS and Business Associate shall determine the terms and conditions under which Business Associate may retain the PHI. If such return or destruction is not feasible, Business Associate shall extend the protections of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

17. Special Provision for SSA Data

If Business Associate receives data from or on behalf of DHCS that was verified by or provided by the Social Security Administration (SSA data) and is subject to an agreement between DHCS and SSA, Business Associate shall provide, upon request by DHCS, a list of all employees and agents and employees who have access to such data, including employees and agents of its agents, to DHCS.

18. Breaches and Security Incidents

Business Associate shall implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and take the following steps:

18.1. Notice to DHCS

- 18.1.1.** Business Associate shall notify DHCS immediately upon the discovery of a suspected breach or security incident that involves SSA data. This notification shall be provided via the DHCS Incident Reporting Portal upon discovery of the breach. If Business Associate is unable to provide notification via the DHCS Incident Reporting Portal, then Business Associate shall provide notice by email or telephone to DHCS.

- 18.1.2.** Business Associate shall notify DHCS within 24 hours via the online DHCS Incident Reporting Portal (or by email or telephone if Business Associate is unable to use the DHCS Incident Reporting Portal) of the discovery of the following, unless attributable to a treatment provider that is not acting as a business associate of Business Associate:
- 18.1.2.1.** Unsecured PHI if the PHI is reasonably believed to have been accessed or acquired by an unauthorized person;
 - 18.1.2.2.** Any suspected security incident which risks unauthorized access to PHI and/or other confidential information;
 - 18.1.2.3.** Any intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement; or
 - 18.1.2.4.** Potential loss of confidential information affecting this Agreement.
- 18.1.3.** Notice submitted to the DHCS Incident Reporting Portal will be sent to the DHCS Program Contract Manager (as applicable), the DHCS Privacy Office, and the DHCS Information Security Office. If providing notice to DHCS via email, use the DHCS contact information at Section 18.6 below (collectively, "DHCS Contacts").

Notice shall be made using the DHCS Incident Reporting Portal via the link on the [DHCS Data Privacy Website](#)⁴ online.

Notice via email shall be made using the current DHCS "[Privacy Incident Reporting Form](#)"⁵ and shall include all information known at the time the incident is reported. The form is available online.

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI, Business Associate shall take:

- 18.1.3.1.** Prompt action to mitigate any risks or damages involved with the security incident or breach; and
- 18.1.3.2.** Any action pertaining to such unauthorized disclosure required by applicable Federal and State law.

⁴ <https://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/default.aspx>

⁵ <https://www.dhcs.ca.gov/formsandpubs/laws/priv/Documents/Privacy-Incident-Report-PIR.pdf>

18.2. Investigation

Business Associate shall immediately investigate such security incident or breach.

18.3. Complete Report

Business Associate shall provide a complete report of the investigation to DHCS within ten (10) working days of the discovery of the security incident or breach. This complete report must include any applicable additional information not included in the initial submission. The complete report shall include an assessment of all known factors relevant to a determination of whether a breach occurred under HIPAA and other applicable federal and state laws. The report shall also include a full, detailed corrective action plan, including its implementation date and information on mitigation measures taken to halt and/or contain the improper use or disclosure. If DHCS requests additional information, Business Associate shall make reasonable efforts to provide DHCS with such information. DHCS will review and approve or disapprove Business Associate's determination of whether a breach occurred, whether the security incident or breach is reportable to the appropriate entities, if individual notifications are required, and Business Associate's corrective action plan.

18.3.1. If Business Associate does not submit a complete report within the ten (10) working day timeframe, Business Associate shall request approval from DHCS within the ten (10) working day timeframe of a new submission timeframe for the complete report.

18.4. Notification of Individuals

If the cause of a breach is attributable to Business Associate or its agents, other than when attributable to a treatment provider that is not acting as a business associate of Business Associate, Business Associate shall notify individuals accordingly and shall pay all costs of such notifications, as well as all costs associated with the breach. The notifications shall comply with applicable federal and state law. DHCS shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made.

18.5. Responsibility for Reporting of Breaches to Entities Other than DHCS

If the cause of a breach of PHI is attributable to Business Associate or its agents, other than when attributable to a treatment provider that is not acting as a business associate of Business Associate, Business Associate is responsible for all required reporting of the breach as required by applicable federal and state law.

18.6. DHCS Contact Information

To contact the above referenced DHCS staff, the Contractor shall initiate contact as indicated here. DHCS reserves the right to make changes to the contact information below by giving written notice to Business Associate. These changes shall not require an amendment to this Agreement.

18.6.1. DHCS Program Contract Manager

See the Scope of Work exhibit for Program Contract Manager information. If this Business Associate Agreement is not attached as an exhibit to a contract, contact the DHCS signatory to this Agreement.

18.6.2. DHCS Privacy Office

Privacy Office
c/o: Data Privacy Unit
Department of Health Care Services
P.O. Box 997413, MS 4722
Sacramento, CA 95899-7413

Email: incidents@dhcs.ca.gov

Telephone: (916) 445-4646

18.6.3. DHCS Information Security Office

Information Security Office
Department of Health Care Services
P.O. Box 997413, MS 6400
Sacramento, CA 95899-7413

Email: incidents@dhcs.ca.gov

19. Responsibility of DHCS

DHCS agrees to not request the Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA and/or other applicable federal and/or state law.

20. Audits, Inspection and Enforcement

20.1. From time to time, DHCS may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement. Business Associate shall promptly remedy any violation of this Agreement and shall certify the same to the DHCS Privacy Officer in writing. Whether or how DHCS exercises this provision shall not in any respect relieve Business Associate of its responsibility to comply with this Agreement.

20.2. If Business Associate is the subject of an audit, compliance review, investigation or any proceeding that is related to the performance of its obligations pursuant to this Agreement, or is the subject of any judicial or administrative proceeding alleging a violation of HIPAA, Business Associate shall promptly notify DHCS unless it is legally prohibited from doing so.

21. Termination

21.1. Termination for Cause

Upon DHCS' knowledge of a violation of this Agreement by Business Associate, DHCS may in its discretion:

21.1.1. Provide an opportunity for Business Associate to cure the violation and terminate this Agreement if Business Associate does not do so within the time specified by DHCS; or

21.1.2. Terminate this Agreement if Business Associate has violated a material term of this Agreement.

21.2. Judicial or Administrative Proceedings

DHCS may terminate this Agreement if Business Associate is found to have violated HIPAA, or stipulates or consents to any such conclusion, in any judicial or administrative proceeding.

22. Miscellaneous Provisions

22.1. Disclaimer

DHCS makes no warranty or representation that compliance by Business Associate with this Agreement will satisfy Business Associate's business needs or compliance obligations. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI and other confidential information.

22.2. Amendment

Any provision of this Agreement which is in conflict with current or future applicable Federal or State laws is hereby amended to conform to the provisions of those laws. Such amendment of this Agreement shall be effective on the effective date of the laws necessitating it, and shall be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties.

22.2.1. Failure by Business Associate to take necessary actions required by amendments to this Agreement under Section 22.2.1 shall constitute a material violation of this Agreement.

22.3. Assistance in Litigation or Administrative Proceedings

Business Associate shall make itself and its employees and agents available to DHCS at no cost to DHCS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHCS, its directors, officers and/or employees based upon claimed violation of HIPAA, which involve inactions or actions by the Business Associate.

22.4. No Third-Party Beneficiaries

Nothing in this Agreement is intended to or shall confer, upon any third person any rights or remedies whatsoever.

22.5. Interpretation

The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and other applicable laws.

22.6. 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.

STATE OF CALIFORNIA

CALIFORNIA CIVIL RIGHTS LAWS ATTACHMENT

DGS OLS 04 (Rev. 01/17)

DEPARTMENT OF GENERAL SERVICES

OFFICE OF LEGAL SERVICES

Pursuant to Public Contract Code section 2010, a person that submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a state agency with respect to any contract in the amount of \$100,000 or above shall certify, under penalty of perjury, at the time the bid or proposal is submitted or the contract is renewed, all of the following:

1. **CALIFORNIA CIVIL RIGHTS LAWS**: For contracts executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and
2. **EMPLOYER DISCRIMINATORY POLICIES**: For contracts executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Proposer/Bidder Firm Name (Printed)	Federal ID Number
County of Sonoma	94-6000539
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Angela Struckmann	Director of Human Services
Executed in the County of	Executed in the State of
Date Executed	

Contractor Certification Clauses

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)		Federal ID Number
County of Sonoma		94-6000539
By (Authorized Signature)		
Printed Name and Title of Person Signing		
Angela Struckmann		Director of Human Services
Date Executed	Executed in the County of	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,

2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably

required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and

Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

Certificate Of Completion

Envelope Id: 16057ED3A5CA416C8F5D4C337279A26F	Status: Sent
Subject: Complete with DocuSign: 23-30312 County of Sonoma - External Packet.pdf	
Source Envelope:	
Document Pages: 149	Signatures: 0
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Itzel Medina
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	1501 Capitol Ave
	Sacramento, CA 95814-5005
	Itzel.Medina@dhcs.ca.gov
	IP Address: 130.41.51.165

Record Tracking

Status: Original	Holder: Itzel Medina	Location: DocuSign
1/3/2024 4:41:05 PM	Itzel.Medina@dhcs.ca.gov	
Security Appliance Status: Connected	Pool: FedRamp	
Storage Appliance Status: Connected	Pool: Department of Health Care Services (CA DHCS)	Location: DocuSign

Signer Events

Signature	Timestamp
Angela Struckmann astruckmann@schsd.org Director of Human Services Security Level: Email, Account Authentication (None)	Sent: 1/3/2024 4:59:32 PM Viewed: 1/4/2024 7:28:27 AM
Electronic Record and Signature Disclosure: Accepted: 12/6/2021 10:59:56 AM ID: 4e622f31-b582-4f3d-a3a1-51e9b43b220c	

Robert Strom
Robert.Strom@dhcs.ca.gov
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Christina Soares
Christina.Soares@dhcs.ca.gov
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Lillian Wong
Lillian.Wong@dhcs.ca.gov
Security Level: Email, Account Authentication (None)

Carbon Copy Events	Status	Timestamp
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Manpreet Singh
Manpreet.Singh@dhcs.ca.gov
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Sara Avery
savery@schsd.org
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Accepted: 12/20/2022 2:25:39 PM
ID: fca3e672-d453-4c1b-a04e-8d71e3444c71

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	1/3/2024 4:59:32 PM
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Department of Health Care Services (CA DHCS) (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Department of Health Care Services (CA DHCS):

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: Russ.Rogers@dhcs.ca.gov

To advise Department of Health Care Services (CA DHCS) of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at Russ.Rogers@dhcs.ca.gov and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from Department of Health Care Services (CA DHCS)

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to Russ.Rogers@dhcs.ca.gov and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Department of Health Care Services (CA DHCS)

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to Russ.Rogers@dhcs.ca.gov and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none">• Allow per session cookies

- | |
|---|
| <ul style="list-style-type: none">• Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection |
|---|

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Department of Health Care Services (CA DHCS) as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Department of Health Care Services (CA DHCS) during the course of my relationship with you.