STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213_DHCS (Rev. 06/16)

BOS Approved 05-08-18
M.O. #14

REGISTRATION NUMBER	AGREEMENT NUMBER
	17-94063

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

STATE AGENCY'S NAME (Also known as DHCS, CDHS, DHS or the State)
Department of Health Care Services

CONTRACTOR'S NAME (Also referred to as Contractor)
County of Imperial

2. The term of this Agreement is: June 18, 2018
through June 30, 2020

3. The maximum amount of this Agreement is: $ 13,950,029
Thirteen Million, Nine Hundred Fifty Thousand, Twenty-Nine Dollars

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

Exhibit A – Scope of Work	4 pages
Exhibit A, Attachment I – Program Specifications	161 pages
Exhibit B – Budget Detail and Payment Provisions	13 page
Exhibit B, Attachment I – Funding Amounts	1 page
Exhibit C * – General Terms and Conditions	GTC 04/2017
Exhibit D(F) – Special Terms and Conditions	24 pages
Exhibit E – Additional Provisions	4 pages
Exhibit F – Privacy and Information Security Provisions	28 pages
Exhibit F, Attachment I – Social Security Administration Agreement	101 pages

Items shown above with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. *These documents can be viewed at* http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME *(if other than an individual, state whether a corporation, partnership, etc.)*
County of Imperial

Original Signed By: DATE SIGNED *(Do not type)* 05/08/18

Raymond Castillo, Chairman, County of Imperial

ADDRESS
940 W. Main, Suite 209
El Centro, CA 92243

STATE OF CALIFORNIA

AGENCY NAME
Department of Health Care Services

Original Signed By: Carrie Talbot DATE SIGNED *(Do not type)* 5/18/18

PRINTED NAME AND TITLE OF PERSON SIGNING
~~Don Rodriguez~~, Chief, Contract Management Unit

ADDRESS
1501 Capitol Avenue, Suite 71.2048, MS 1400, P.O. Box 997413,
Sacramento, CA 95899-7413

California Department of General Services Use Only

[X] Exempt per: DGS memo dated 07/10/96 and Welfare and Institutions Code 14087.4

Exhibit A
Scope of Work

1. Service Overview

Contractor agrees to provide to the California Department of Health Care Services (DHCS) the services described herein.

The term "contract" or "agreement" shall also mean, "Intergovernmental Agreement."

This Intergovernmental Agreement (hereinafter referred to as Agreement) is entered into by and between DHCS and the Contractor for the purpose of identifying and providing covered Drug Medi-Cal Organized Delivery System (DMC-ODS) services for substance use disorder (SUD) treatment in the Contractor's service area pursuant to Sections 11848.5(a) and (b) of the Health and Safety Code (hereinafter referred to as HSC), Sections 14021.51–14021.53 and 14124.20–14124.25 of the Welfare and Institutions Code (hereinafter referred to as W&I Code), Part 438 of the Code of Federal Regulations (hereinafter referred to as 42 CFR 438), and the Special Terms and Conditions (STCs) of the DMC-ODS waiver.

It is further agreed this Agreement is controlled by applicable provisions of: (a) the W&I Code, Chapter 7, Sections 14000, et seq., in particular, but not limited to, Sections 14100.2, 14021, 14021.5, 14021.6, 14043, et seq. and (b) Division 4 of Title 9 of the California Code of Regulations (hereinafter referred to as Title 9).

It is understood and agreed that nothing contained in this Agreement shall be construed to impair the single state agency authority of DHCS.

The objective of this Agreement is to make SUD treatment services available to Medi-Cal beneficiaries through utilization of federal and state funds available pursuant to Title XIX or Title XXI of the Social Security Act (hereinafter referred to as the Act) for reimbursable covered services rendered by certified DMC providers.

2. Service Location

The services shall be performed at applicable facilities in the County of Imperial.

3. Service Hours

The services shall be provided during the working hours and days as defined by the Contractor.

4. Project Representatives

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

Department of Health Care Services	**County of Imperial**
Contract/Grant Manager: Robert Strom Telephone: (916) 327-2696 Fax: (916) 322-1176 Email: Robert.Strom@dhcs.ca.gov	Andrea Kuhlen, MPA, Director Telephone: (442) 265-1602 Fax: (442) 265-1637

Exhibit A
Scope of Work

B. Direct all inquiries to:

Department of Health Care Services	**County of Imperial**
Department of Health Care Services SUD PPFD - PSGMB Attention: Bianca Vega Mail Station Code 2624 P.O. Box 997413 Sacramento, CA, 95899-7777 Telephone: (916) 327-3304 Fax: (916) 323-1176 Email: Bianca.Vega@dhcs.ca.gov	Imperial Behavioral Health Care Services Attention: Andrea Kuhlen, MPA, Director 202 N. 8th Street El Centro, CA 92243 Telephone: (442) 265-1602 Fax: (442) 265-1637

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 Intergovernmental 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 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. See Exhibit A, Attachment I, for a detailed description of the services to be performed.

7. Reference Documents

The following documents are hereby incorporated by reference into the DMC-ODS Waiver contract though they may not be physically attached to the contract but will be issued in a CD under separate cover:

Document 1F(a): Reporting Requirement Matrix – County Submission Requirements for the Department of Health Care Services

Document 1J: Attachment Y of the DMC-ODS Special Terms and Conditions

Document 1K: Drug and Alcohol Treatment Access Report (DATAR)

http://www.dhcs.ca.gov/provgovpart/Pages/DATAR.aspx

Exhibit A
Scope of Work

Document 1P: Alcohol and/or Other Drug Program Certification Standards (March 15, 2004)

http://www.dhcs.ca.gov/provgovpart/Pages/Facility_Certification.aspx

Document 1V: Youth Treatment Guidelines

http://www.dhcs.ca.gov/individuals/Documents/Youth_Treatment_Guidelines.pdf

Document 2A: Sobky v. Smoley, Judgment, Signed February 1, 1995

Document 2G Drug Medi-Cal Billing Manual

http://www.dhcs.ca.gov/formsandpubs/Documents/DMC_Billing_Manual_2017-Final.pdf

Document 2L(a): Good Cause Certification (6065A)

Document 2L(b): Good Cause Certification (6065B)

Document 2P: County Certification - Cost Report Year-End Claim For Reimbursement

Document 2P(a): DMC-ODS Cost Report Excel Workbook

Document 3G: California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 4 – Narcotic Treatment Programs

http://www.calregs.com

Document 3H: California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 8 – Certification of Alcohol and Other Drug Counselors

http://www.calregs.com

Document 3J: CalOMS Treatment Data Collection Guide

http://www.dhcs.ca.gov/provgovpart/Documents/CalOMS_Tx_Data_Collection_Guide_JAN%202014.pdf

Document 3S CalOMS Treatment Data Compliance Standards

Document 3V Culturally and Linguistically Appropriate Services (CLAS) National Standards

https://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=15

Exhibit A
Scope of Work

Document 4D : Drug Medi-Cal Certification for Federal Reimbursement (DHCS 100224A)

Document 4F : Drug Medi-Cal (DMC) MC # 5312 Services Quarterly Claim for Reimbursement of County Administrative Expenses

Document 5A : Confidentiality Agreement

Exhibit A, Attachment I
Program Specifications

I. Preamble

A. This Intergovernmental Agreement (hereinafter referred to as Agreement) is entered into by and between the Department of Health Care Services (hereinafter referred to as DHCS, The Department, or the state) and the Contractor for the purpose of identifying and providing covered Drug Medi-Cal Organized Delivery System (DMC-ODS) services for substance use disorder (SUD) treatment in the Contractor's service area pursuant to Sections 11848.5(a) and (b) of the Health and Safety Code (hereinafter referred to as HSC), Sections 14021.51–14021.53 and 14124.20–14124.25 of the Welfare and Institutions Code (hereinafter referred to as W&I Code), Part 438 of the Code of Federal Regulations (hereinafter referred to as 42 CFR 438), and the Special Terms and Conditions (STCs) of the DMC-ODS waiver.

B. It is further agreed this Agreement is controlled by applicable provisions of: (a) the W&I Code, Chapter 7, Sections 14000, et seq., in particular, but not limited to, Sections 14100.2, 14021, 14021.5, 14021.6, 14043, et seq. and (b) Division 4 of Title 9 of the California Code of Regulations (hereinafter referred to as Title 9).

C. It is understood and agreed that nothing contained in this Agreement shall be construed to impair the single state agency authority of DHCS.

D. The objective of this Agreement is to make SUD treatment services available to Medi-Cal beneficiaries through utilization of federal and state funds available pursuant to Title XIX or Title XXI of the Social Security Act (hereinafter referred to as the Act) for reimbursable covered services rendered by certified DMC providers.

E. These services shall be provided though a Prepaid Inpatient Hospital Plan (PIHP) as defined in 42 CFR §438.2.

F. This Agreement requires the Contractor to ensure the availability and accessibility of adequate numbers of facilities, service locations, service sites, and professional, allied and supportive personnel to provide medically necessary services, and ensure the authorization of services for urgent conditions. The DMC-ODS provides for automatic mandatory enrollment of all Medi-Cal beneficiaries in the single PIHP operating in the county in which the beneficiary resides. PIHPs in a very small county or in any one geographic area may have a limited number of providers for a particular service. If additional providers are not needed to meet general access requirements, the Contractor is not obligated to subcontract with additional providers to provide more choices for an individual beneficiary.

Exhibit A, Attachment I
Program Specifications

II. Federal Requirements

A. Waived and Inapplicable Federal Requirements

1. The Contractor is operating as a PIHP. Accordingly, the following provisions of 42 CFR §438 are not applicable to this Intergovernmental Agreement: 42 CFR §438.3(s)(t) – Standard Contract Requirements; 42 CFR §438.4 – Actuarial Soundness; 48 CFR §438.5 – Rate Development Standards; 438 CFR §438.6 – Special Contract Provisions Related to Payment; 42 CFR §438.7 – CMS Review and Approval of the Rate Certifications; 42 C.F.R. §438.8 - Medical loss ratio (MLR) standards; 42 C.F.R. §438.9 - Provisions that apply to non-emergency medical transportation PAHPs; 42 CFR 438.10(g)(2)(ii)(A) and (B) – Information Requirements; 42 CFR §438.50 – State Plan Requirements; 42 CFR §438.54(c) – Voluntary Managed Care Enrollment; 42 CFR §438.71(b)(1)(i&iii)(c)(d) – Beneficiary Support System; 42 CFR §438.74 – State Oversight of Minimum MLR Requirements; 42 CFR §438.104 - Marketing Activities; 42 CFR §438.110 - Member Advisory Committee; 42 CFR §438.114 – Emergency and Poststabilization Services; 42 CFR §438.116 – Solvency Standards; 42 CFR §438.206(b)(2) – Women's Health Services (No women's health services are provided through the DMC-ODS Waiver); 42 CFR §438.208(c)(1) – Identification of Individuals with Special Health Care Needs; 42 CFR §§438.700-730 – Sanctions; 42 CFR §438.802 – Basic Requirements; 42 CFR §438.808 – Exclusion of Entities; 42 CFR §438.810 – Expenditures for Enrollment Broker Services; 42 CFR §431.51(b)(2) and §441.202 (No family planning services, including abortion procedures, are provided through the DMC-ODS Waiver); and 42 CFR §§455.100-104 – Disclosure Requirements.
2. Under this DMC-ODS, free choice of providers is restricted. That is, beneficiaries enrolled in this program shall receive DMC-ODS services through the Contractor, operating as a PIHP. Based on this service delivery model, the Department has requested, and Centers for Medicare & Medicaid Services (CMS) has granted approval to waive the following 42 CFR §438 provisions for this Agreement: 42 CFR §438.10(f)(3) – Notice Requirements; 42 CFR §438.52 - Choice of MCOs, PIHPs, PAHPs, PCCMs, and

PCCM Entities;; 42 CFR §438.56 – Disenrollment: Requirements and Limitations.

B. General Provisions

1. Standard Contract Requirements (42 CFR §438.3).

i. CMS shall review and approve this Agreement.

ii. Enrollment discrimination prohibited.

a. The Contractor shall accept individuals eligible for enrollment in the order in which they apply without restriction (unless authorized by CMS), up to the limits set under this Agreement.

b. Enrollment is mandatory.

c. The Contractor shall not, based on health status or need for health care services, discriminate against individuals eligible to enroll.

d. The Contractor shall not discriminate against individuals eligible to enroll based on race, color, national origin, sex, sexual orientation, gender identity, or disability and will not use any policy or practice that has the effect of discriminating on the basis of race, color, or national origin, sex, sexual orientation gender identity, or disability.

iii. Services that may be covered by the Contractor.

a. The Contractor may cover, for beneficiaries, services that are in addition to those covered under the State Plan as follows:

i. Any services that the Contractor voluntarily agrees to provide.

iv. Compliance with applicable laws and conflict of interest safeguards.

a. The Contractor shall comply with all applicable Federal and state laws and regulations including:

i. Title VI of the Civil Rights Act of 1964.

ii. Title IX of the Education Amendments of 1972 (regarding education programs and activities).

iii. The Age Discrimination Act of 1975; the Rehabilitation Act of 1973.

iv. The Americans with Disabilities Act of 1990 as amended.

v. Section 1557 of the Patient Protection and Affordable Care Act.

b. The Contractor shall comply with the conflict of interest safeguards described in 42 CFR §438.58 and with the prohibitions described in section 1902(a)(4)(C) of the Act applicable to contracting officers, employees, or independent Contractors.

c. Provider-preventable condition requirements:

i. The Contractor shall comply with the requirements mandating provider identification of provider-preventable conditions as a condition of payment, as well as the prohibition against payment for provider-preventable conditions. The Contractor shall report all identified provider-preventable conditions to the Department.

ii. The Contractor shall not make payments to a provider for provider-preventable conditions that meet the following criteria:

1. Is identified in the state plan;
2. Has been found by the state, based upon a review of medical literature by qualified professionals, to be reasonably preventable through the application of procedures supported by evidence-based guidelines;
3. Has a negative consequence for the beneficiary; and
4. Is auditable.

iii. The Contractor shall use and submit the report using the DHCS Drug Medi-Cal Organized Delivery System Provider Preventable Conditions (PPC) Reporting Form at the time of discovery of any provider preventable conditions that are covered under this provision to:

Department of Health Care Services
SUD – Program, Policy, and Fiscal Division

Performance Management Branch
PO Box 997413, MS-2621
Sacramento, CA 95899-7413

Or by secure, encrypted email to:
ODSSubmissions@dhcs.ca.gov

v. Inspection and audit of records and access to facilities.
   a. The Department, CMS, the Office of the Inspector General, the Comptroller General, and their designees may, at any time, inspect and audit any records or documents of the Contractor, or its subcontractors, and may, at any time, inspect the premises, physical facilities, and equipment where Medicaid-related activities are conducted. The right to audit under this section exists for 10 years from the final date of the Agreement period or from the date of completion of any audit, whichever is later.

vi. Subcontracts.
   a. All subcontracts shall fulfill the requirements the service or activity delegated under the subcontract in accordance with 42 CFR §438.230.
   b. The Contractor shall require that subcontractors not bill beneficiaries for covered services under a contractual, referral, or other arrangement with the Contractor in excess of the amount that would be owed by the individual if the Contractor had directly provided the services. (42 U.S.C. 1396u–2(b)(6)(C))

vii. Choice of network provider.
   a. The Contractor shall allow each beneficiary to choose his or her network provider to the extent possible and appropriate.

viii. Audited financial reports.
   a. The Contractor shall submit audited financial reports specific to this Agreement on an annual basis. The audit shall be conducted in accordance with generally accepted accounting principles and generally accepted auditing standards.

ix. Recordkeeping requirements.

a. The Contractor shall retain, and require subcontractors to retain, as applicable, the following information: beneficiary grievance and appeal records in 42 CFR §438.416, and the data, information, and documentation specified in 42 CFR §§438.604, 438.606, 438.608, and 438.610 for a period of no less than 10 years.

2. Information Requirements (42 CFR §438.10).

i. Basic Rules

a. The Contractor shall provide all required information in this section to beneficiaries and potential beneficiaries in a manner and format that may be easily understood and is readily accessible by such beneficiaries and potential beneficiaries.

b. The Department shall operate a website that provides the content, either directly or by linking to the Contractor's website.

ii. For consistency in the information provided to beneficiaries, the Contractor shall use:

a. The Department developed definitions for managed care terminology, including appeal, emergency medical condition, emergency services, excluded services, grievance, health insurance, hospitalization, medically necessary, network, non-participating provider, physician services, plan, preauthorization, participating provider, prescription drugs, primary care physician, primary care provider, provider, rehabilitation services, and urgent care.

b. The Department developed model beneficiary handbooks and beneficiary notices.

iii. The Contractor shall provide the required information in this section to each beneficiary.

iv. Beneficiary information required in this section may not be provided electronically by the Contractor unless all of the following are met:

a. The format is readily accessible;

b. The information is placed in a location on the Department or the Contractor's website that is prominent and readily accessible;
c. The information is provided in an electronic form which can be electronically retained and printed;
d. The information is consistent with the content and language requirements of this section; and
e. The beneficiary is informed that the information is available in paper form without charge upon request and provides it upon request within five business days.

v. The Contractor shall have in place mechanisms to help beneficiaries and potential beneficiaries understand the requirements and benefits of the plan.

vi. Language and format
   a. The Department shall use the methodology below for identifying the prevalent non–English languages spoken by beneficiaries and potential beneficiaries throughout the state, and in the Contractor's service area;
      i. A population group of mandatory Medi-Cal beneficiaries residing in the service area who indicate their primary language as other than English, and that meet a numeric threshold of 3,000 or five-percent (5%) of the beneficiary population, whichever is lower; *and*
      ii. A population group of mandatory Medi-Cal beneficiaries residing in the Contractor's service area who indicate their primary language as other than English and who meet the concentration standards of 1,000 in a single ZIP code or 1,500 in two contiguous ZIP codes.

vii. The Department shall make oral interpretation available in all languages and written translation available in each prevalent non–English language. All written materials for potential beneficiaries shall include taglines in the prevalent non–English languages in the state, as well as large print,

explaining the availability of written translations or oral interpretation to understand the information. Large print means printed in a font size no smaller than 18 point.

viii. The Contractor shall make its written materials that are critical to obtaining services, including, at a minimum, provider directories, beneficiary handbooks, appeal and grievance notices, and denial and termination notices, available in the prevalent non–English languages in its particular service area. Written materials shall also be made available in alternative formats upon request of the potential beneficiary or beneficiary at no cost. Auxiliary aids and services shall also be made available upon request of the potential beneficiary or beneficiary at no cost. Written materials shall include taglines in the prevalent non–English languages in the state, as well as large print, explaining the availability of written translation or oral interpretation to understand the information provided and the toll-free and TTY/TDY telephone number of the Contractor's member/customer service unit. Large print means printed in a font size no smaller than 18 point.

ix. The Contractor shall make interpretation services available free of charge to each beneficiary. This includes oral interpretation and the use of auxiliary aids such as TTY/TDY and American Sign Language. Oral interpretation requirements apply to all non–English languages, not just those that the Department identifies as prevalent.

x. The Contractor shall notify its beneficiaries:
    a. That oral interpretation is available for any language and written translation is available in prevalent languages;
    b. That auxiliary aids and services are available upon request and at no cost for beneficiaries with disabilities; and
    c. How to access services.

xi. The Contractor shall provide, all written materials for potential beneficiaries and beneficiaries consistent with the following:
    a. Use easily understood language and format.

b. Use a font size no smaller than 12 point.
c. Be available in alternative formats and through the provision of auxiliary aids and services in an appropriate manner that takes into consideration the special needs of beneficiaries or potential beneficiaries with disabilities or limited English proficiency.
d. Include a large print tagline and information on how to request auxiliary aids and services, including the provision of the materials in alternative formats. Large print means printed in a font size no smaller than 18 point.

xii. Information for potential beneficiaries.
a. The Contractor shall provide the information specified in this section to each potential beneficiary, either in paper or in electronic format, at the time that the potential beneficiary is first required to enroll in the Contractor's program.
b. The information for potential beneficiaries shall include, at a minimum, all of the following:
i. The basic features of managed care.
ii. Which populations are subject to mandatory enrollment and the length of the enrollment period.
iii. The service area covered by the Contractor.
iv. Covered benefits including:
1. Which benefits are provided by the Contractor.
2. Which, if any, benefits are provided directly by the Department.
v. For a counseling or referral service that the Contractor does not cover because of moral or religious objections, the Department shall provide information about where and how to obtain the service.
vi. The provider directory and formulary information.

vii. Any cost sharing that will be imposed by the Contractor consistent with those set forth in the State Plan.
viii. The requirements for each Contractor to provide adequate access to covered services, including the network adequacy standards established in 42 CFR §438.68.
ix. The Contractor's entities responsible for coordination of beneficiary care.
x. To the extent available, quality and performance indicators for the Contractor, including beneficiary satisfaction.

xiii. Information for all beneficiaries of the Contractor.
a. The Contractor shall make a good faith effort to give written notice of termination of a contracted provider, within 15 calendar days after receipt or issuance of the termination notice, to each beneficiary who received his or her primary care from, or was seen on a regular basis by, the terminated provider.

xiv. Beneficiary handbook.
a. The Contractor shall utilize, and require its subcontracted providers to utilize, the state developed model beneficiary handbook.
b. The Contractor shall provide each beneficiary a beneficiary handbook, within a reasonable time after receiving notice of the beneficiary's enrollment, which serves as the summary of benefits and coverage described in 45 CFR § 147.200(a).
c. The content of the beneficiary handbook shall include information that enables the beneficiary to understand how to effectively use the managed care program. This information shall include at a minimum:
i. Benefits provided by the Contractor, including Early Periodic Screening, Diagnostic and Treatment (EPSDT) benefits.
ii. How and where to access any benefits, including EPSDT benefits, provided by the

state, including any cost sharing, and how transportation is provided.

1. In the case of a counseling or referral service that a subcontracted provider does not cover because of moral or religious objections, the Contractor shall inform the beneficiaries that the service is not covered.
2. The Contractor shall inform beneficiaries how they can access the services that are not covered by the subcontracted provider because of moral or religious objections.

iii. The amount, duration, and scope of benefits available under the Agreement in sufficient detail to ensure that beneficiaries understand the benefits to which they are entitled.

iv. Procedures for obtaining benefits, including any requirements for service authorizations and/or referrals for specialty care and for other benefits not furnished by the Contractor or a subcontracted provider.

v. The extent to which, and how, after-hours care is provided.

vi. Any restrictions on the beneficiary's freedom of choice among network providers.

vii. The extent to which, and how, beneficiaries may obtain benefits from out-of-network providers.

viii. Cost sharing, if any, is imposed under the State Plan.

ix. Beneficiary rights and responsibilities, including:

1. The beneficiary's right to receive beneficiary and plan information; and
2. The elements specified in 42 CFR §438.100, and outlined in Article II. ,D. ,1 of this Agreement.

x. Grievance, appeal, and fair hearing procedures and timeframes, consistent with Article II.G of this Agreement, in a state-developed or state-approved description. Such information shall include:
    1. The right to file grievances and appeals;
    2. The requirements and timeframes for filing a grievance or appeal;
    3. The availability of assistance in the filing process;
    4. The right to request a state fair hearing after the Contractor has made a determination on a beneficiary's appeal which is adverse to the beneficiary;
    5. The fact that, when requested by the beneficiary, benefits that the Contractor seeks to reduce or terminate will continue if the beneficiary files an appeal or a request for state fair hearing within the timeframes specified for filing, and that the beneficiary may, consistent with state policy, be required to pay the cost of services furnished while the appeal or state fair hearing is pending if the final decision is adverse to the beneficiary;

xi. How to access auxiliary aids and services, including additional information in alternative formats or languages;

xii. The toll-free telephone number for member services, medical management, and any other unit providing services directly to beneficiaries; and

xiii. Information on how to report suspected fraud or abuse.

d. The beneficiary handbook will be considered to be provided if the Contractor:

i. Mails a printed copy of the information to the beneficiary's mailing address;
ii. Provides the information by email after obtaining the beneficiary's agreement to receive the information by email;
iii. Posts the information on the Contractor's website and advises the beneficiary in paper or electronic form that the information is available on the Internet and includes the applicable Internet address, provided that beneficiaries with disabilities who cannot access this information online are provided auxiliary aids and services upon request at no cost; or
iv. Provides the information by any other method that can reasonably be expected to result in the beneficiary receiving that information.

e. The Contractor shall give each beneficiary notice of any significant change in the information specified above, at least 30 days before the intended effective date of the change.

xv. Provider Directory.

a. The Contractor shall make available in electronic form and, upon request, in paper form, the following information about its network providers:
i. The provider's name as well as any group affiliation;
ii. Street address(es);
iii. Telephone number(s);
iv. Website URL, as appropriate;
v. Specialty, as appropriate;
vi. Whether the provider will accept new beneficiaries;
vii. The provider's cultural and linguistic capabilities, including languages (including American Sign Language) offered by the provider or a skilled medical interpreter at the provider's office, and whether the provider has completed cultural competence training; and

viii. Whether the provider's office/facility has accommodations for people with physical disabilities, including offices, exam room(s) and equipment.

b. The Contractor shall include the following provider types covered under this Agreement in the provider directory:
   i. Physicians, including specialists
   ii. Hospitals
   iii. Pharmacies
   iv. Behavioral health providers

c. Information included in a paper provider directory shall be updated at least monthly and electronic provider directories shall be updated no later than 30 calendar days after the Contractor receives updated provider information.

d. Provider directories shall be made available on the Contractor's website in a machine-readable file and format as specified by the Secretary of Health and Human Services.

xvi. Formulary.

a. The Contractor shall make available in electronic or paper form, the following information about its formulary:
   i. Which medications are covered (both generic and name brand); and
   ii. What tier each medication resides.

b. Formulary drug lists shall be made available on the Contractor's website in a machine-readable file and format as specified by the Secretary.

3. Provider Discrimination Prohibited (42 CFR § 438.12).

i. The Contractor shall not discriminate in the participation, reimbursement, or indemnification of any provider who is acting within the scope of his or her license or certification under applicable state law, solely on the basis of that license or certification. If the Contractor declines to include individual or groups of providers in its provider network, it shall give the

affected providers written notice of the reason for its decision.

ii. In all contracts with network providers, the Contractor shall comply with the requirements specified in 42 CFR §438.214.

iii. This section may not be construed to:

a. Require the Contractor to subcontract with providers beyond the number necessary to meet the needs of its beneficiaries;

b. Preclude the Contractor from using different reimbursement amounts for different specialties or for different practitioners in the same specialty; or

c. Preclude the Contractor from establishing measures that are designed to maintain quality of services and control costs and are consistent with its responsibilities to beneficiaries.

4. Requirements that Apply to Indians, Indian Health Care Providers (IHCPs), and Indian Managed Care Entities (IMCEs) (42 CFR §438.14).

i. The Contractor shall demonstrate that there are sufficient IHCPs participating in the Contractor's provider network to ensure timely access to services available under the contract from such providers for Indian beneficiaries who are eligible to receive services.

ii. The Contractor shall require that IHCPs, whether participating or not, be paid for covered services provided to Indian beneficiaries who are eligible to receive services from such providers as follows:

a. At a rate negotiated between the Contractor and the IHCP, or

b. In the absence of a negotiated rate, at a rate not less than the level and amount of payment that Contractor would make for the services to a participating provider which is not an IHCP; and

c. Make payment to all IHCPs in its network in a timely manner as required for payments to practitioners in individual or group practices under 42 CFR 447.45 and 447.46.

iii. The Contractor shall permit Indian beneficiaries to obtain services covered under the contract between the State and the Contractor from out-of-network IHCPs from whom the beneficiary is otherwise eligible to receive such services.

iv. In a state where timely access to covered services cannot be ensured due to few or no IHCPs, an MCO, PIHP, PAHP and PCCM entity will be considered to have demonstrated that there are sufficient IHCPs participating in the Contractor's provider network to ensure timely access to services if—

   a. Indian beneficiaries are permitted by the Contractor to access out-of-state IHCPs; or
   b. The Contractor has a provider network, shall permit an out-of-network IHCP to refer an Indian beneficiary to a network provider.

v. Payment requirements.

   a. When an IHCP is enrolled in Medicaid as a FQHC but not a participating provider of the Contractor, it shall be paid an amount equal to the amount the Contractor would pay a FQHC that is a network provider but is not an IHCP, including any supplemental payment from the Department to make up the difference between the amount the Contractor pays and what the IHCP FQHC would have received under FFS.
   b. When an IHCP is not enrolled in Medicaid as a FQHC, regardless of whether it participates in the network of the Contractor or not, it has the right to receive its applicable encounter rate published annually in the Federal Register by the Indian Health Service, or in the absence of a published encounter rate, the amount it would receive if the services were provided under the State plan's FFS payment methodology.
   c. When the amount an IHCP receives the Contractor is less than the amount required by paragraph (v)(b) above, the Department shall make a supplemental payment to the IHCP to make up the difference between the amounts the Contractor entity pays and

the amount the IHCP would have received under FFS or the applicable encounter rate.

C. State Responsibilities

1. **Conflict of Interest Safeguards (42 CFR §438.58).**
   i. The Department shall have in effect safeguards against conflict of interest on the part of Department and local officers and employees and agents of the Department who have responsibilities relating to this Agreement. These safeguards shall be at least as effective as the safeguards specified in section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).
2. **Prohibition of Additional Payments (42 CFR §438.60).**
   i. The Department shall ensure that no payment is made to a network provider other than by the Contractor for services covered under this Agreement, except when these payments are specifically required to be made by the Department in Title XIX of the Act, in 42 CFR chapter IV.
3. **Continued Services to Beneficiaries (42 CFR §438.62).**
   i. The Department shall arrange for Medicaid services to be provided without delay to any Medicaid beneficiary of the Contractor if this Agreement is terminated.
   ii. The Department shall have in effect a transition of care policy to ensure continued access to services during a transition from fee-for-service (FFS) to the Contractor or transition from one Contractor to another when a beneficiary, in the absence of continued services, would suffer serious detriment to their health or be at risk of hospitalization or institutionalization.
   iii. The Contractor shall implement a transition of care policy consistent with the requirements of the Department's transition of care policy.
   iv. The Department shall make its transition of care policy publicly available and provide instructions on how beneficiaries and potential beneficiaries access continued services upon transition. At a minimum, the Contractor shall provide the transition of care policy to beneficiaries and potential beneficiaries in the beneficiary handbook and notices.

4. **State Monitoring Requirements (42 CFR §438.66).**
   i. The Department shall have in effect a monitoring system for the Contractor.
   ii. The Department's monitoring system is outlined in Article III.DD of this Agreement.
   iii. The Department shall use data collected from its monitoring activities to improve the performance of the Contractor. That data shall include, at minimum:
      a. Beneficiary grievance and appeal logs;
      b. Provider complaint and appeal logs;
      c. Findings from the State's External Quality Review process;
      d. Results from any beneficiary or provider satisfaction survey conducted by the State or the Contractor;
      e. Performance on required quality measures;
      f. Medical management committee reports and minutes;
      g. The annual quality improvement plan for the Contractor; and
      h. Customer service performance data submitted by the Contractor and performance data submitted by the beneficiary support system.
5. **Network Adequacy Standards (42 CFR §438.68).**
   i. Beginning on July 1, 2018, the Contractor shall comply with the Department's network adequacy standards.
   ii. The Department's network adequacy standards are as follows:
      a. NETWORK ADEQUACY TO BE ADDED HERE ONCE DEVELOPED
   iii. The Department shall monitor beneficiary access to that provider type on an ongoing basis and include the findings to CMS in the managed care program assessment report required under 42 CFR §438.66.

D. Beneficiary Rights and Protections

1. **Beneficiary Rights (42 CFR §438.100).**
   i. The Contractor shall have written policies guaranteeing the beneficiary's rights specified in this section.
   ii. The Contractor shall comply with any applicable Federal and state laws that pertain to beneficiary rights, and ensures that

its employees and contracted providers observe and protect those rights.

iii. Specific rights.

a. The Contractor shall ensure that its beneficiaries have the right to:

i. Receive information regarding the Contractor's PIHP and plan in accordance with 42 CFR §438.10.

ii. Be treated with respect and with due consideration for his or her dignity and privacy.

iii. Receive information on available treatment options and alternatives, presented in a manner appropriate to the beneficiary's condition and ability to understand. (The information requirements for services that are not covered under the Agreement because of moral or religious objections are set forth in 42 CFR §438.10(g)(2)(ii)(A) and (B).)

iv. Participate in decisions regarding his or her health care, including the right to refuse treatment.

v. Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation, as specified in other Federal regulations on the use of restraints and seclusion.

vi. If the privacy rule, as set forth in 45 CFR parts 160 and 164 subparts A and E, applies, request and receive a copy of his or her medical records, and request that they be amended or corrected, as specified in 45 CFR § 164.524 and 164.526.

b. The Contractor shall ensure that its beneficiaries have the right to be furnished health care services in accordance with 42 CFR §§438.206 through 438.210.

iv. Free exercise of rights.

a. The Contractor shall ensure that each beneficiary is free to exercise his or her rights, and that the exercise

of those rights does not adversely affect the way the Contractor and its network providers treat the beneficiary.

v. Compliance with other Federal and state laws.
   a. The Contractor shall comply with any other applicable Federal and state laws, including, but not limited to:
      i. Title VI of the Civil Rights Act of 1964 as implemented by regulations at 45 CFR part 80.
      ii. The Age Discrimination Act of 1975 as implemented by regulations at 45 CFR part 91.
      iii. The Rehabilitation Act of 1973.
      iv. Title IX of the Education Amendments of 1972 (regarding education programs and activities).
      v. Titles II and III of the Americans with Disabilities Act.
      vi. Section 1557 of the Patient Protection and Affordable Care Act.

2. Provider-Beneficiary Communications (42 CFR §438.102).

i. The Contractor shall not prohibit, or otherwise restrict, a provider acting within the lawful scope of practice, from advising or advocating on behalf of a beneficiary who is his or her patient, for the following:
   a. The beneficiary's health status, medical care, or treatment options, including any alternative treatment that may be self-administered.
   b. Any information the beneficiary needs to decide among all relevant treatment options.
   c. The risks, benefits, and consequences of treatment or non-treatment.
   d. The beneficiary's right to participate in decisions regarding his or her health care, including the right to refuse treatment.
   e. To express preferences about future treatment decisions.

ii. Subject to the information requirements set forth below, if the Contractor would otherwise be required to provide, reimburse for, or provide coverage of, a counseling or referral service because of the requirement set forth above,

the Contractor is not required to do so if it objects to the service on moral or religious grounds.

iii. Information requirements.
   a. If the Contractor elects to not provide a counseling or referral service based on moral or religious grounds, then the Contractor shall furnish information about the services it does not cover as follows:
      i. To the Department:
         1. With its application for a Medicaid contract.
         2. Whenever the Contractor adopts the policy during the term of the contract.
      ii. Consistent with the provisions of 42 CFR §438.10, to beneficiaries, within 90 days after adopting the policy for any particular service.
      iii. The Contractor shall furnish the information to the beneficiary at least 30 days before the effective date of the policy for any particular service.

iv. The Contractor shall inform its beneficiaries how they can obtain information from the Department about how to access the service that it has excluded based on moral or religious grounds.

v. Information requirements: state responsibility.
   a. For each service excluded by the Contractor based on moral or religious grounds, the Department shall provide information on how and where to obtain the service, as specified in 42 CFR §438.10.

3. Liability for Payment (42 CFR §438.106).

i. The Contractor shall ensure that its beneficiaries are not held liable for any of the following:
   a. The Contractor's debts, in the event of the entity's insolvency.
   b. Covered services provided to the beneficiary, for which:
      i. The state does not pay the Contractor; or
      ii. The Contractor or the Department does not pay the individual or health care provider that

furnished the services under a contractual, referral, or other arrangement.

c. Payments for covered services furnished under a contract, referral, or other arrangement, to the extent that those payments are in excess of the amount that the beneficiary would owe if the Contractor covered the services directly.

4. Cost Sharing (42 CFR §438.108).

i. Any cost sharing imposed on beneficiaries shall be in accordance with §§ 447.50 through 447.82 of Code of Federal Regulations Chapter 42.

E. Contractor Standards as a PIHP

1. Availability of Services (42 CFR §438.206).

i. The Contractor shall ensure that all services covered under the State Plan are available and accessible to its beneficiaries in a timely manner. The Contractor's provider networks for services covered under this Agreement shall meet the standards developed by the Department in accordance with 42 CFR §438.68.

ii. The Contractor shall, consistent with the scope of its contracted services, meet the following requirements:

a. Maintain and monitor a network of appropriate providers that is supported by written agreements and is sufficient to provide adequate access to all services covered under this Agreement for all beneficiaries, including those with limited English proficiency or physical or mental disabilities;

b. Provide for a second opinion from a network provider, or arranges for the beneficiary to obtain one outside the network, at no cost to the beneficiary;

c. If the provider network is unable to provide necessary services, covered under this Agreement, to a particular beneficiary, the Contractor shall adequately and timely cover these services out of network for the beneficiary, for as long as the Contractor's provider network is unable to provide them;

d. Require out-of-network subcontractors and providers to coordinate with the Contractor for payment and

ensures the cost to the beneficiary is no greater than it would be if the services were furnished within the network; and

e. Demonstrate that its network providers are credentialed as required by 42 CFR §438.214.

iii. The Contractor shall comply with the following timely access requirements:

a. Meet and require its network providers to meet Department standards for timely access to care and services, taking into account the urgency of the need for services;
b. Ensure that the network providers offer hours of operation that are no less than the hours of operation offered to commercial beneficiaries or comparable to Medicaid FFS, if the provider serves only Medicaid beneficiaries;
c. Make services included in this Agreement available 24 hours a day, 7 days a week, when medically necessary;
d. Establish mechanisms to ensure compliance by network providers;
e. Monitor network providers regularly to determine compliance; and
f. Take corrective action if there is a failure to comply by a network provider.

iv. Access and cultural considerations.

a. The Contractor shall participate in the Department's efforts to promote the delivery of services in a culturally competent manner to all beneficiaries, including those with limited English proficiency and diverse cultural and ethnic backgrounds, disabilities, and regardless of gender, sexual orientation or gender identity.

v. Accessibility considerations.

a. The Contractor shall ensure that network providers provide physical access, reasonable accommodations, and accessible equipment for

Medicaid beneficiaries with physical or mental disabilities.

2. **Assurances of Adequate Capacity and Services (42 CFR §438.207).**
   i. The Contractor shall give assurances to the Department and provide supporting documentation that demonstrates that it has the capacity to serve the expected enrollment in its service area in accordance with the Department's standards for access and timeliness of care under this part, including the standards at 42 CFR §438.68 and 42 CFR §438.206(c)(1).
   ii. The Contractor shall submit documentation to the Department to demonstrate that it complies with the following requirements:
      a. Offers an appropriate range of specialty services that are adequate for the anticipated number of beneficiaries for the service area.
      b. Maintains a network of providers that is sufficient in number, mix, and geographic distribution to meet the needs of the anticipated number of beneficiaries in the service area.
   iii. The Contractor shall submit the documentation as specified by the Department, but no less frequently than the following:
      a. At the time it enters into this Agreement with the Department;
      b. On an annual basis; and
      c. Whenever there is a change in the Contractor's operation that would cause a decrease of two or more in services or providers available to beneficiaries.
   iv. The Contractor shall report this documentation to the DHCS Program, Policy and Fiscal Division (PPFD) via email to ODSSubmissions@dhcs.ca.gov, including details regarding the change and plans to maintain adequate services and providers available to beneficiaries within 24 hours.
3. **Coordination and Continuity of Care (42 CFR §438.208).**
   i. The Contractor shall comply with the care and coordination requirements of this section.

ii. As all beneficiaries receiving DMC-ODS services shall have special health care needs, the Contractor shall implement mechanisms for identifying, assessing, and producing a treatment plan for all beneficiaries that have been assessed to need a course of treatment, and as specified below.

iii. The Contractor shall implement procedures to deliver care to and coordinate services for all of its beneficiaries. These procedures shall meet Department requirements and shall do the following:

a. Ensure that each beneficiary has an ongoing source of care appropriate to his or her needs and a person or entity formally designated as primarily responsible for coordinating the services accessed by the beneficiary. The beneficiary shall be provided information on how to contact their designated person or entity.

b. Coordinate the services the Contractor furnishes to the beneficiary:

i. Between settings of care, including appropriate discharge planning for short term and long-term hospital and institutional stays.

ii. With the services the beneficiary receives from any other managed care organization.

iii. With the services the beneficiary receives in FFS Medicaid.

iv. With the services the beneficiary receives from community and social support providers.

c. Make a best effort to conduct an initial screening of each beneficiary's needs, within 90 calendar days of the effective date of enrollment for all new beneficiaries, including subsequent attempts if the initial attempt to contact the beneficiary is unsuccessful.

d. Share with the Department or other managed care organizations serving the beneficiary the results of any identification and assessment of that beneficiary's needs to prevent duplication of those activities.

e. Ensure that each provider furnishing services to beneficiaries maintains and shares, as appropriate, a beneficiary health record in accordance with professional standards.
f. Ensure that in the process of coordinating care, each beneficiary's privacy is protected in accordance with the privacy requirements in 45 CFR parts 160 and 164 subparts A and E and 42 CFR Part 2, to the extent that they are applicable.

iv. The Contractor shall implement mechanisms to comprehensively assess each Medicaid beneficiary identified by the Department as having special health care needs to identify any ongoing special conditions of the beneficiary that require a course of treatment or regular care monitoring. The assessment mechanisms shall use appropriate providers.

v. The Contractor shall produce a treatment or service plan meeting the criteria below for beneficiaries with special health care needs that are determined through assessment to need a course of treatment or regular care monitoring. The treatment or service plan shall be:
    a. Developed with beneficiary participation, and in consultation with any providers caring for the beneficiary;
    b. Developed by a person trained in person-centered planning using a person-centered process and plan as defined in 42 CFR §441.301(c)(1);
    c. Approved by the Contractor in a timely manner, if this approval is required by the Contractor;
    d. In accordance with any applicable Department quality assurance and utilization review standards; and
    e. Reviewed and revised upon reassessment of functional need, at least every 12 months, or when the beneficiary's circumstances or needs change significantly, or at the request of the beneficiary per 42 CFR §441.301(c)(3).

vi. For beneficiaries with special health care needs determined through an assessment to need a course of treatment or

regular care monitoring, the Contractor shall have a mechanism in place to allow beneficiaries to directly access a specialist as appropriate for the beneficiary's condition and identified needs.

4. **Coverage and Authorization of Services (42 CFR §438.210).**
   i. The Contractor shall furnish medically necessary services covered by this Agreement in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under FFS Medicaid, as set forth in 42 CFR §440.230, and for beneficiaries under the age of 21, as set forth in 42 CFR Section 440, subpart B.
   ii. The Contractor:
      a. Shall ensure that the medically necessary services provided are sufficient in amount, duration, or scope to reasonably achieve the purpose for which the services are furnished; and
      b. Shall not arbitrarily deny or reduce the amount, duration, or scope of a medically necessary service solely because of diagnosis, type of illness, or condition of the beneficiary.
   iii. The Contractor may place appropriate limits on a service based on criteria applied under the State Plan, such as medical necessity.
   iv. The Contractor may place appropriate limits on a service for the purpose of utilization control, provided that:
      a. The services furnished can reasonably achieve their purpose; and
      b. The services supporting individuals with ongoing or chronic conditions are authorized in a manner that reflects the enrollee's ongoing need for such services and supports.
   v. Authorization of services.
      a. The Contractor and its subcontractors shall have in place, and follow, written authorization policies and procedures.

b. The Contractor shall have in effect mechanisms to ensure consistent application of review criteria for authorization decisions.
c. The Contractor shall consult with the requesting provider for medical services when appropriate.
d. Any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested, shall be made by an individual who has appropriate expertise in addressing the beneficiary's medical and behavioral health.
e. Notice of adverse benefit determination.
    i. The Contractor shall notify the requesting provider, and give the beneficiary written notice of any decision by the Contractor to deny a service authorization request, or to authorize a service in an amount, duration, or scope that is less than requested. The beneficiary's notice shall meet the requirements of 42 CFR §438.404.

vi. Standard authorization decisions.
    a. For standard authorization decisions, the Contractor shall provide notice as expeditiously as the beneficiary's condition requires not exceed 14 calendar days following receipt of the request for service, with a possible extension of up to 14 additional calendar days when:
        i. The beneficiary, or the provider, requests extension; or
        ii. The Contractor justifies (to the Department upon request) a need for additional information and how the extension is in the beneficiary's interest.

vii. Expedited authorization decisions.
    a. For cases in which a provider indicates, or the Contractor determines, that following the standard timeframe could seriously jeopardize the beneficiary's life or health or ability to attain, maintain, or regain

maximum function, the Contractor shall make an expedited authorization decision and provide notice as expeditiously as the beneficiary's health condition requires and no later than 72 hours after receipt of the request for service.

b. The Contractor may extend the 72-hour time period by up to 14 calendar days if the beneficiary requests an extension, or if the Contractor justifies (to the Department upon request) a need for additional information and how the extension is in the beneficiary's interest.

viii. Compensation for utilization management activities.

a. Consistent with 42 CFR §438.3(i), and 42 CFR §422.208, compensation to individuals or entities that conduct utilization management activities shall not be structured so as to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary services to any beneficiary.

5. Provider Selection (42 CFR §438.214).

i. The Contractor shall implement written policies and procedures for selection and retention of network providers and that those policies and procedures, at a minimum, meet the following requirements:

a. Credentialing and re-credentialing requirements.

i. The Contractor shall follow the state's established uniform credentialing and re-credentialing policy that addresses behavioral and substance use disorders.

ii. The Contractor shall follow a documented process for credentialing and re-credentialing of network providers.

b. Nondiscrimination.

i. The Contractor's network provider selection policies and procedures, consistent with 42 CFR §438.12, shall not discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment.

c. Excluded providers.
   i. The Contractor shall not employ or subcontract with providers excluded from participation in Federal health care programs under either section 1128 or section 1128A of the Act.
d. Additional Department requirements.
   i. The Contractor shall comply with any additional requirements established by the Department.

6. Confidentiality (42 CFR §438.224).

i. For medical records and any other health and enrollment information that identifies a particular beneficiary, the Contractor shall use and disclose such individually identifiable health information in accordance with the privacy requirements in 45 CFR parts 160 and 164, subparts A and E and 42 CFR Part 2, to the extent that these requirements are applicable.

7. Grievance and Appeal Systems (42 CFR §438.228).

i. The Contractor shall have in effect a grievance and appeal system that meets the requirements outlined in Article II.G of this Agreement.

ii. The Contractor shall be responsible for issuing any Notice of Adverse Benefit Determination under 42 CFR Part 431, subpart E. The Department shall conduct random reviews of the Contractor and its providers and subcontractors to ensure that they are notifying beneficiaries in a timely manner.

8. Subcontractual Relationships and Delegation (42 CFR §438.230).

i. The requirements of this section apply to any contract or written arrangement that the Contractor has with any subcontractor.

ii. Notwithstanding any relationship(s) that Contractor may have with any subcontractor, the Contractor shall maintain ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of this Contract

iii. All contracts or written arrangements between the Contractor and any subcontractor shall specify the following:

Exhibit A, Attachment I
Program Specifications

a. The delegated activities or obligations, and related reporting responsibilities, are specified in the contract or written agreement.
b. The subcontractor agrees to perform the delegated activities and reporting responsibilities specified in compliance with the Contractor's contract obligations.
c. The contract or written arrangement shall either provide for revocation of the delegation of activities or obligations, or specify other remedies in instances where the Department or the Contractor determine that the subcontractor has not performed satisfactorily.
d. The subcontractor agrees to comply with all applicable Medicaid laws, regulations, including applicable sub-regulatory guidance and contract provisions; and
e. The subcontractor agrees that—
    i. The Department, CMS, the Health and Human Services (HHS) Inspector General, the Comptroller General, or their designees have the right to audit, evaluate, and inspect any books, records, contracts, computer or other electronic systems of the subcontractor, or of the subcontractor's Contractor, that pertain to any aspect of services and activities performed, or determination of amounts payable under this Agreement at any time.
    ii. The subcontractor will make available, for purposes of an audit, evaluation, or inspection, its premises, physical facilities, equipment, books, records, contracts, computer or other electronic systems relating to its Medicaid beneficiaries.
    iii. The Department, CMS, the HHS Inspector General, the Comptroller General, or their designees' right to audit the subcontractor will exist through 10 years from the final date of the

contract period or from the date of completion of any audit, whichever is later.

iv. If the Department, CMS, or the HHS Inspector General determines that there is a reasonable possibility of fraud or similar risk, the Department, CMS, or the HHS Inspector General may inspect, evaluate, and audit the subcontractor at any time.

9. Practice Guidelines (42 CFR §438.236).

i. The Contractor shall adopt practice guidelines that meet the following requirements:

a. Are based on valid and reliable clinical evidence or a consensus of providers in the particular field;
b. Consider the needs of the Contractor's beneficiaries;
c. Are adopted in consultation with contracting health care professionals; and
d. Are reviewed and updated periodically as appropriate.

ii. The Contractor shall disseminate the guidelines to all affected providers and, upon request, to beneficiaries and potential beneficiaries.

iii. The Contractor shall ensure that all decisions for utilization management, beneficiary education, coverage of services, and other areas to which the guidelines apply are consistent with the guidelines.

10. Health Information Systems (42 CFR §438.242).

i. The Contractor shall maintain a health information system that collects, analyzes, integrates, and reports data and can achieve the objectives of this part. The systems shall provide information on areas including, but not limited to, utilization, claims, and grievances and appeals.

ii. The Contractor shall comply with Section 6504(a) of the Affordable Care Act.

iii. The Contractor shall collect data on beneficiary and provider characteristics as specified by the Department, and on all services furnished to beneficiaries through an encounter data system or other methods as may be specified by the Department.

iv. The Contractor shall ensure that data received from providers is accurate and complete by—
   a. Verifying the accuracy and timeliness of reported data, including data from network providers the Contractor is compensating.
   b. Screening the data for completeness, logic, and consistency.
   c. Collecting data from providers in standardized formats to the extent feasible and appropriate, including secure information exchanges and technologies utilized for Department Medicaid quality improvement and care coordination efforts.

v. The Contractor shall make all collected data available to the Department and upon request to CMS.

vi. The Contractor shall collect and maintain sufficient beneficiary encounter data to identify the provider who delivers any item(s) or service(s) to beneficiaries.

vii. The Contractor shall submit beneficiary encounter data to the Department, annually and upon request, as specified by CMS and the Department, based on program administration, oversight, and program integrity needs.

viii. The Contractor shall submit all beneficiary encounter data that the Department is required to report to CMS under 42 CFR §438.818.

ix. The Contractor shall submit encounter data to the Department in standardized ASC X12N 837 and NCPDP formats, and the ASC X12N 835 format as appropriate.

F. Quality Measurement and Improvement; External Quality Review

1. Quality Assessment and Performance Improvement Program (PIP) (42 CFR §438.330).

i. The Contractor shall establish and implement an ongoing comprehensive quality assessment and performance improvement program for the services it furnishes to its beneficiaries.

ii. After consulting with states and other stakeholders and providing public notice and opportunity to comment, CMS may specify performance measures and performance improvement projects (PIPs), which shall be included in the

standard measures identified and PIPs required by the Department. The Department may request an exemption from including the performance measures or PIPs established under this section by submitting a written request to CMS explaining the basis for such request.

iii. The Contractor's comprehensive quality assessment and performance improvement program shall include at least the following elements:
    a. Performance improvement projects.
    b. Collection and submission of performance measurement.
    c. Mechanisms to detect both underutilization and overutilization of services.
    d. Mechanisms to assess the quality and appropriateness of care furnished to beneficiaries with special health care needs, as defined by the Department in the quality strategy under 42 CFR §438.340.

iv. The Department shall identify standard performance measures, including those performance measures that may be specified by CMS, relating to the performance of the Contractor.

v. Annually, the Contractor shall:
    a. Measure and report to the Department on its performance, using the standard measures required by the Department;
    b. Submit to the Department data, specified by the Department, which enables the Department to calculate Contractor's performance using the standard measures identified by the Department; or
    c. Perform a combination of the activities described above.

vi. Performance improvement projects.
    a. The Contractor shall conduct performance improvement projects, including any performance improvement projects required by CMS that focus on both clinical and nonclinical areas.

b. Each performance improvement project shall be designed to achieve significant improvement, sustained over time, in health outcomes and beneficiary satisfaction, and shall include the following elements:
   i. Measurement of performance using required quality indicators.
   ii. Implementation of interventions to achieve improvement in the access to and quality of care.
   iii. Evaluation of the effectiveness of the interventions based on the performance measures.
   iv. Planning and initiation of activities for increasing or sustaining improvement.
c. The Contractor shall report the status and results of each project conducted to the Department as requested, but not less than once per year.

2. Department Review of the Contractor's Accreditation Status (42 CFR §438.332).

i. The Contractor shall inform the Department if it has been accredited by a private independent accrediting entity. The Contractor is not required to obtain accreditation by a private independent accrediting entity.

ii. If the Contractor has received accreditation by a private independent accrediting entity, then the Contractor shall authorize the private independent accrediting entity to provide the Department a copy of its most recent accreditation review, including:
   a. Accreditation status, survey type, and level (as applicable);
   b. Accreditation results, including recommended actions or improvements, corrective action plans, and summaries of findings; and
   c. Expiration date of the accreditation.

iii. The Department shall:
   a. Make the accreditation status for the Contractor available on the website required under 42 CFR

§438.10(c)(3), including whether the Contractor has been accredited and, if applicable, the name of the accrediting entity, accreditation program, and accreditation level; and

b. Update this information at least annually.

G. Grievance and Appeal System

1. General Requirements (42 CFR §438.402).

i. The Contractor shall have a grievance and appeal system in place for beneficiaries.

ii. The Contractor shall have only one level of appeal for beneficiaries.

iii. Filing requirements:

a. Authority to file.

i. A beneficiary may file a grievance and request an appeal with the Contractor. A beneficiary may request a state fair hearing after receiving notice under 42 CFR §438.408 that the adverse benefit determination is upheld.

1. In the case that the Contractor fails to adhere to the notice and timing requirements in 42 CFR §438.408, the beneficiary is deemed to have exhausted the Contractor's appeals process. The beneficiary may initiate a state fair hearing.

2. The Department may offer and arrange for an external medical review if the following conditions are met.

a. The review shall be at the beneficiary's option and shall not be required before, or used as a deterrent to, proceeding to the state fair hearing.

b. The review shall be independent of both the Department and the Contractor.

c. The review shall be offered without any cost to the beneficiary.
d. The review shall not extend any of the timeframes specified in 42 CFR §438.408 and shall not disrupt the continuation of benefits in 42 CFR §438.420.

ii. With the written consent of the beneficiary, a provider or an authorized representative may request an appeal or file a grievance, or request a state fair hearing, on behalf of a beneficiary, with the exception that providers cannot request continuation of benefits as specified in 42 CFR §438.420(b)(5).

b. Timing:
   i. Grievance:
      1. The beneficiary, an authorized provider, or an authorized representative acting on behalf of the beneficiary, as state law permits, may file a grievance with the Contractor at any time.
   ii. Appeal:
      1. The Contractor shall allow the beneficiary, an authorized provider, or an authorized representative acting on behalf of the beneficiary, as state law permits, to file a request for an appeal to the Contractor within 60 calendar days from the date on the adverse benefit determination notice.

c. Procedures:
   i. Grievance:
      1. The beneficiary, an authorized provider, or an authorized representative acting on behalf of the beneficiary, as state law permits, may file a grievance either orally or in writing and, as determined by

the Department, either with the Department or with the Contractor.

ii. Appeal:

1. The beneficiary, an authorized provider, or an authorized representative acting on behalf of the beneficiary, as state law permits, may request an appeal either orally or in writing. Further, unless an expedited resolution is requested, an oral appeal shall be followed by a written, signed appeal.

2. Timely and Adequate Notice of Adverse Benefit Determination (42 CFR §438.404).

i. Notice.

a. The Contractor shall give beneficiaries timely and adequate notice of an adverse benefit determination in writing consistent with the requirements below and in 42 CFR §438.10.

ii. Content of notice.

a. The notice shall explain the following:

i. The adverse benefit determination the Contractor has made or intends to make.

ii. The reasons for the adverse benefit determination, including the right of the beneficiary to be provided upon request and free of charge, reasonable access to and copies of all documents, records, and other information relevant to the beneficiary's adverse benefit determination. Such information includes medical necessity criteria, and any processes, strategies, or evidentiary standards used in setting coverage limits.

iii. The beneficiary's right to request an appeal of the Contractor's adverse benefit determination, including information on exhausting the Contractor's one level of appeal described at 42 CFR §438.402(b) and the right to request a

state fair hearing consistent with 42 CFR §438.402(c).

iv. The procedures for exercising these appeal rights.

v. The circumstances under which an appeal process can be expedited and how to request it.

vi. The beneficiary's right to have benefits continue pending resolution of the appeal, how to request that benefits be continued, and the circumstances, consistent with state policy, under which the beneficiary may be required to pay the costs of these services.

iii. Timing of notice.

a. The Contractor shall mail the notice within the following timeframes:

i. At least 10 days before the date of the action, when the action is a termination, suspension, or reduction of previously authorized Medicaid-covered services.

ii. For denial of payment, at the time of any action affecting the claim.

iii. As expeditiously, as the beneficiary's condition requires within state-established timeframes that shall not exceed 14 calendar days following receipt of the request for service, for standard authorization decisions that deny or limit services.

1. The Contractor shall be allowed to extend the 14 calendar day notice of adverse benefit determination timeframe for standard authorization decisions that deny or limit services up to 14 additional calendar days if the beneficiary or the provider requests an extension.

2. The Contractor shall be allowed to extend the 14 calendar day notice of adverse benefit determination timeframe

for standard authorization decisions that deny or limit services up to 14 additional calendar days if the Contractor justifies a need (to the Department, upon request) for additional information and shows how the extension is in the beneficiary's best interest. Consistent with 42 CFR §438.210(d)(1)(ii), the Contractor shall:

a. Give the beneficiary written notice of the reason for the decision to extend the timeframe and inform the beneficiary of the right to file a grievance if he or she disagrees with that decision; and
b. Issue and carry out its determination as expeditiously as the beneficiary's health condition requires and no later than the date the extension expires.

iv. For service authorization decisions not reached within the timeframes specified in 42 CFR §438.210(d) (which constitutes a denial and is thus an adverse benefit determination), on the date that the timeframes expire.
v. For expedited service authorization decisions, within the timeframes specified in § 438.210(d)(2).

b. The Contractor shall be allowed to mail the notice of adverse benefit determination as few as five days prior to the date of action if the Contractor has facts indicating that action should be taken because of probable fraud by the beneficiary, and the facts have been verified, if possible, through secondary sources.
c. The Contractor shall mail the notice of adverse benefit determination by the date of the action when any of the following occur:

i. The recipient has died.
ii. The beneficiary submits a signed written statement requesting service termination.
iii. The beneficiary submits a signed written statement including information that requires service termination or reduction and indicates that he understands that service termination or reduction will result.
iv. The beneficiary has been admitted to an institution where he or she is ineligible under the plan for further services.
v. The beneficiary's address is determined unknown based on returned mail with no forwarding address.
vi. The beneficiary is accepted for Medicaid services by another local jurisdiction, state, territory, or commonwealth.
vii. A change in the level of medical care is prescribed by the beneficiary's physician.
viii. The notice involves an adverse determination with regard to preadmission screening requirements of section 1919(e)(7) of the Act.
ix. The transfer or discharge from a facility will occur in an expedited fashion.

3. Handling of Grievances and Appeals (42 CFR §438.406).

i. In handling grievances and appeals, the Contractor shall give beneficiaries any reasonable assistance in completing forms and taking other procedural steps related to a grievance or appeal. This includes, but is not limited to, auxiliary aids and services upon request, such as providing interpreter services and toll-free numbers that have adequate TTY/TTD and interpreter capability.

ii. The Contractor's process for handling beneficiary grievances and appeals of adverse benefit determinations shall:

a. Acknowledge receipt of each grievance and appeal.
b. Ensure that the individuals who make decisions on grievances and appeals are individuals—

i. Who, were neither involved in any previous level of review or decision-making nor a subordinate of any such individual.
ii. Who, if deciding any of the following, are individuals who have the appropriate clinical expertise, as determined by the Department, in treating the beneficiary's condition or disease.
    1. An appeal of a denial that is based on lack of medical necessity.
    2. A grievance regarding denial of expedited resolution of an appeal.
    3. A grievance or appeal that involves clinical issues.
iii. Who, take into account all comments, documents, records, and other information submitted by the beneficiary or their representative without regard to whether such information was submitted or considered in the initial adverse benefit determination.

c. Provide that oral inquiries seeking to appeal an adverse benefit determination are treated as appeals (to establish the earliest possible filing date for the appeal) and shall be confirmed in writing, unless the beneficiary or the provider requests expedited resolution.
d. Provide the beneficiary a reasonable opportunity, in person and in writing, to present evidence and testimony and make legal and factual arguments. The Contractor shall inform the beneficiary of the limited time available for this sufficiently in advance of the resolution timeframe for appeals as specified in 42 CFR §438.408(b) and (c) in the case of expedited resolution.
e. Provide the beneficiary and his or her representative the beneficiary's case file, including medical records, other documents and records, and any new or additional evidence considered, relied upon, or generated by the Contractor (or at the direction of the

Contractor) in connection with the appeal of the adverse benefit determination. This information shall be provided free of charge and sufficiently in advance of the resolution timeframe for appeals as specified in 42 CFR §438.408(b) and (c).

f. Include, as parties to the appeal:
    i. The beneficiary and his or her representative; or
    ii. The legal representative of a deceased beneficiary's estate.

4. Resolution and Notification: Grievances and Appeals (42 CFR §438.408).

i. The Contractor shall resolve each grievance and appeal, and provide notice, as expeditiously as the beneficiary's health condition requires, within the following timeframes:
    a. Standard resolution of grievances: 90 calendar days from the day the Contractor receives the grievance.
    b. Standard resolution of appeals: 30 calendar days from the day the Contractor receives the appeal. This timeframe may be extended in the manner described below.
    c. Expedited resolution of appeals: 72 hours after the Contractor receives the appeal. This timeframe may be extended under in the manner described below.

ii. Extension of timeframes.
    a. The Contractor may extend the timeframes standard and expedited resolution of appeals by up to 14 calendar days if—
        i. The beneficiary requests the extension; or
        ii. The Contractor shows (to the satisfaction of the Department, upon its request) that there is need for additional information and how the delay is in the beneficiary's interest.

iii. If the Contractor extends the timeframes not at the request of the beneficiary, it shall complete all of the following:
    a. Make reasonable efforts to give the beneficiary prompt oral notice of the delay.

b. Within two calendar days, give the beneficiary written notice of the reason for the decision to extend the timeframe and inform the beneficiary of the right to file a grievance if he or she disagrees with that decision.
c. Resolve the appeal as expeditiously as the beneficiary's health condition requires and no later than the date the extension expires.

iv. If the Contractor fails to adhere to the notice and timing requirements in this section, the beneficiary is deemed to have exhausted the Contractor's appeals process. The beneficiary may initiate a state fair hearing.

v. Format of notice:
   a. Grievances.
      i. The Contractor shall notify the beneficiary of the resolution of a grievance and ensure that such methods meet, at a minimum, the standards described at 42 CFR §438.10.
   b. Appeals.
      i. For all appeals, the Contractor shall provide written notice of resolution in a format and language that, at a minimum, meet the standards described at 42 CFR §438.10.
      ii. For notice of an expedited resolution, the Contractor shall also make reasonable efforts to provide oral notice.

vi. The written notice of the resolution shall include the following:
   a. The results of the resolution process and the date it was completed.
   b. For appeals not resolved wholly in favor of the beneficiaries—
      i. The right to request a state fair hearing.
      ii. How to make the request a state fair hearing.
      iii. The right to request and receive benefits, while the hearing is pending, and how to make the request.
      iv. That the beneficiary may, consistent with state policy, be held liable for the cost of those

benefits if the hearing decision upholds the Contractor's adverse benefit determination.

vii. Requirements for state fair hearings—
   a. A beneficiary may request a state fair hearing only after receiving notice that the Contractor is upholding the adverse benefit determination.
   b. If the Contractor fails to adhere to the notice and timing requirements in 42 CFR §438.408, then the beneficiary is deemed to have exhausted the Contractor's appeals process. The beneficiary may initiate a state fair hearing.
   c. The Department shall offer and arrange for an external medical review when the following conditions are met:
      i. The review shall be at the beneficiary's request and shall not be required before, or used as a deterrent to, proceeding to the state fair hearing
      ii. The review shall be independent of both the Department and the Contractor.
      iii. The review shall be offered without any cost to the beneficiary.
      iv. The review shall not extend any of the timeframes specified in 42 CFR §438.408 and shall not disrupt the continuation of benefits in 42 CFR §438.420.
   d. State fair hearing.
      i. The beneficiary shall request a state fair hearing no later than 120 calendar days from the date of the Contractor's notice of resolution.
      ii. The parties to the state fair hearing include the Contractor, as well as the beneficiary and his or her representative or the representative of a deceased beneficiary's estate.

5. Expedited Resolution of Appeals (42 CFR §438.410).

i. The Contractor shall establish and maintain an expedited review process for appeals when the Contractor determines

(for a request from the beneficiary) or the provider indicates (in making the request on the beneficiary's behalf or supporting the beneficiary's request) that taking the time for a standard resolution could seriously jeopardize the beneficiary's life, physical or mental health, or ability to attain, maintain, or regain maximum function.

ii. The Contractor shall ensure that punitive action is not taken against a provider who requests an expedited resolution or supports a beneficiary's appeal.

iii. If the Contractor denies a request for expedited resolution of an appeal, it shall:

a. Transfer the appeal to the timeframe for standard resolution in accordance with 42 CFR §438.408(b)(2).
b. Follow the requirements in 42 CFR §438.408(c)(2).

6. Information About the Grievance and Appeal System to Providers and Subcontractors (42 CFR §438.414).

i. The Contractor shall provide the information specified in 42 CFR §438.10(g)(2)(xi) about the grievance and appeal system to all providers and subcontractors at the time they enter into a contract.

7. Recordkeeping Requirements (42 CFR §438.416).

i. The Contractor shall maintain records of grievances and appeals and shall review the information as part of its ongoing monitoring procedures, as well as for updates and revisions to the Department quality strategy.

ii. The record of each grievance or appeal shall contain, at a minimum, all of the following information:

a. A general description of the reason for the appeal or grievance.
b. The date received.
c. The date of each review or, if applicable, review meeting.
d. Resolution at each level of the appeal or grievance, if applicable.
e. Date of resolution at each level, if applicable.
f. Name of the covered person for whom the appeal or grievance was filed.

iii. The record shall be accurately maintained in a manner accessible to the Department and available upon request to CMS.

8. Continuation of Benefits While the Contractor's Appeal and the State Fair Hearing Are Pending (42 CFR §438.420).

i. Timely files mean files for continuation of benefits on or before the later of the following:
   a. Within 10 calendar days of Contractor sending the notice of adverse benefit determination.
   b. The intended effective date of the Contractor's proposed adverse benefit determination.

ii. The Contractor shall continue the beneficiary's benefits if all of the following occur:
   a. The beneficiary files the request for an appeal timely in accordance with 42 CFR §438.402(c)(1)(ii) and (c)(2)(ii).
   b. The appeal involves the termination, suspension, or reduction of previously authorized services.
   c. An authorized provider ordered the services.
   d. The period covered by the original authorization has not expired.
   e. The beneficiary timely files for continuation of benefits.

iii. At the beneficiary's request, the Contractor shall continue or reinstate the beneficiary's benefits while the appeal or state fair hearing is pending, the benefits shall be continued until one of following occurs:
   a. The beneficiary withdraws the appeal or request for state fair hearing.
   b. The beneficiary fails to request a state fair hearing and continuation of benefits within 10 calendar days after the Contractor sends the notice of an adverse resolution to the beneficiary's appeal under 42 CFR §438.408(d)(2).
   c. A state fair hearing officer issues a hearing decision adverse to the beneficiary.

iv. If the final resolution of the appeal or state fair hearing is adverse to the beneficiary, that is, upholds the Contractor's

adverse benefit determination, the Contractor may, consistent with the Department's usual policy on recoveries under 42 CFR §431.230(b) and as specified in the Contractor's contract, recover the cost of services furnished to the beneficiary while the appeal and state fair hearing was pending, to the extent that they were furnished solely because of the requirements of this section.

9. **Effectuation of Reversed Appeal Resolutions (42 CFR §438.424).**
   i. The Contractor shall authorize or provide the disputed services promptly, and as expeditiously as the beneficiary's health condition requires (but no later than 72 hours from the date it receives notice reversing the determination) if the services were not furnished while the appeal was pending and if the Contractor or state fair hearing officer reverses a decision to deny, limit, or delay services.
   ii. The Contractor shall pay for disputed services received by the beneficiary while the appeal was pending, unless state policy and regulations provide for the state to cover the cost of such services, when the Contractor or state fair hearing officer reverses a decision to deny authorization of the services.

H. Additional Program Integrity Safeguards

1. **Basic Rule (42 CFR §438.600).**
   i. As a condition for receiving payment under a Medicaid managed care program, the Contractor shall comply with the requirements in 42 CFR §§438.604, 438.606, 438.608 and 438.610, as applicable and as outlined below.
2. **State Responsibilities (42 CFR §438.602).**
   i. Monitoring Contractor compliance.
      a. Consistent with 42 CFR §438.66, the Department shall monitor the Contractor's compliance, as applicable, with 42 CFR §§438.604, 438.606, 438.608, 438.610, 438.230, and 438.808.
   ii. Screening and enrollment and revalidation of providers.
      a. The Department shall screen and enroll, and revalidate every five years, all of the Contactor's network providers, in accordance with the

requirements of 42 CFR, Part 455, Subparts B and E. This provision does not require the network provider to render services to FFS beneficiaries.

b. The Contractor may execute network provider agreements pending the outcome of the above process up to 120 days. However, the Contractor shall terminate a network provider immediately upon notification from the Department that the network provider cannot be enrolled, or the expiration of one 120-day period without enrollment of the provider, and shall notify affected beneficiaries.

iii. Ownership and control information.

a. The Department shall review the ownership and control disclosures submitted by the Contractor, and any subcontractors as required in 42 CFR §438.608(c).

iv. Federal database checks.

a. Consistent with the requirements in 42 CFR §455.436, the Department shall confirm the identity and determine the exclusion status of the Contractor, any subcontractor, as well as any person with an ownership or control interest, or who is an agent or managing employee of the Contractor through routine checks of Federal databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), and any other databases as the state or Secretary may prescribe. These databases shall be consulted upon contracting and no less frequently than monthly thereafter. If the Department finds a party that is excluded, it shall promptly notify the Contractor and take action consistent with 42 CFR §438.610(c).

v. Periodic audits.

a. The Department shall periodically, but no less frequently than once every three years, conduct, or contract for the conduct of, an independent audit of

the accuracy, truthfulness, and completeness of the encounter and financial data submitted by, or on behalf of, the Contractor.

vi. **Whistleblowers.**

a. The Department shall receive and investigate information from whistleblowers relating to the integrity of the Contractor, subcontractors, or network providers receiving Federal funds under 42 CFR, Part 438.

vii. **Transparency.**

a. The Department shall post on its website, as required in 42 CFR §438.10(c)(3), the following documents and reports:
   i. This Agreement;
   ii. The data at 42 CFR §438.604(a)(5);
   iii. The name and title of individuals included in 42 CFR §438.604(a)(6); and
   iv. The results of any audits performed pursuant Article II, Section H, Paragraph (v) of this Agreement.

viii. **Contracting integrity.**

a. The Department shall have in place conflict of interest safeguards described in 42 CFR §438.58 and shall comply with the requirement described in section 1902(a)(4)(C) of the Act applicable to contracting officers, employees, or independent Contractors.

ix. **Entities located outside of the U.S.**

a. The Department shall ensure that the Contractor is not located outside of the United States and that no claims paid by the Contractor to a network provider, out-of-network provider, subcontractor or financial institution located outside of the U.S. are considered in the development of actuarially sound capitation rates.

3. **Data, Information, and Documentation that shall be submitted (42 CFR §438.604).**

i. The Contractor shall submit to the Department the following data:

a. Encounter data in the form and manner described in 42 CFR §438.818.
b. Documentation described in 42 CFR §438.207(b) on which the Department bases its certification that the Contractor has complied with the Department's requirements for availability and accessibility of services, including the adequacy of the provider network, as set forth in 42 CFR §438.206.
c. Information on ownership and control described in 42 CFR §455.104 from the Contractor's subcontractors as governed by 42 CFR §438.230.
d. The annual report of overpayment recoveries as required in 42 CFR §438.608(d)(3).

ii. In addition to the data, documentation, or information above, the Contractor shall submit any other data, documentation, or information relating to the performance of the Contractor's program integrity safeguard obligations required by the Department or the Secretary.

4. Source, Content, and Timing of Certification (42 CFR §438.606).

i. The data, documentation, or information specified in 42 CFR §438.604, shall be certified by either the Contractor's Chief Executive Officer; Chief Financial Officer; or an individual who reports directly to the Chief Executive Officer or Chief Financial Officer with delegated authority to sign for the Chief Executive Officer or Chief Financial Officer so that the Chief Executive Officer or Chief Financial Officer is ultimately responsible for the certification.

ii. The certification shall attest that, based on best information, knowledge, and belief, the data, documentation, and information specified in 42 CFR §438.604 is accurate, complete, and truthful.

iii. The Contractor shall submit the certification concurrently with the submission of the data, documentation, or information required in 42 CFR §438.604(a) and (b).

5. Program Integrity Requirements (42 CFR §438.608).

i. The Contractor, and its subcontractors to the extent that the subcontractors are delegated responsibility by the Contractor

for coverage of services and payment of claims under this Contract, shall implement and maintain arrangements or procedures that are designed to detect and prevent fraud, waste, and abuse.

ii. The arrangements or procedures shall include the following:

a. A compliance program that includes, at a minimum, all of the following elements:

i. Written policies, procedures, and standards of conduct that articulate the organization's commitment to comply with all applicable requirements and standards under the contract, and all applicable Federal and state requirements.

ii. The designation of a Compliance Officer who is responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements of this Agreement and who reports directly to the Chief Executive Officer and the board of directors.

iii. The establishment of a Regulatory Compliance Committee on the Board of Directors and at the senior management level charged with overseeing the organization's compliance program and its compliance with the requirements under this Contract.

iv. A system for training and education for the Compliance Officer, the organization's senior management, and the organization's employees for the Federal and state standards and requirements under this Contract.

v. Effective lines of communication between the compliance officer and the organization's employees.

vi. Enforcement of standards through well-publicized disciplinary guidelines.

vii. Establishment and implementation of procedures and a system with dedicated staff

for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence, and ongoing compliance with the requirements under this Agreement.

b. Provision for prompt reporting of all overpayments identified or recovered, specifying the overpayments due to potential fraud, to the Department.
c. Provision for prompt notification to the Department when it receives information about changes in a beneficiary's circumstances that may affect the beneficiary's eligibility including all of the following:
    i. Changes in the beneficiary's residence.
    ii. The death of a beneficiary.
d. Provision for notification to the Department when it receives information about a change in a network provider's circumstances that may affect the network provider's eligibility to participate in the managed care program, including the termination of the provider agreement with the Contractor.
e. Provision for a method to verify, by sampling or other methods, whether services that have been represented to have been delivered by network providers were received by beneficiaries and the application of such verification processes on a regular basis.
f. If the Contractor makes or receives annual payments under this Agreement of at least $5,000,000, provision for written policies for all employees of the entity, and of any subcontractor or agent, that provide detailed information about the False Claims Act and other Federal and state laws described in section

1902(a)(68) of the Act, including information about rights of employees to be protected as whistleblowers

g. Provision for the prompt referral of any potential fraud, waste, or abuse that the Contractor identifies to the Department Medicaid program integrity unit or any potential fraud directly to the State Medicaid Fraud Control Unit.

h. Provision for the Contractor's suspension of payments to a network provider for which the Department determines there is a credible allegation of fraud in accordance with 42 CFR §455.23.

iii. The Contractor shall ensure that all network providers are enrolled with the Department as Medicaid providers consistent with the provider disclosure, screening and enrollment requirements of 42 CFR part 455, subparts B and E. This provision does not require the network provider to render services to FFS beneficiaries.

iv. The Contractor and all its subcontractors shall provide reports to the Department within 60 calendar days when it has identified payments in excess of amounts specified in this Contract.

v. Treatment of recoveries made by the Contractor of overpayments to providers.

a. The Contractor shall specify in accordance with this Exhibit A, Attachment I and Exhibit B of this Agreement:

i. The retention policies for the treatment of recoveries of all overpayments from the Contractor to a provider, including specifically the retention policies for the treatment of recoveries of overpayments due to fraud, waste, or abuse.

ii. The process, timeframes, and documentation required for reporting the recovery of all overpayments.

iii. The process, timeframes, and documentation required for payment of recoveries of overpayments to the state in situations where

the Contractor is not permitted to retain some or all of the recoveries of overpayments.

iv. This provision does not apply to any amount of a recovery to be retained under False Claims Act cases or through other investigations.

b. The Contractor shall have a mechanism for a network provider to report to the Contractor when it has received an overpayment, to return the overpayment to the Contractor within 60 calendar days after the date on which the overpayment was identified, and to notify the Contractor in writing of the reason for the overpayment.

c. The Contractor report annually to the Department on their recoveries of overpayments.

6. Prohibited Affiliations (42 CFR §438.610).

i. The Contractor and its subcontractors shall not knowingly have a relationship of the type described in paragraph (iii) of this subsection with the following:

a. An individual or entity that is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549.

b. An individual or entity who is an affiliate, as defined in the Federal Acquisition Regulation at 48 CFR 2.101, of a person described in paragraph (a)(1) of this section.

ii. The Contractor and its subcontractors shall not have a relationship with an individual or entity that is excluded from participation in any Federal Health Care Program under section 1128 or 1128A of the Act.

iii. The relationships described in paragraph (i) of this section, are as follows:

a. A director, officer, or partner of the Contractor.

b. A subcontractor of the Contractor, as governed by 42 CFR §438.230.

c. A person with beneficial ownership of 5 percent or more of the Contractor's equity.
d. A network provider or person with an employment, consulting or other arrangement with the Contractor for the provision of items and services that are significant and material to the Contractor's obligations under this Agreement.

iv. If the Department finds that the Contractor is not in compliance, the Department:
a. Shall notify the Secretary of the noncompliance; and
b. May continue an existing agreement with the Contractor unless the Secretary directs otherwise; or
c. May not renew or otherwise extend the duration of an existing agreement with the Contractor unless the Secretary provides to the state and to Congress a written statement describing compelling reasons that exist for renewing or extending the agreement despite the prohibited affiliations.
d. Nothing in this section shall be construed to limit or otherwise affect any remedies available to the U.S. under sections 1128, 1128A or 1128B of the Act.

v. The Contractor shall provide the Department with written disclosure of any prohibited affiliation under this section by the Contractor or any of its subcontractors.

7. Disclosures on Information and Ownerships Control (42 CFR §455.104)

i. The Contractor and its subcontractors shall provide the following disclosures through the DMC certification process described in Article III.J:
a. The name and address of any person (individual or corporation) with an ownership or control interest in the Contractor. The address for corporate entities must include as applicable primary business address, every business location, and P.O. Box address.
b. Date of birth and Social Security Number (in the case of an individual).
c. Other tax identification number (in the case of a corporation) with an ownership or control interest in

the disclosing entity (or fiscal agent or managed care entity) or in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a 5 percent or more interest.

d. Whether the person (individual or corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the disclosing entity (or fiscal agent or managed care entity) has a 5 percent or more interest is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling.

e. The name of any other disclosing entity (or fiscal agent or managed care entity) in which an owner of the disclosing entity (or fiscal agent or managed care entity) has an ownership or control interest.

f. The name, address, date of birth, and Social Security Number of any managing employee of the disclosing entity (or fiscal agent or managed care entity).

ii. Disclosures are due at any of the following times:

a. Upon the Contractor submitting the proposal in accordance with the Department's procurement process;

b. Upon the Contractor executing this contract with the Department;

c. Upon renewal or extension of this contract; and

d. Within 35 days after any change in ownership of the Contractor.

iii. The Contractor shall provide all disclosures to the Department.

iv. Federal financial participation (FFP) shall be withheld from the Contractor if it fails to disclose ownership or control information as required by this section.

v. For the purposes of this section "person with an ownership or control interest" means a person or corporation that -
   a. Has an ownership interest totaling 5 percent or more in a disclosing entity;
   b. Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;
   c. Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;
   d. Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;
   e. Is an officer or director of a disclosing entity that is organized as a corporation; or
   f. Is a partner in a disclosing entity that is organized as a partnership.

I. Conditions for Federal Financial Participation (FFP)

1. Costs under this Nonrisk Contract (42 CFR §438.812).

a. The amount the Department pays for the furnishing of medical services to eligible beneficiaries is a medical assistance cost.
b. The amount the Department pays for the Contractor's performance of other functions is an administrative cost.

III. Program Specifications

A. Provision of Services

1. Provider Specifications

i. The following requirements shall apply to the Contractor, the provider, and the provider staff:
   a. Professional staff shall be licensed, registered, certified or recognized under California scope of practice statutes. Professional staff shall provide services within their individual scope of practice and receive supervision required under their scope of practice laws. Licensed Practitioners of the Healing Arts (LPHA) include:

i. Physician;
ii. Nurse Practitioners;
iii. Physician Assistants;
iv. Registered Nurses;
v. Registered Pharmacists;
vi. Licensed Clinical Psychologists;
vii. Licensed Clinical Social Worker;
viii. Licensed Professional Clinical Counselor;
ix. Licensed Marriage and Family Therapists; and
x. License Eligible Practitioners working under the supervision of Licensed Clinicians.

ii. Non-professional staff shall receive appropriate onsite orientation and training prior to performing assigned duties. A professional and/or administrative staff shall supervise non-professional staff.

iii. Professional and non-professional staff are required to have appropriate experience and any necessary training at the time of hiring. Documentation of trainings, certifications and licensure shall be contained in personnel files.

iv. Professional staff (LPHAs) shall receive a minimum of five (5) hours of continuing education related to addiction medicine each year.

v. Registered and certified SUD counselors shall adhere to all requirements in Title 9, Chapter 8.

2. Services for Adolescents and Youth

i. Assessment and services for adolescents will follow the ASAM adolescent treatment criteria.

B. Organized Delivery System (ODS) Timely Coverage

1. Non-Discrimination - Member Discrimination Prohibition

i. Contractor shall accept individuals eligible for enrollment in the order in which they apply without restriction in accordance with this Agreement. Contractor shall take affirmative action to ensure that beneficiaries are provided covered services and will not discriminate against individuals eligible to enroll under the laws of the United States and the State of California. Contractor shall not unlawfully discriminate against any person pursuant to:

a. Title VI of the Civil Rights Act of 1964.

b. Title IX of the Education Amendments of 1972 (regarding education and programs and activities).
c. The Age Discrimination Act of 1975.
d. The Rehabilitation Act of 1973.
e. The Americans with Disabilities Act.

2. DMC-ODS services shall be available as a Medi-Cal benefit for individuals who meet the medical necessity criteria and reside in this opt-in County. Determination of who may receive the DMC-ODS benefits shall be performed in accordance with DMC-ODS Special Terms and Conditions (STC) 128(d), Article II.E.4 of this Agreement, and as follows:

i. The Contractor or its subcontracted provider shall verify the Medicaid eligibility determination of an individual. When the subcontracted provider conducts the initial eligibility verification, that verification shall be reviewed and approved by the Contractor prior to payment for services. If the individual is eligible to receive services from tribal health programs operating under the Indian Self-Determination Education Assistance Act (ISDEAA), then the determination shall be conducted as set forth in the Tribal Delivery System - Attachment BB to the STCs.

ii. The initial medical necessity determination, for an individual to receive a DMC-ODS benefit, shall be performed through a face-to-face review or telehealth by a Medical Director or a LPHA. After establishing a diagnosis and documenting the basis for diagnosis, the American Society of Addiction Medicine (ASAM) Criteria shall be applied by the diagnosing individual to determine placement into the level of assessed services.

a. Medical necessity for an adult (an individual age 21 and over) is determined using the following criteria:

i. The individual shall have received at least one diagnosis from the Diagnostic and Statistical Manual of Mental Disorders (DSM) for Substance-Related and Addictive Disorders with the exception of Tobacco-Related Disorders and Non-Substance-Related Disorders; and

ii. The individual shall meet the ASAM Criteria definition of medical necessity for services based on the ASAM Criteria.

b. Individuals under age 21 are eligible to receive Medicaid services pursuant to the Early Periodic Screening, Diagnostic and Treatment (EPSDT) mandate. Under the EPSDT mandate, beneficiaries under the age 21 are eligible to receive all appropriate and medically necessary services needed to correct and ameliorate health conditions that are coverable under section 1905(a) Medicaid authority. Nothing in the DMC-ODS overrides any EPSDT requirements. Medical necessity for an adolescent individual (an individual under the age of 21) is determined using the following criteria:

i. The adolescent individual shall be assessed to be at risk for developing a SUD.

ii. The adolescent individual shall meet the ASAM adolescent treatment criteria.

iii. For an individual to receive ongoing DMC-ODS services, the Medical Director or LPHA shall reevaluate that individual's medical necessity qualification at least every six months through the reauthorization process and document their determination that those services are still clinically appropriate for that individual. For an individual to receive ongoing Opioid Treatment Program/Narcotic Treatment Program (OTP/NTP) services, the Medical Director or LPHA shall reevaluate that individual's medical necessity qualification at least annually through the reauthorization process and determine that those services are still clinically appropriate for that individual.

C. Covered Services

1. In addition to the coverage and authorization of services requirements set forth in Article II.E.4 of this Agreement, the Contractor shall:

i. Identify, define, and specify the amount, duration, and scope of each medically necessary service that the Contractor is required to offer.

ii. Require that the medically necessary services identified be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to beneficiaries under fee-for-service Medicaid, as set forth in 42 CFR 440.230.

iii. Specify the extent to which the Contractor is responsible for covering medically necessary services related to the following:

a. The prevention, diagnosis, and treatment of health impairments;

b. The ability to achieve age-appropriate growth and development; and

c. The ability to attain, maintain, or regain functional capacity.

2. The Contractor shall deliver the DMC-ODS Covered Services within a continuum of care as defined in the ASAM criteria.

3. Mandatory DMC-ODS Covered Services include:

i. Withdrawal Management (minimum one level);

ii. Intensive Outpatient;

iii. Outpatient;

iv. Opioid (Narcotic) Treatment Programs;

v. Recovery Services;

vi. Case Management;

vii. Physician Consultation;

viii. Perinatal Residential Substance Abuse Services (excluding room and board);

a. Room and board shall not be a covered expenditure under the DMC-ODS. Room and board may be paid with funding sources unrelated to the DMC-ODS.

ix. Non-perinatal Residential Substance Abuse Services (excluding room and board);

a. Room and board shall not be a covered expenditure under the DMC-ODS. Room and board may be paid with funding sources unrelated to DMC-ODS.

4. Contractor, to the extent applicable, shall comply with "Sobky v. **Smoley**" (Document 2A), 855 F. Supp. 1123 (E.D. Cal 1994), incorporated by this reference.

5. Contractor shall comply with federal and state mandates to provide SUD treatment services deemed medically necessary for Medi-Cal eligible: (1) pregnant and postpartum women, and (2) adolescents under age 21 who are eligible under the EPSDT Program.

D. Financing

1. **Payment for Services**
   i. For claiming Federal Financial Participation (FFP), the Contractor shall certify the total allowable expenditures incurred in providing the DMC-ODS services provided either through Contractor operated providers, contracted fee-for-service providers or contracted managed care plans.
   ii. DHCS shall establish a Center for Medicare and Medicaid Services (CMS) approved Certified Public Expenditure (CPE) protocol before FFP associated with DMC-ODS services, is made available to DHCS. This DHCS approved CPE protocol (Attachment AA of the STCs) shall explain the process DHCS shall use to determine costs incurred by the counties under this demonstration.
   iii. The Contractor shall only provide State Plan DMC services until DHCS and CMS approve of this Agreement and the approved Agreement is executed by the Contractor's County Board of Supervisors. During this time, State Plan DMC services shall be reimbursed pursuant to the State Plan reimbursement methodologies.
   iv. Pursuant to Title 42 CFR 433.138 and 22 CCR 51005(a), if a beneficiary has Other Heath Coverage (OHC), then the Contractor shall bill that OHC prior to billing DMC to receive either payment from the OHC, or a notice of denial from the OHC indicating that:
      a. The recipient's OHC coverage has been exhausted, or
      b. The specific service is not a benefit of the OHC.
   v. If the Contractor submits a claim to an OHC and receives partial payment of the claim, the Contractor may submit the claim to DMC and is eligible to receive payment up to the maximum DMC rate for the service, less the amount of the payment made by the OHC.

2. **Rate Setting**
   i. The Contractor shall propose county-specific fee-for-service (FFS) provider rates for all modalities except the OTP/NTP modality. DHCS shall approve or deny those proposed rates to determine if the rates are sufficient to ensure access to available DMC-ODS services.
      a. If DHCS denies the Contractor's proposed rates, the Contractor shall have an opportunity to adjust the rates and resubmit them to DHCS to determine if the adjusted rates are sufficient to ensure access to available DMC-ODS services. The Contractor shall receive DHCS approval of its rates prior to providing any covered DMC-ODS program services.
   ii. The DHCS Rate Setting Work Group pursuant to the process set forth in W&I Code, Section 14021.51 shall set OTP/NTP reimbursement rate. The Contractor shall reimburse all OTP/NTP providers at this rate.
      a. The Contractor shall ensure that all of its contracted OTP/NTP providers provide it with financial data on an annual basis. The Contractor shall collect and submit this data to the DHCS Rates Setting Work Group upon its request for the purpose of setting the OTP/NTP rates after the expiration of the DMC-ODS.
         i. The DHCS Rates Setting Workgroup shall propose a recommended format for this annual financial data and DHCS shall approve a final format.
   iii. Pursuant to W&I Code, Section 14124.24(h), the Contractor shall not require OTP/NTP providers to submit cost reports to the Contractor for the purpose of cost settlement.

E. Availability of Services

1. In addition to the availability of services requirements set forth in Article II.E.1 of this Agreement, the Contractor shall:
   i. Consider the numbers and types (in terms of training, experience and specialization) of providers required to ensure the availability and accessibility of medically necessary services;

ii. Maintain and monitor a network of appropriate providers that is supported by written agreements for subcontractors and that is sufficient to provide its beneficiaries with adequate access to all services covered under this Agreement.

iii. In establishing and monitoring the network, document the following:

a. The anticipated number of Medi-Cal eligible beneficiaries.

b. The expected utilization of services, taking into account the characteristics and SUD treatment needs of beneficiaries.

c. The expected number and types of providers in terms of training and experience needed to meet expected utilization.

d. The numbers of network providers who are not accepting new beneficiaries.

e. The geographic location of providers and their accessibility to beneficiaries, considering distance, travel time, means of transportation ordinarily used by Medi-Cal beneficiaries, and physical access for disabled beneficiaries.

F. Access to Services

1. Subject to DHCS provider enrollment certification requirements, the Contractor shall maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services through use of DMC certified providers. Such services shall not be limited due to budgetary constraints.

2. When a beneficiary makes a request for covered services, the Contractor shall require services to be initiated with reasonable promptness. Contractor shall have a documented system for monitoring and evaluating the quality, appropriateness and accessibility of care, including a system for addressing problems that develop regarding waiting times and appointments.

3. In addition to the coverage and authorization of services requirements set forth in Article II.E.4 of this Agreement, the Contractor shall:

i. Authorize DMC-ODS services in accordance with the medical necessity criteria specified in Title 22, Section 51303 and the coverage provisions of the approved state Medi-Cal Plan.
ii. If services are denied, inform the beneficiary in accordance with Article II.G.2 of this Agreement.
iii. Provide prior authorization for residential services within 24 hours of the prior authorization request being submitted by the provider.
    a. Prior authorization is prohibited for non-residential DMC-ODS services.
iv. Review the DSM and ASAM Criteria documentation to ensure that the beneficiary meets the requirements for the service.
v. Have written policies and procedures for processing requests for initial and continuing authorization of services.
vi. Have a mechanism in place to ensure that there is consistent application of review criteria for authorization decisions and shall consult with the requesting provider when appropriate.
vii. Track the number, percentage of denied and timeliness of requests for authorization for all DMC-ODS services that are submitted, processed, approved and denied.
viii. Pursuant to 42 CFR 438.3(l), allow each beneficiary to choose his or her health professional to the extent possible and appropriate.
ix. Require that treatment programs are accessible to people with disabilities in accordance with Title 45, Code of Federal Regulations (hereinafter referred to as CFR), Part 84 and the Americans with Disabilities Act.
x. Have a 24/7 toll free number for prospective beneficiaries to call to access DMC-ODS services and make oral interpretation services available for beneficiaries, as needed.

4. Covered services, whether provided directly by the Contractor or through subcontractor with DMC certified and enrolled programs, shall be provided to beneficiaries in the following manner:

i. DMC-ODS services approved through the Special Terms and Conditions shall be available to all beneficiaries that reside in the ODS County and enrolled in the ODS Plan.
ii. Access to State Plan services shall remain at the current, pre-implementation level or expand upon implementation.

G. Coordination and Continuity of Care

1. In addition to meeting the coordination and continuity of care requirements set forth in Article II.E.3, the Contractor shall develop a care coordination plan that provides for seamless transitions of care for beneficiaries with the DMC-ODS system of care. Contractor is responsible for developing a structured approach to care coordination to ensure that beneficiaries successfully transition between levels of SUD care (i.e. withdrawal management, residential, outpatient) without disruptions to services.

2. In addition to specifying how beneficiaries will transition across levels of acute and short-term SUD care without gaps in treatment, the Contractor shall ensure that beneficiaries have access to recovery supports and services immediately after discharge or upon completion of an acute care stay, with the goal of sustained engagement and long-term retention in SUD and behavioral health treatment.

3. Contractor shall enter into a Memorandum Of Understanding (MOU) with any Medi-Cal managed care plan that enrolls beneficiaries served by the DMC-ODS. This requirement may be met through an amendment to the Specialty Mental Health Managed Care Plan MOU.

i. The following elements in the MOU should be implemented at the point of care to ensure clinical integration between DMC-ODS and managed care providers:

a. Comprehensive substance use, physical, and mental health screening.
b. Beneficiary engagement and participation in an integrated care program as needed;
c. Shared development of care plans by the beneficiary, caregivers and all providers;
d. Collaborative treatment planning with managed care;
e. Delineation of case management responsibilities;

f. A process for resolving disputes between the county and the Medi-Cal managed care plan that includes a means for beneficiaries to receive medically necessary services while the dispute is being resolved;
g. Availability of clinical consultation, including consultation on medications;
h. Care coordination and effective communication among providers including procedures for exchanges of medical information;
i. Navigation support for patients and caregivers; and
j. Facilitation and tracking of referrals between systems including bidirectional referral protocol.

H. Authorization of Services – Residential Programs

1. The Contractor shall implement residential treatment program standards that comply with the authorization of services requirements set forth in Article II.E.4 and shall:

i. Establish, and follow, written policies and procedures for processing requests for initial and continuing authorizations of services for residential programs;
ii. Ensure that residential services are provided in DHCS or Department of Social Services (DSS) licensed residential facilities that also have DMC certification and have been designated by DHCS as capable of delivering care consistent with ASAM treatment criteria;
iii. Ensure that residential services may be provided in facilities with no bed capacity limit;
iv. Ensure that the length of residential services comply with the following time restrictions:
    a. Adults, ages 21 and over, may receive up to two continuous short-term residential regimens per 365-day period. A short-term residential regimen is defined as one residential stay in a DHCS licensed facility for a maximum of 90 days per 365-day period.
    b. An adult beneficiary may receive one 30 day extension, if that extension is medically necessary, per 365-day period.

c. Adolescents, under the age of 21, shall receive continuous residential services for a maximum of 30 days. Adolescent beneficiaries may receive a 30-day extension if that extension is determined to be medically necessary. Adolescent beneficiaries are limited to one extension per year. Adolescent beneficiaries receiving residential treatment shall be stabilized as soon as possible and moved down to a less intensive level of treatment. Nothing in the DMC-ODS or in this paragraph overrides any EPSDT requirements. Adolescent beneficiaries may receive a longer length of stay based on medical necessity

d. If determined to be medically necessary, perinatal beneficiaries may receive a longer lengths of stay than those described above.

v. Ensure that at least one ASAM level of Residential Treatment Services is available to beneficiaries in the first year of implementation;

vi. Demonstrate ASAM levels of Residential Treatment Services (Levels 3.1-3.5) within three years of CMS approval of the county implementation plan and state-county Agreement and describe coordination for ASAM Levels 3.7 and 4.0.

vii. Enumerate the mechanisms that the Contractor has in effect that ensure the consistent application of review criteria for authorization decisions, and require consultation with the requesting provider when appropriate.

viii. Require written notice to the beneficiary of any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested be made by a health care professional who has appropriate clinical expertise in treating the beneficiary's condition or disease.

2. Pursuant to 42 CFR 431.201, the Contractor shall define service authorization request in a manner that at least includes a beneficiary's request for the provision of a service.

I. Provider Selection and Certification

Exhibit A, Attachment I
Program Specifications

1. In addition to complying with the provider selection requirements set forth in Article II.E.5 and the provider discrimination prohibitions in Article II.B.3, the Contractor:

i. Shall have written policies and procedures for selection and retention of providers that are in compliance with the terms and conditions of this Agreement and applicable federal laws and regulations.

ii. Shall apply those policies and procedures equally to all providers regardless of public, private, for-profit or non-profit status, and without regard to whether a provider treats persons who require high-risk or specialized services.

iii. Shall not discriminate against persons who require high-risk or specialized services.

iv. Shall subcontract with providers in another state where out-of-state care or treatment is rendered on an emergency basis or is otherwise in the best interests of the person under the circumstances.

v. Shall select only providers that have a license and/or certification issued by the state that is in good standing.

vi. Shall select only providers that, prior to the furnishing of services under this Agreement, have enrolled with, or revalidated their current enrollment with, DHCS as a DMC provider under applicable federal and state regulations.

vii. Shall select only providers that have been screened in accordance with 42 CFR 455.450(c) as a “high” categorical risk prior to furnishing services under this Agreement, have signed a Medicaid provider agreement with DHCS as required by 42 CFR 431.107, and have complied with the ownership and control disclosure requirements of 42 CFR 455.104. DHCS shall deny enrollment and DMC certification to any provider (as defined in Welfare & Institutions Code section 14043.1), or a person with ownership or control interest in the provider (as defined in 42 CFR 455.101), that, at the time of application, is under investigation for fraud or abuse pursuant to Part 455 of Title 42 of the Code of Federal Regulations, unless DHCS determines that there is good cause not to deny enrollment upon the same bases enumerated in 42 CFR 455.23(e). If a provider is under

investigation for fraud or abuse, that provider shall be subject to temporary suspension pursuant to Welfare & Institutions Code section 14043.36. Upon receipt of a credible allegation of fraud, a provider shall be subject to a payment suspension pursuant to Welfare & Institutions Code section 14107.11 and DHCS may thereafter collect any overpayment identified through an audit or examination. During the time a provider is subject to a temporary suspension pursuant to Welfare & Institutions Code section 14043.36, the provider, or a person with ownership or control interest in the provider (as defined in 42 CFR 455.101), may not receive reimbursement for services provided to a DMC-ODS beneficiary. A provider shall be subject to suspension pursuant to Welfare and Institutions Code section 14043.61 if claims for payment are submitted for services provided to a Medi-Cal beneficiary by an individual or entity that is ineligible to participate in the Medi-Cal program. A provider will be subject to termination of provisional provider status pursuant to Welfare and Institutions Code section 14043.27 if the provider has a debt due and owing to any government entity that relates to any federal or state health care program, and has not been excused by legal process from fulfilling the obligation. Only providers newly enrolling or revalidating their current enrollment on or after January 1, 2015 would be required to undergo fingerprint- based background checks required under 42 CFR 455.434.

2. **Disclosures that shall be provided.**
   i. A disclosure from any provider or disclosing entity is due at any of the following times:
      a. Upon the provider or disclosing entity submitting the provider application.
      b. Upon the provider or disclosing entity executing the provider agreement.
      c. Upon request of the Medicaid agency during the re-validation of enrollment process under § 455.414.
      d. Within 35 days after any change in ownership of the disclosing entity.
   ii. All disclosures shall be provided to the Medicaid agency.

iii. Consequences for failure to provide required disclosures. Federal Financial Participation (FFP) is not available in payments made to a disclosing entity that fails to disclose ownership or control information as required by this section.

3. The Contractor shall only select providers that have a Medical Director who, prior to the delivery of services under this Agreement, has enrolled with DHCS under applicable state regulations, has been screened in accordance with 42 CFR 455.450(a) as a "limited" categorical risk within a year prior to serving as a Medical Director under this Agreement, and has signed a Medicaid provider agreement with DHCS as required by 42 CFR 431.107.

4. The Contractor may contract individually with LPHAs to provide DMC-ODS services in the network.

5. The Contractor shall have a protest procedure for providers that are not awarded a subcontract. The Contractor's protest procedure shall ensure that:

i. Providers that submit a bid to be a subcontracted provider, but are not selected, shall exhaust the Contractor's protest procedure if a provider wishes to challenge the denial to DHCS.

ii. If the Contractor does not render a decision within 30 calendar days after the protest was filed with the Contractor, then the protest shall be deemed denied and the provider may appeal the failure to DHCS.

J. DMC Certification and Enrollment

1. DHCS shall certify eligible providers to participate in the DMC program.

2. The DHCS shall certify any Contractor operated or non-governmental providers. This certification shall be performed prior to the date on which the Contractor begins to deliver services under this Agreement at these sites.

3. Contractor shall require that providers of perinatal DMC services are properly certified to provide these services and comply with the applicable requirements contained in Article III.PP of this Exhibit A, Attachment I.

4. Contractor shall require all the subcontracted providers of services to be licensed, registered, DMC certified and/or

approved in accordance with applicable laws and regulations. Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:

i. Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8;
ii. Title 22, Sections 51490.1(a);
iii. Exhibit A, Attachment I, Article III.PP – Requirements for Services;
iv. Title 9, Division 4, Chapter 4, Subchapter 1, Sections 10000, et seq.; and
v. Title 22, Division 3, Chapter 3, sections 51000 et. seq.

5. In the event of conflicts, the provisions of Title 22 shall control if they are more stringent.

6. The Contractor shall notify Provider Enrollment Division (PED) of an addition or change of information in a providers pending DMC certification application within 35 days of receiving notification from the provider. The Contractor shall ensure that a new DMC certification application is submitted to PED reflecting the change.

7. The Contractor shall be responsible for ensuring that any reduction of covered services or relocations by providers are not implemented until the approval is issued by DHCS. Within 35 days of receiving notification of a provider's intent to reduce covered services or relocate, the Contractor shall submit, or require the provider to submit, a DMC certification application to PED. The DMC certification application shall be submitted to PED 60 days prior to the desired effective date of the reduction of covered services or relocation.

8. The Contractor shall notify DHCS PED by e-mail at DHCSDMCRecert@dhcs.ca.gov within two business days of learning that a subcontractor's license, registration, certification, or approval to operate a SUD program or provide a covered service is revoked, suspended, modified, or not renewed by entities other than DHCS.

i. A provider's certification to participate in the DMC program shall automatically terminate in the event that the provider, or its owners, officers or directors are convicted of Medi-Cal fraud, abuse, or malfeasance. For purposes of this section, a conviction shall include a plea of guilty or nolo contendere.

K. Continued Certification

1. All DMC certified providers shall be subject to continuing certification requirements at least once every five years. DHCS may allow the Contractor to continue delivering covered services to beneficiaries at a site subject to on-site review by DHCS as part of the recertification process prior to the date of the on-site review, provided the site is operational, the certification remains valid, and has all required fire clearances.
2. DHCS shall conduct unannounced certification and recertification on-site visits at clinics pursuant to W&I Code, Section 14043.7.

L. Laboratory Testing Requirements

1. This part sets forth the conditions that all laboratories shall meet to be certified to perform testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (CLIA). Except as specified in paragraph (2) of this section, a laboratory will be cited as out of compliance with section 353 of the Public Health Service Act unless it:
   i. Has a current, unrevoked or unsuspended certificate of waiver, registration certificate, certificate of compliance, certificate for PPM procedures, or certificate of accreditation issued by HHS applicable to the category of examinations or procedures performed by the laboratory.
   ii. Is CLIA-exempt.
2. These rules do not apply to components or functions of:
   i. Any facility or component of a facility that only performs testing for forensic purposes.
   ii. Research laboratories that test human specimens but do not report patient specific results for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of individual patients.
   iii. Laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA), in which drug testing is performed which meets SAMHSA guidelines and regulations. However, all other testing conducted by a SAMHSA-certified laboratory is subject to this rule.
3. Laboratories under the jurisdiction of an agency of the Federal Government are subject to the rules of this part, except that the Secretary may modify the application of such requirements as appropriate.

M. Recovery from Other Sources or Providers

1. The Contractor shall recover the value of covered services rendered to beneficiaries whenever the beneficiaries are covered for the same services, either fully or partially, under any other state or federal medical care program or under other contractual or legal entitlement including, but not limited to, a private group or indemnification program, but excluding instances of the tort liability of a third party or casualty liability insurance.
2. The monies recovered are retained by the Contractor. However, Contractor's claims for FFP for services provided to beneficiaries under this Agreement shall be reduced by the amount recovered.
3. The Contractor shall maintain accurate records of monies recovered from other sources.
4. Nothing in this section supersedes the Contractor's obligation to follow federal requirements for claiming FFP for services provided to beneficiaries with other coverage under this Agreement.

N. Early Intervention (ASAM Level 0.5)

1. Contractor shall identify beneficiaries at risk of developing a substance use disorder or those with an existing substance use disorder and offer those beneficiaries: screening for adults and youth, brief treatment as medically necessary, and, when indicated, a referral to treatment with a formal linkage.

O. Outpatient Services (ASAM Level 1.0)

1. Outpatient services consist of up to nine hours per week of medically necessary services for adults and less than six hours per week of services for adolescents.
2. Contractor shall ensure that its providers will offer ASAM Level 1 services including: assessment, treatment planning; individual and group counseling; family therapy; patient education; medication services; collateral services; crisis intervention services; and discharge planning and coordination.
3. Services may be provided in-person, by telephone, or by telehealth, and in any appropriate setting in the community.

P. Intensive Outpatient Services (ASAM Level 2.1)

1. Intensive outpatient involves structured programming provided to beneficiaries as medically necessary for a minimum of nine hours

and a maximum of 19 hours per week for adult perinatal and non-perinatal beneficiaries. Adolescents are provided a minimum of six and a maximum of 19 hours per week.

2. Intensive outpatient services shall include: assessment, treatment planning, individual and/or group counseling, patient education, family therapy, medication services, collateral services, crisis intervention services, treatment planning, and discharge planning and coordination.
3. Services may be provided in-person, by telephone, or by telehealth, and in any appropriate setting in the community.

Q. Residential Treatment Services

1. Residential services are provided in DHCS or DSS licensed residential facilities that also have DMC certification and have been designated by DHCS as capable of delivering care consistent with ASAM treatment criteria.
2. Residential services can be provided in facilities with no bed capacity limit.
3. The length of residential services range from 1 to 90 days with a 90-day maximum for adults and 30-day maximum for adolescents per 365-day period; unless medical necessity authorizes a one-time extension of up to 30 days per 365-day period.
   i. Only two non-continuous 90-day regimens may be authorized in a one-year period (365 days). The average length of stay for residential services is 30 days.
   ii. Perinatal beneficiaries shall receive a length of stay for the duration of their pregnancy, plus 60 days postpartum.
   iii. Adolescent beneficiaries shall receive a longer length of stay, if found to be medically necessary.

R. Case Management

1. Case management services are defined as a service that assist a beneficiary to access needed medical, educational, social, prevocational, vocational, rehabilitative, or other community services.
2. The Contractor shall ensure that case management services focus on coordination of SUD care, integration around primary care especially for beneficiaries with a chronic substance use disorder, and interaction with the criminal justice system, if needed.

3. The Contractor shall be responsible for determining which entity monitors the case management activities.
4. Case management services may be provided by a LPHA or a certified counselor.
5. The Contractor shall coordinate a system of case management services with physical and/or mental health in order to ensure appropriate level of care.
6. Case management services may be provided face-to-face, by telephone, or by telehealth with the beneficiary and may be provided anywhere in the community.

S. Physician Consultation Services

1. Physician Consultation Services include DMC physicians' consulting with addiction medicine physicians, addiction psychiatrists or clinical pharmacists. Physician consultation services are designed to assist DMC physicians by allowing them to seek expert advice when developing treatment plans for specific DMC-ODS beneficiaries. Physician consultation services may address medication selection, dosing, side effect management, adherence, drug-drug interactions, or level of care considerations.
2. Contractor may contract with one or more physicians or pharmacists in order to provide consultation services.
3. The Contractor shall only allow DMC providers to bill for physician consultation services.

T. Recovery Services

1. Recovery Services shall include:
   i. Outpatient counseling services in the form of individual or group counseling to stabilize the beneficiary and then reassess if the beneficiary needs further care.
   ii. Recovery Monitoring: Recovery coaching, monitoring via telephone and internet.
   iii. Substance Abuse Assistance: Peer-to-peer services and relapse prevention.
   iv. Education and Job Skills: Linkages to life skills, employment services, job training, and education services.
   v. Family Support: Linkages to childcare, parent education, child development support services, family/marriage education.

vi. Support Groups: Linkages to self-help and support, spiritual and faith-based support.

vii. Ancillary Services: Linkages to housing assistance, transportation, case management, individual services coordination.

2. Recovery services shall be utilized when the beneficiary is triggered, when the beneficiary has relapsed, or simply as a preventative measure to prevent relapse. As part of the assessment and treatment needs of Dimension 6, Recovery Environment of the ASAM Criteria and during the transfer/transition planning process, the Contractor shall provide beneficiaries with recovery services.

3. Additionally, the Contractor shall:

i. Provide recovery services to beneficiaries as medically necessary.

ii. Provide beneficiaries with access to recovery services after completing their course of treatment.

iii. Provide recovery services either face-to-face, by telephone, or by telehealth, and in any appropriate setting in the community with the beneficiary

U. Withdrawal Management

1. The Contractor shall provide a minimum one of the five levels of withdrawal management (WM) services according to the ASAM Criteria, when determined by a Medical Director or LPHA as medically necessary, and in accordance with the beneficiary's individualized treatment plan.

2. The Contractor shall ensure that all beneficiaries that are receiving both residential services and WM services are monitored during the detoxification process.

3. The Contractor shall provide medically necessary habilitative and rehabilitative services in accordance with an individualized treatment plan prescribed by a licensed physician or licensed prescriber.

V. Opioid (Narcotic) Treatment Program Services (NTP)

1. Pursuant to W&I Code, Section 14124.22, a Narcotic Treatment Program provider who is also enrolled as a Medi-Cal provider may provide medically necessary treatment of concurrent health conditions to Medi-Cal beneficiaries who are not enrolled in

managed care plans as long as those services are within the scope of the provider's practice. Narcotic treatment providers shall refer all Medi-Cal beneficiaries that are enrolled in managed care plans to their respective managed care plan to receive medically necessary medical treatment of their concurrent health conditions.

2. The diagnosis and treatment of concurrent health conditions of Medi-Cal beneficiaries that are not enrolled in managed care plans by a Narcotic Treatment Program provider may be provided within the Medi-Cal coverage limits. When the services are not part of the SUD treatment reimbursed pursuant to W&I Code, Section 14021.51, the services rendered shall be reimbursed in accordance with the Medi-Cal program. Services reimbursable under this section shall include all of the following:
   i. Medical treatment visits;
   ii. Diagnostic blood, urine, and X-rays;
   iii. Psychological and psychiatric tests and services;
   iv. Quantitative blood and urine toxicology assays; and
   v. Medical supplies.

3. An NTP provider who is enrolled as a Medi-Cal fee-for-service provider shall not seek reimbursement from a beneficiary for SUD treatment services, if the NTP provider bills the services for treatment of concurrent health conditions to the Medi-Cal fee-for-service program.

4. The Contractor shall subcontract with licensed NTPs to offer services to beneficiaries who meet medical necessity criteria requirements.

5. Services shall be provided in accordance with an individualized beneficiary plan determined by a licensed prescriber.

6. Offer and prescribe medications to patients covered under the DMC-ODS formulary including methadone, buprenorphine, naloxone, and disulfiram.

7. Services provided as part of an NTP shall include: assessment, treatment planning, individual and group counseling, patient education; medication services; collateral services; crisis intervention services; treatment planning; medical psychotherapy; and discharge services.

i. Beneficiaries shall receive between 50 and 200 minutes of counseling per calendar month with a therapist or counselor, and, when medically necessary, additional counseling services may be provided.

W. Cultural Competence Plan

1. The Contractor shall develop a cultural competency plan and subsequent plan updates.
2. Contractor shall promote the delivery of services in a culturally competent manner to all beneficiaries, including those with limited English proficiency and diverse cultural and ethnic backgrounds.

X. Implementation Plan

1. The Contractor shall comply with the provisions of the Contractor's Implementation Plan as approved by DHCS.
2. The Contractor shall not provide DMC-ODS services without: 1) an approved Implementation Plan approved by DHCS and CMS; and 2) a CMS approved Intergovernmental Agreement executed by DHCS and the Contractor's Board of Supervisors.
3. The Contractor shall obtain written approval by DHCS prior to making any changes to the Implementation Plan.

Y. Additional Provisions

1. **Additional Intergovernmental Agreement Restrictions**
   i. This Agreement is subject to any additional restrictions, limitations, conditions, or statutes enacted or amended by the federal or state governments, which may affect the provisions, terms, or funding of this Agreement in any manner.
2. **Voluntary Termination of DMC-ODS Services**
   i. The Contractor may terminate this Agreement at any time, for any reason, by giving 60 days written notice to DHCS. The Contractor shall be paid for DMC-ODS services provided to beneficiaries up to the date of termination. Upon termination, the Contractor shall immediately begin providing DMC services to beneficiaries in accordance with the State Plan.
3. **Nullification of DMC-ODS Services**
   i. The parties agree that failure of the Contractor, or its subcontractors, to comply with W&I section 14124.24, the Special Terms and Conditions, and this Agreement, shall be

deemed a breach that results in the termination of this Agreement for cause.

ii. In the event of a breach, the DMC-ODS services shall terminate. The Contractor shall immediately begin providing DMC services to the beneficiaries in accordance with the State Plan.

4. **Hatch Act**
   i. Contractor agrees to comply with the provisions of the Hatch Act (Title 5 USC, Sections 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
5. **No Unlawful Use or Unlawful Use Messages Regarding Drugs**
   i. Contractor agrees that information produced through these funds, and which pertains to drug and alcohol related programs, shall contain a clearly written statement that there shall be no unlawful use of drugs or alcohol associated with the program. Additionally, no aspect of a drug or alcohol related program shall include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). By signing this Agreement, Contractor agrees that it shall enforce, and shall require its subcontractors to enforce, these requirements.
6. **Noncompliance with Reporting Requirements**
   i. Contractor agrees that DHCS has the right to withhold payments until Contractor has submitted any required data and reports to DHCS, as identified in this Exhibit A, Attachment I or as identified in Document 1F(a), Reporting Requirement Matrix for Counties.
7. **Limitation on Use of Funds for Promotion of Legalization of Controlled Substances**
   i. None of the funds made available through this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of Section 202 of the Controlled Substances Act (21 USC 812).
8. **Health Insurance Portability and Accountability Act (HIPAA) of 1996**
   i. If any of the work performed under this Agreement is subject to the HIPAA, Contractor shall perform the work in

compliance with all applicable provisions of HIPAA. As identified in Exhibit F, DHCS and the Contractor shall cooperate to assure mutual agreement as to those transactions between them, to which this Provision applies. Refer to Exhibit F for additional information.

ii. Trading Partner Requirements

a. No Changes. Contractor hereby agrees that for the personal health information (Information), it shall not change any definition, data condition or use of a data element or segment as proscribed in the federal HHS Transaction Standard Regulation. (45 CFR Part 162.915 (a))
b. No Additions. Contractor hereby agrees that for the Information, it shall not add any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation. (45 CFR Part 162.915 (b))
c. No Unauthorized Uses. Contractor hereby agrees that for the Information, it shall not use any code or data elements that either are marked “not used” in the HHS Transaction’s Implementation specification or are not in the HHS Transaction Standard’s implementation specifications. (45 CFR Part 162.915 (c))
d. No Changes to Meaning or Intent. Contractor hereby agrees that for the Information, it shall not change the meaning or intent of any of the HHS Transaction Standard’s implementation specification. (45 CFR Part 162.915 (d))

iii. Concurrence for Test Modifications to HHS Transaction Standards

a. Contractor agrees and understands that there exists the possibility that DHCS or others may request an extension from the uses of a standard in the HHS Transaction Standards. If this occurs, Contractor agrees that it shall participate in such test modifications.

iv. Adequate Testing

a. Contractor is responsible to adequately test all business rules appropriate to their types and specialties. If the Contractor is acting as a clearinghouse for enrolled providers, Contractor has obligations to adequately test all business rules appropriate to each and every provider type and specialty for which they provide clearinghouse services.

v. Deficiencies

a. The Contractor agrees to cure transactions errors or deficiencies identified by DHCS, and transactions errors or deficiencies identified by an enrolled provider if the Contractor is acting as a clearinghouse for that provider. If the Contractor is a clearinghouse, the Contractor agrees to properly communicate deficiencies and other pertinent information regarding electronic transactions to enrolled providers for which they provide clearinghouse services.

vi. Code Set Retention

a. Both Parties understand and agree to keep open code sets being processed or used in this Agreement for at least the current billing period or any appeal period, whichever is longer.

vii. Data Transmission Log

a. Both Parties shall establish and maintain a Data Transmission Log, which shall record any and all data transmissions taking place between the Parties during the term of this Agreement. Each Party shall take necessary and reasonable steps to ensure that such Data Transmission Logs constitute a current, accurate, complete, and unaltered record of any and all Data Transmissions between the Parties, and shall be retained by each Party for no less than twenty-four (24) months following the date of the Data Transmission. The Data Transmission Log may be maintained on computer media or other suitable means provided that, if necessary to do so, the information contained in the Data Transmission Log

may be retrieved in a timely manner and presented in readable form.

9. **Counselor Certification**
   i. Any counselor or registrant providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in a DHCS licensed or certified program is required to be certified as defined in Title 9, Division 4, Chapter 8. (Document 3H)
10. **Cultural and Linguistic Proficiency**
   i. To ensure equal access to quality care by diverse populations, each service provider receiving funds from this Agreement shall adopt the federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards (Document 3V) and comply with 42 CFR 438.206(c)(2).
11. **Trafficking Victims Protection Act of 2000**
   i. Contractor and its subcontractors that provide services covered by this Agreement shall comply with Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) as amended by section 1702. For full text of the award term, go to: http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title22-section7104d&num=0&edition=prelim
12. **Participation in the County Behavioral Health Director's Association of California.**
   i. The Contractor's County AOD Program Administrator shall participate and represent the County in meetings of the County Behavioral Health Director's Association of California for the purposes of representing the counties in their relationship with DHCS with respect to policies, standards, and administration for SUD services.
   ii. The Contractor's County AOD Program Administrator shall attend any special meetings called by the Director of DHCS.
13. **Youth Treatment Guidelines**
   i. Contractor shall follow the guidelines in Document 1V, incorporated by this reference, "Youth Treatment Guidelines," in developing and implementing adolescent

treatment programs funded under this Exhibit, until such time new Youth Treatment Guidelines are established and adopted. No formal amendment of this Agreement is required for new guidelines to be incorporated into this Agreement.

14. Nondiscrimination in Employment and Services

i. By signing this Agreement, Contractor certifies that under the laws of the United States and the State of California, incorporated into this Agreement by reference and made a part hereof as if set forth in full, Contractor shall not unlawfully discriminate against any person.

15. Federal Law Requirements:

i. Title VI of the Civil Rights Act of 1964, Section 2000d, as amended, prohibiting discrimination based on race, color, or national origin in federally funded programs.
ii. Title IX of the education amendments of 1972 (regarding education and programs and activities), if applicable.
iii. Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.) prohibiting discrimination on the basis of race, color, religion, sex, handicap, familial status or national origin in the sale or rental of housing.
iv. Age Discrimination Act of 1975 (45 CFR Part 90), as amended (42 USC Sections 6101 – 6107), which prohibits discrimination on the basis of age.
v. Age Discrimination in Employment Act (29 CFR Part 1625).
vi. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
vii. Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.
viii. Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access.
ix. Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of individuals with disabilities.
x. Executive Order 11246 (42 USC 2000(e) et seq. and 41 CFR Part 60) regarding nondiscrimination in employment

under federal contracts and construction contracts greater than $10,000 funded by federal financial assistance.

xi. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.

xii. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.

xiii. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.

16. State Law Requirements:

i. Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.).

ii. Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.

iii. Title 9, Division 4, Chapter 8, commencing with Section 10800.

iv. No state or Federal funds shall be used by the Contractor, or its subcontractors, for sectarian worship, instruction, and/or proselytization. No state funds shall be used by the Contractor, or its subcontractors, to provide direct, immediate, or substantial support to any religious activity.

v. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for state to withhold payments under this Agreement or terminate all, or any type, of funding provided hereunder.

17. Investigations and Confidentiality of Administrative Actions

i. Contractor acknowledges that if a DMC provider is under investigation by DHCS or any other state, local or federal law enforcement agency for fraud or abuse, DHCS may temporarily suspend the provider from the DMC program, pursuant to W&I Code, Section 14043.36(a). Information about a provider's administrative sanction status is confidential until such time as the action is either completed or resolved. The DHCS may also issue a Payment

Suspension to a provider pursuant to W&I Code, Section 14107.11 and Code of Federal Regulations, Title 42, section 455.23. The Contractor is to withhold payments from a DMC provider during the time a Payment Suspension is in effect.

ii. Contractor shall execute the Confidentiality Agreement, attached as Document 5A. The Confidentiality Agreement permits DHCS to communicate with Contractor concerning subcontracted providers that are subject to administrative sanctions.

18. Subcontract Provisions

i. Contractor shall include all of the foregoing provisions in all of its subcontracts.

Z. Beneficiary Problem Resolution Process

1. The Contractor shall establish and comply with a beneficiary problem resolution process.

2. Contractor shall inform subcontractors and providers at the time they enter into a subcontract about:

i. The beneficiary's right to a state fair hearing, how to obtain a hearing and the representation rules at the hearing.

ii. The beneficiary's right to file grievances and appeals and the requirements and timeframes for filing.

iii. The beneficiary's right to give written consent to allow a provider, acting on behalf of the beneficiary, to file an appeal. A provider may file a grievance or request a state fair hearing on behalf of a beneficiary, if the state permits the provider to act as the beneficiary's authorized representative in doing so.

iv. The beneficiary may file a grievance, either orally or in writing, and, as determined by DHCS, either with DHCS or with the Contractor.

v. The availability of assistance with filing grievances and appeals.

vi. The toll-free number to file oral grievances and appeals.

vii. The beneficiary's right to request continuation of benefits during an appeal or state fair hearing filing although the beneficiary may be liable for the cost of any continued benefits if the action is upheld.

viii. Any state determined provider's appeal rights to challenge the failure of the Contractor to cover a service.

3. The Contractor shall represent the Contractor's position in fair hearings, as defined in 42 CFR 438.408 dealing with beneficiaries' appeals of denials, modifications, deferrals or terminations of covered services. The Contractor shall carry out the final decisions of the fair hearing process with respect to issues within the scope of the Contractor's responsibilities under this Agreement. Nothing in this section is intended to prevent the Contractor from pursuing any options available for appealing a fair hearing decision.

i. Pursuant to 42 CFR 438.228, the Contractor shall develop problem resolution processes that enable beneficiary to request and receive review of a problem or concern he or she has about any issue related to the Contractor's performance of its duties, including the delivery of SUD treatment services.

4. The Contractor's beneficiary problem resolution processes shall include:

i. A grievance process;
ii. An appeal process; and,
iii. An expedited appeal process.

AA. Subcontracts

1. In addition to complying with the subcontractual relationship requirements set forth in Article II.E.8 of this Agreement, the Contractor shall ensure that all subcontracts require that the Contractor oversee and is held accountable for any functions and responsibilities that the Contractor delegates to any subcontractor.

2. Each subcontract shall

i. Fulfill the requirements of 42 CFR Part 438 that are appropriate to the service or activity delegated under the subcontract.
ii. Ensure that the Contractor evaluates the prospective subcontractor's ability to perform the activities to be delegated.
iii. Require a written agreement between the Contractor and the subcontractor that specifies the activities and report

responsibilities delegated to the subcontractor; and provides for revoking delegation or imposing other sanctions if the subcontractor's performance is inadequate.

iv. Ensure that the Contractor monitor the subcontractor's performance on an ongoing basis and subject it to an annual onsite review, consistent with statutes, regulations, and Article III.PP.

v. Ensure that the Contractor identifies deficiencies or areas for improvement, the subcontractor shall take corrective actions and the Contractor shall ensure that the subcontractor implements these corrective actions.

3. The Contractor shall include the following provider requirements in all subcontracts with providers:

i. Culturally Competent Services: Providers are responsible to provide culturally competent services. Providers shall ensure that their policies, procedures, and practices are consistent with the principles outlined and are embedded in the organizational structure, as well as being upheld in day-to-day operations. Translation services shall be available for beneficiaries, as needed.

ii. Medication Assisted Treatment: Providers will have procedures for linkage/integration for beneficiaries requiring medication assisted treatment. Provider staff will regularly communicate with physicians of beneficiaries who are prescribed these medications unless the beneficiary refuses to consent to sign a 42 CFR part 2 compliant release of information for this purpose.

iii. Evidence Based Practices (EBPs): Providers will implement at least two of the following EBPs based on the timeline established in the county implementation plan. The two EBPs are per provider per service modality. Counties will ensure the providers have implemented EBPs. The state will monitor the implementation and regular training of EBPs to staff during reviews. The required EBPs include:

a. Motivational Interviewing: A beneficiary-centered, empathic, but directive counseling strategy designed to explore and reduce a person's ambivalence toward treatment. This approach frequently includes other

problem solving or solution-focused strategies that build on beneficiaries' past successes.

b. Cognitive-Behavioral Therapy: Based on the theory that most emotional and behavioral reactions are learned and that new ways of reacting and behaving can be learned.
c. Relapse Prevention: A behavioral self-control program that teaches individuals with substance addiction how to anticipate and cope with the potential for relapse. Relapse prevention can be used as a stand-alone substance use treatment program or as an aftercare program to sustain gains achieved during initial substance use treatment.
d. Trauma-Informed Treatment: Services shall take into account an understanding of trauma, and place priority on trauma survivors' safety, choice and control.
e. Psycho-Education: Psycho-educational groups are designed to educate beneficiaries about substance abuse, and related behaviors and consequences. Psycho-educational groups provide information designed to have a direct application to beneficiaries' lives; to instill self- awareness, suggest options for growth and change, identify community resources that can assist beneficiaries in recovery, develop an understanding of the process of recovery, and prompt people using substances to take action on their own behalf.

BB. Program Integrity Requirements

1. Service Verification. To assist DHCS in meeting its obligation under 42 CFR 455.1(a)(2), the Contractor shall establish a mechanism to verify whether services were actually furnished to beneficiaries.

2. DMC Claims and Reports

i. Contractor or providers that bill DHCS or the Contractor for DMC-ODS services shall submit claims in accordance with Department of Health Care Service's DMC Provider Billing Manual.

ii. Contractor and subcontractors that provide DMC services shall be responsible for verifying the Medi-Cal eligibility of each beneficiary for each month of service prior to billing for DMC services to that beneficiary for that month. Medi-Cal eligibility verification should be performed prior to rendering service, in accordance with and as described in the DHCS DMC Provider Billing Manual. Options for verifying the eligibility of a Medi-Cal beneficiary are described in the Department of Health Care Services DMC Provider Billing Manual.

iii. Claims for DMC reimbursement shall include DMC-ODS services covered under the Special Terms and Conditions of this Agreement, and any State Plan services covered under Title 22, Section 51341.1(c-d) and administrative charges that are allowed under W&I Code, Sections 14132.44 and 14132.47.

   a. Contractor shall submit to DHCS the “Certified Expenditure” form reflecting either: 1) the approved amount of the 837P claim file, after the claims have been adjudicated; or 2) the claimed amount identified on the 837P claim file, which could account for both approved and denied claims. Contractor shall submit to DHCS the Drug Medi-Cal Certification Form DHCS 100224A (Document 4D) for each 837P transaction approved for reimbursement of the federal Medicaid funds.
   b. DMC service claims shall be submitted electronically in a Health Insurance Portability and Accountability Act (HIPAA) compliant format (837P). All adjudicated claim information shall be retrieved by the Contractor via an 835 HIPAA compliant format (Health Care Claim Payment/Advice).

iv. The following forms shall be prepared as needed and retained by the provider for review by state staff:

   a. Good Cause Certification (6065A), Document 2L(a)
   b. Good Cause Certification (6065B), Document 2L(b)
   c. In the absence of good cause documented on the Good Cause Certification (6065A or 6065B) form,

claims that are not submitted within 30 days of the end of the month of service shall be denied. The existence of good cause shall be determined by DHCS in accordance with Title 22, Sections 51008 and 51008.5.

3. **Certified Public Expenditure - County Administration**
   i. Separate from direct service claims as identified above, the Contractor may submit an invoice for administrative costs for administering the DMC-ODS program on a quarterly basis. The form requesting reimbursement shall be submitted to DHCS.
      a. **Mail Form MC 5312 to:**
         Department of Health Care Services
         Fiscal Management and Accountability Branch
         1500 Capitol Avenue, MS 2629
         P.O. Box 997413, Sacramento, CA 95899-7413

         Alternatively, scan signed Form MC 5312 and email to:
         sudfmab@dhcs.ca.gov
4. **Certified Public Expenditure – Quality Assurance and Utilization Review (QA/UR)**
   i. Separate from direct service claims as identified above, the Contractor may submit an invoice for QA/UR for administering the DMC-ODS quality management program on a quarterly basis. The form requesting reimbursement shall be submitted to DHCS.
      a. **Mail Form DHCS 5311 to:**
         Department of Health Care Services
         Fiscal Policy Unit - Attention: QA/UR
         SUD Program, Policy and Fiscal Division, MS 2628
         P.O. Box 997413
         Sacramento, CA 95899-7413

CC. Quality Management (QM) Program

1. The Contractor's QM Program shall improve Contractor's established treatment outcomes through structural and operational processes and activities that are consistent with current standards of practice.

2. The Contractor shall have a written description of the QM Program, which clearly defines the QM Program's structure and elements, assigns responsibility to appropriate individuals, and adopts or establishes quantitative measures to assess performance and to identify and prioritize area(s) for improvement.

3. Annually, each Contractor shall:

i. Measure and report to DHCS its performance using standard measures required by DHCS including those that incorporate the requirements set forth in Article II.F.1 of this Agreement;

ii. Submit to DHCS data specified by DHCS that enables DHCS to measure the Contractor's performance or,

iii. Perform a combination of the activities described above.

iv. The QM Program shall be evaluated annually and updated by the Contractor as necessary as set forth in Article II.F.1 of this Agreement.

4. During the Triennial Reviews, DHCS shall review the status of the Quality Improvement Plan and the Contractor's monitoring activities.

i. This review shall include the counties service delivery system, beneficiary protections, access to services, authorization for services, compliance with regulatory and contractual requirements of the waiver, and a beneficiary records review.

ii. This triennial review shall provide DHCS with information as to whether the counties are complying with their responsibility to monitor their service delivery capacity.

iii. The counties shall receive a final report summarizing the findings of the triennial review, and if out of compliance, the Contractor shall submit a plan of correction (POC) within 60 days of receipt of the final report. DHCS shall follow-up with the POC to ensure compliance.

5. The QM Program shall conduct performance-monitoring activities throughout the Contractor's operations. These activities shall include, but not be limited to, beneficiary and system outcomes, utilization management, utilization review, provider appeals, credentialing and monitoring, and resolution of beneficiary grievances.

6. The Contractor shall ensure continuity and coordination of care with physical health care providers. The Contractor shall coordinate with other human services agencies used by its beneficiaries. The Contractor shall assess the effectiveness of any MOU with a physical health care plan.

7. The Contractor shall have mechanisms to detect both underutilization of services and overutilization of services, as required by Article II.F.1 of this Agreement.

8. The Contractor shall implement mechanisms to assess beneficiary/family satisfaction. The Contractor shall assess beneficiary/family satisfaction by:

a. Surveying beneficiary/family satisfaction with the Contractor's services at least annually;
b. Evaluating beneficiary grievances, appeals and fair hearings at least annually;
c. Evaluating requests to change persons providing services at least annually; and
d. The Contractor shall inform providers of the results of beneficiary/family satisfaction activities.

9. The Contractor shall implement mechanisms to monitor the safety and effectiveness of medication practices. The monitoring mechanism shall be under the supervision of a person licensed to prescribe or dispense prescription drugs. Monitoring shall occur at least annually.

10. The Contractor shall implement mechanisms to monitor appropriate and timely intervention of occurrences that raise quality of care concerns. The Contractor shall take appropriate follow-up action when such an occurrence is identified. The results of the intervention shall be evaluated by the Contractor at least annually.

11. The Contractor shall have a QM Work Plan covering the current Agreement cycle with documented annual evaluations and documented revisions as needed. The Contractor's QM Work Plan shall evaluate the impact and effectiveness of its quality assessment and performance improvement program. The QM Work Plan shall include:

i. Evidence of the monitoring activities including, but not limited to, review of beneficiary grievances, appeals, expedited

appeals, fair hearings, expedited fair hearings, provider appeals, and clinical records review as required by Article II.F.1 and Article II.G.7 of this Agreement;

ii. Evidence that QM activities, including performance improvement projects, have contributed to meaningful improvement in clinical care and beneficiary service;

iii. A description of completed and in-process QM activities, including performance improvement projects. The description shall include:

a. Monitoring efforts for previously identified issues, including tracking issues over time;

b. Objectives, scope, and planned QM activities for each year; and

c. Targeted areas of improvement or change in service delivery or program design.

iv. A description of mechanisms the Contractor has implemented to assess the accessibility of services within its service delivery area. This shall include goals for responsiveness for the Contractor's 24-hour toll-free telephone number, timeliness for scheduling of routine appointments, timeliness of services for urgent conditions, and access to after-hours care; and

12. Evidence of compliance with the requirements for cultural competence and linguistic competence specified in Article II.B.2 of this Agreement and Article II.E.1 of this Agreement.

DD. State Monitoring - Postservice Postpayment and Postservice Prepayment Utilization Reviews

1. DHCS shall conduct Postservice Postpayment and Postservice Prepayment (PSPP) Utilization Reviews of the contracted DMC providers to determine whether the DMC services were provided in accordance with Article III.PP of this exhibit. DHCS shall issue the PSPP report to the Contractor with a copy to subcontracted DMC provider. The Contractor shall be responsible for their subcontracted providers and their Contractor run programs to ensure any deficiencies are remediated pursuant to Article III.DD.2. The Contractor shall attest the deficiencies have been remediated and are complete, pursuant to Article III.EE.5 of this Agreement.

2. The Department shall recover payments made if subsequent investigation uncovers evidence that the claim(s) should not have been paid, DMC-ODS services have been improperly utilized, and requirements of Article III.PP were not met.

i. All deficiencies identified by PSPP reports, whether or not a recovery of funds results, shall be corrected and the entity that provided the services shall submit a Contractor-approved corrective action plan (CAP) to the Department within 60 days of the date of the PSPP report.

a. The plan shall:

i. Address each demand for recovery of payment and/or programmatic deficiency;

ii. Provide a specific description of how the deficiency shall be corrected; and

iii. Specify the date of implementation of the corrective action.

iv. Identify who will be responsible for correction and who will be responsible for on-going compliance.

b. DHCS shall provide written approval of the CAP to the Contractor with a copy to the Provider. If DHCS does not approve the CAP, DHCS shall provide guidance on the deficient areas and request an updated CAP from the Contractor with a copy to the Provider. The entity that provided the services shall submit an updated CAP to the DMC PSPP Unit within 30 days of notification.

c. If the entity that provided the services, does not submit a CAP, or, does not implement the approved CAP provisions within the designated timeline, then DHCS may withhold funds from the Contractor until the entity that provided the services is in compliance with this Exhibit A, Attachment I. DHCS shall inform the Contractor when funds shall be withheld.

3. The Contractor and/or subcontractor may appeal DMC dispositions concerning demands for recovery of payment and/or programmatic deficiencies of specific claims. Such appeals shall be handled as follows:

i. Requests for first-level appeals:
   a. The provider and/or county shall initiate action by submitting a letter to:

      Division Chief
      Substance Use Disorders – PPFD
      Department of Health Care Services
      P.O. Box 997413, MS-2621
      Sacramento, CA 95899-7413

      i. The provider and/or county shall submit the letter on the official stationery of the provider and/or county and it shall be signed by an authorized representative of the provider and/or county.
      ii. The letter shall identify the specific claim(s) involved and describe the disputed (in)action regarding the claim.
   b. The letter shall be submitted to the address listed in Subsection (a) above within 90 calendar days from the date the provider and/or county received written notification of the decision to disallow claims.
   c. The SUD-PPFD shall inform the provider and/or county of the SUD–PPFD'S decision and the basis for the decision within 15 calendar days after the SUD-PPFD's acknowledgement notification. The SUD-PPFD shall have the option of extending the decision response time if additional information is required from the provider and/or county. The provider and/or county will be notified if the SUD-PPFD extends the response time limit.

4. A provider and/or county may initiate a second level appeal to the Office of Administrative Hearings and Appeals (OAHA).

i. The second level process may be pursued only after complying with first-level procedures and only when:
   a. The SUD-PPFD has failed to acknowledge the grievance or complaint within 15 calendar days of its receipt, or
   b. The provider and/or county is dissatisfied with the action taken by the SUD-PPFD where the conclusion is based on the SUD-PPFD's evaluation of the merits.

c. The second-level appeal shall be submitted to the Office of Administrative Hearings and Appeals within 30 calendar days from the date the SUD-PPFD failed to acknowledge the first-level appeal or from the date of the SUD-PPFD 's first-level appeal decision letter.

ii. All second-level appeals made in accordance with this section shall be directed to:

Office of Administrative Hearings and Appeals
1029 J Street, Suite 200
Sacramento, CA 95814

iii. In referring an appeal to the OAHA, the provider and/or county shall submit all of the following:

a. A copy of the original written appeal sent to the SUD-PPFD.
b. A copy of the SUD-PPFD's report to which the appeal applies.

If received by the provider and/or county, a copy of the SUD-PPFD's specific finding(s), and conclusion(s) regarding the appeal with which the provider and/or county is dissatisfied.

5. The appeal process listed here shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of DHCS pursuant to Exhibit B of this Agreement.

6. State shall monitor the subcontractor's compliance with PSPP utilization review requirements, as specified in Article III.EE. Counties are also required to monitor of the subcontractor's compliance pursuant to Article III.AA of this Agreement. The federal government may also review the existence and effectiveness of DHCS's utilization review system.

7. Contractor shall, at a minimum, implement and maintain compliance with the system of review described in Article III.PP for the purposes of reviewing the utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.

8. Contractor shall assure that subcontractor sites shall keep a record of the beneficiaries/patients being treated at that location. Contractor shall retain beneficiary records for a minimum of 10 years, in accordance with 438.3(h), from the finalized cost settlement process with the Department. When an audit by the

Federal Government or DHCS has been started before the expiration of the 10-year period, the beneficiary records shall be maintained until completion of the audit and the final resolution of all issues.

EE. Contractor Monitoring

1. Contractor shall conduct, at least annually, a utilization review of DMC providers to assure covered services are being appropriately rendered. The annual review shall include an on-site visit of the service provider. Reports of the annual review shall be provided to DHCS's Performance Management Branch at:

Department of Health Care Services
Substance Use Disorder – Program, Policy, and Fiscal Division (PPFD)
Performance Management Branch
PO Box 997413, MS-2621
Sacramento, CA 95899-7413

Or by secure, encrypted email to: SUDCountyReports@dhcs.ca.gov

The Contractor's reports shall be provided to DHCS within 2 weeks of completion.

Technical assistance is available to counties from DHCS, SUD PPFD.

2. If significant deficiencies or significant evidence of noncompliance with the terms of the DMC-ODS waiver, or this Agreement are found in a county, DHCS shall engage the Contractor to determine if there are challenges that can be addressed with facilitation and technical assistance. If the Contractor remains noncompliant, the Contractor shall submit a corrective action plan (CAP) to DHCS. The CAP shall detail how and when the Contractor shall remedy the issue(s). DHCS may remove the Contractor from participating in the Waiver if the CAP is not promptly implemented.
3. If the Contractor is removed from participating in the Waiver, the county shall provide DMC services in accordance with the California Medi-Cal State Plan.

4. Contractor shall ensure that DATAR submissions, detailed in Article III.FF of this Exhibit, are complied with by all treatment providers and subcontracted treatment providers. Contractor shall attest that each subcontracted provider is enrolled in DATAR at the time of execution of the subcontract.
5. The Contractor shall monitor and attest compliance and/or completion by Providers with CAP requirements (detailed in Article III.DD) of this Exhibit as required by any PSPP review. The Contractor shall attest to DHCS, using the form developed by DHCS that the requirements in the CAP have been completed by the Contractor and/or the provider. Submission of DHCS Form 8049 by Contractor shall be accomplished within the timeline specified in the approved CAP, as noticed by DHCS.
6. Contractor shall attest that DMC claims submitted to DHCS have been subject to review and verification process for accuracy and legitimacy. (45 CFR 430.30, 433.32, 433.51). Contractor shall not knowingly submit claims for services rendered to any beneficiary after the beneficiary's date of death, or from uncertified or decertified providers.

FF. Reporting Requirements

1. Contractor agrees that DHCS has the right to withhold payments until Contractor has submitted any required data and reports to DHCS, as identified in this Exhibit A, Attachment I or as identified in Document 1F(a), Reporting Requirement Matrix for Counties.
2. Contractor shall submit documentation to DHCS in a format specified by DHCS that complies with the following requirements:
   i. Offers an appropriate range of services that is adequate for the anticipated number of beneficiaries for the service area,
   ii. Maintains a network of providers that is sufficient in number, mix and geographic distribution to meet the needs of the anticipated number of beneficiaries in the area,
   iii. Submits the documentation described in paragraph (2) of this section as specified by DHCS, but no less frequently than the following:
      a. At the time it enters into this Agreement with DHCS.
      b. At any time there has been a significant change (as in the Contractor's operations that would affect adequate capacity and services, including:

i. Changes in Contractor services, benefits, geographic service area or payments; or
ii. Enrollment of a new population in the Contractor.

iv. DHCS review and certification to CMS. After DHCS reviews the documentation submitted by the Contractor, DHCS shall certify to CMS that the Contractor has complied with the state's requirements for availability of services, as set forth in §438.206.

v. CMS' right to inspect documentation. DHCS shall make available to CMS, upon request, all documentation collected by DHCS from the Contractor.

3. California Outcomes Measurement System (CalOMS) for Treatment (CalOMS-Tx)

i. The CalOMS-Tx business rules and requirements are:

a. Contractor shall contracts with a software vendor that complies with the CalOMS-Tx data collection system requirements for submission of CalOMS-Tx data. A Business Associate Agreement (BAA) shall be established between the Contractor and the software vendor. The BAA shall state that DHCS is allowed to return the processed CalOMS-Tx data to the vendor that supplied the data to DHCS.

b. Contractor shall conduct information technology (IT) systems testing and pass state certification testing before commencing submission of CalOMS-Tx data. If the Contractor subcontracts with vendor for IT services, Contractor is responsible for ensuring that the subcontracted IT system is tested and certified by the DHCS prior to submitting CalOMS-Tx data. If Contractor changes or modifies the CalOMS-Tx IT system, then Contractor shall re-test and pass state re-certification prior to submitting data from new or modified system.

c. Electronic submission of CalOMS-Tx data shall be submitted by Contractor within 45 days from the end of the last day of the report month.

d. Contractor shall comply with data collection and reporting requirements established by the DHCS CalOMS-Tx Data Collection Guide (Document 3J) and all former Department of Alcohol and Drug Programs Bulletins and DHCS Information Notices relevant to CalOMS-Tx data collection and reporting requirements.
e. Contractor shall submit CalOMS-Tx admission, discharge, annual update, resubmissions of records containing errors or in need of correction, and "provider no activity" report records in an electronic format approved by DHCS.
f. Contractor shall comply with the CalOMS-Tx Data Compliance Standards established by DHCS identified in (Document 3S) for reporting data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method.
g. Contractor shall participate in CalOMS-Tx informational meetings, trainings, and conference calls.
h. Contractor shall implement and maintain a system for collecting and electronically submitting CalOMS-Tx data.
i. Contractor shall meet the requirements as identified in Exhibit F, Privacy and Information Security Provisions and Exhibit F, Attachment I – Social Security Administration Agreement.

4. CalOMS-Tx General Information

i. If the Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit CalOMS-Tx data, and or meet other CalOMS-Tx compliance requirements, Contractor shall report the problem in writing before the established data submission deadlines. The written notice shall include a remediation plan that is subject to review and approval by DHCS. A grace period of up to 60 days may be granted, at DHCS's sole discretion, for the Contractor to resolve the problem before non-DMC payments are withheld.

ii. If DHCS experiences system or service failure, no penalties shall be assessed to the Contractor for late data submission.

iii. Contractor shall comply with the treatment data quality standards established by DHCS. Failure to meet these standards on an ongoing basis may result in withholding non-DMC funds.

iv. If the Contractor submits data after the established deadlines, due to a delay or problem, the Contractor shall still be responsible for collecting and reporting data from time of delay or problem.

5. Drug and Alcohol Treatment Access Report (DATAR)

i. The DATAR business rules and requirements:

a. The Contractor shall be responsible for ensuring that the Contractor-operated treatment services and all treatment providers with whom Contractor subcontracts or otherwise pays for the services, submit a monthly DATAR report in an electronic copy format as provided by DHCS.

b. In those instances where the Contractor maintains, either directly or indirectly, a central intake unit or equivalent which provides intake services including a waiting list, the Contractor shall identify and begin submitting monthly DATAR reports for the central intake unit by a date to be specified by DHCS.

c. The Contractor shall ensure that all DATAR reports are submitted by either Contractor-operated treatment services and by each subcontracted treatment provider to DHCS by the 10th of the month following the report activity month.

d. The Contractor shall ensure that all applicable providers are enrolled in DHCS's web-based DATAR program for submission of data, accessible on the DHCS website when executing the subcontract.

e. If the Contractor or its subcontractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit a monthly DATAR report, and/or to meet data compliance requirements, the Contractor shall report

the problem in writing before the established data submission deadlines. The written notice shall include a corrective action plan that is subject to review and approval by DHCS. A grace period of up to 60 days may be granted, at DHCS's sole discretion, for the Contractor to resolve the problem before non-DMC payments are withheld (See Exhibit B, Part II, Section 2).

f. If DHCS experiences system or service failure, no penalties shall be assessed to Contractor for late data submission.

g. The Contractor shall be considered compliant if a minimum of 95% of required DATAR reports from the Contractor's treatment providers are received by the due date.

6. Year-End Cost Settlement Reports

i. Pursuant to W&I Code, Section 14124.24 (g(1)) the Contractor shall submit to DHCS, no later than November 1 of each year, the following year-end cost settlement data for the previous fiscal year:

a. County Certification form (MC 6229): Submit via regular mail or overnight services. DHCS needs original signatures, not a copy.

b. Drug Medi-Cal (DMC) data: Submit the data via the Substance Use Disorder Cost Report System (SUDCRS) and submit the individual provider Excel files via email, regular mail, or overnight services.

c. DMC Provider Certification forms: Submit via regular mail or overnight services. DHCS needs original signatures, not a copy.

7. Failure to Meet Reporting Requirements

i. Failure to meet required reporting requirements shall result in:

a. DHCS shall issue a Notice of Deficiency (Deficiencies) to Contractor regarding specified providers with a deadline to submit the required data and a request for a Corrective Action Plan (CAP) to ensure timely reporting in the future. DHCS shall

approve or reject the CAP or request revisions to the CAP, which shall be resubmitted to DHCS within 30 days.

b. If the Contractor has not ensured compliance with the data submission or CAP request within the designated timeline, then DHCS may withhold funds until all data is submitted. DHCS shall inform the Contractor when funds shall be withheld.

GG. Training

1. DHCS SUD - Program, Policy, and Fiscal Division (SUD PPFD) shall provide mandatory annual training to the Contractor on the DMC-ODS.
2. Contractor may request additional Technical Assistance or training from SUD PPFD on an ad hoc basis.
3. **Training to DMC Subcontractors**
   i. The Contractor shall ensure that all subcontractors receive training on the DMC-ODS requirements, at least annually. The Contractor shall report compliance with this section to DHCS annually as part of the DHCS County Monitoring process.
   ii. The Contractor shall require subcontractors to be trained in the ASAM Criteria prior to providing services.
      a. The Contractor shall ensure that, at minimum, providers and staff conducting assessments are required to complete the two e-Training modules entitled “ASAM Multidimensional Assessment” and “From Assessment to Service Planning and Level of Care”. A third module entitled, “Introduction to The ASAM Criteria” is recommended for all county and provider staff participating in the Waiver. With assistance from the state, counties will facilitate ASAM provider trainings.
      b. The Contractor shall ensure that all residential service providers meet the established ASAM criteria for each level of residential care they provide and receive an ASAM Designation prior to providing DMC-ODS services.

HH. Program Complaints

1. All complaints received by Contractor regarding a DMC certified facility shall be forwarded to:

   Submit to Drug Medi-Cal Complaints:

   Department of Health Care Services
   P.O. Box 997413
   Sacramento, CA 95899-7413

   Alternatively, call the Hotlines:

   Drug Medi-Cal Complaints/Grievances: (800) 896-4042
   Drug Medi-Cal Fraud: (800) 822-6222

   Complaints for Residential Adult Alcoholism or Drug Abuse Recovery or Treatment Facilities may be made by telephoning the appropriate licensing branch listed below:

   SUD Compliance Division:

   Public Number: (916) 322-2911
   Toll Free Number: (877) 685-8333

   The Complaint Form is available and can may be submitted online: http://www.dhcs.ca.gov/individuals/Pages/Sud-Complaints.aspx

2. Counties shall be responsible for investigating complaints and providing the results of all investigations to DHCS's e-mail address by secure, encrypted e-mail to SUDCountyReports@dhcs.ca.gov within two (2) business days of completion.

II. Record Retention

1. Contractor shall include instructions on record retention and include in any subcontract with providers the mandate to keep and maintain records for each service rendered, to whom it was rendered, and the date of service, pursuant to W&I Code, Section 14214.1 and 42 CFR 433.32.

JJ. Subcontract Termination

1. The Contractor shall notify the Department of the termination of any subcontract with a certified provider, and the basis for termination of the subcontract, within two business days. The Contractor shall submit the notification by secure, encrypted email to: SUDCountyReports@dhcs.ca.gov

KK. Corrective Action Plan

1. If the Contractor fails to ensure any of the foregoing oversight through an adequate system of monitoring, utilization review, and fiscal and programmatic controls, DHCS may request a corrective action plan (CAP) from the Contractor to address these deficiencies and a timeline for implementation. Failure to submit a CAP or adhere to the provisions in the CAP can result in a withhold of funds allocated to Contractor for the provision of services, and/or termination of this Agreement for cause
2. Failure to comply with Monitoring requirements shall result in:
   i. DHCS shall issue a report to Contractor after conducting monitoring, utilization, or fiscal auditing reviews of the Contractor. When the DHCS report identifies non-compliant services or processes, it shall require a CAP. The Contractor shall submit a CAP to DHCS within the timeframes required by DHCS.
      a. The CAP shall include:
         i. A statement of the deficiency;
         ii. A list of action steps to be taken to correct the deficiency;
         iii. Date of completion of each deficiency corrected; and
         iv. Who will be responsible for correction and ongoing compliance.
   ii. DHCS shall provide written approval of the CAP to the Contractor. If DHCS does not approve the CAP submitted by the Contractor, DHCS shall provide guidance on the deficient areas and request an updated CAP from the Contractor with a new deadline for submission.
   iii. If the Contractor does not submit a CAP, or, does not implement the approved CAP provisions within the designated timeline, then DHCS may withhold funds until the Contractor is in compliance. DHCS shall inform the Contractor when funds shall be withheld.

LL. Quality Improvement (QI) Program

1. Contractor shall establish an ongoing quality assessment and performance improvement program consistent with Article II.F.1 of this Agreement.

2. CMS, in consultation with DHCS and other stakeholders, may specify performance measures and topics for performance improvement projects to be required by DHCS in this Agreement.
3. Performance improvement projects shall be designed to achieve, through ongoing measurements and intervention, significant improvement, sustained over time, in clinical care and non-clinical care areas that are expected to have a favorable effect on health outcomes and beneficiary satisfaction.
4. The monitoring of accessibility of services outlined in the Quality Improvement (QI) Plan will at a minimum include:
   i. Timeliness of first initial contact to face-to-face appointment.
   ii. Frequency of follow-up appointments in accordance with individualized treatment plans.
   iii. Timeliness of services of the first dose of NTP services.
   iv. Access to after-hours care.
   v. Responsiveness of the beneficiary access line.
   vi. Strategies to reduce avoidable hospitalizations.
   vii. Coordination of physical and mental health services with waiver services at the provider level.
   viii. Assessment of the beneficiaries' experiences.
   ix. Telephone access line and services in the prevalent non-English languages.
5. The Contractor's QI program shall monitor the Contractor's service delivery system with the aim of improving the processes of providing care and better meeting the needs of its beneficiaries. The QI Program shall be accountable to the Contractor's Director.
6. The Contractor shall establish a QI Committee to review the quality of SUD treatment services provided to beneficiaries. The QI Committee shall recommend policy decisions; review and evaluate the results of QI activities, including performance improvement projects; institute needed QI actions; ensure follow-up of QI processes; and document QI Committee meeting minutes regarding decisions and actions taken. The QI committee shall recommend policy decisions; review and evaluate the results of QI activities; institute needed QI actions, ensure follow-up of QI process and document QI committee minutes regarding decisions and actions taken.

7. Each Contractor' s QI Committee shall review the following data at a minimum on a quarterly basis since external quality review (EQR) site reviews will begin after county implementation. The External Quality Review Organization (EQRO) shall measure defined data elements to assess the quality of service provided by the Contractor. These data elements shall be incorporated into the EQRO protocol:
   i. Number of days to first DMC-ODS service at appropriate level of care after referral.
   ii. Existence of a 24/7 telephone access line with prevalent non-English language(s).
   iii. Access to DMC-ODS services with translation services in the prevalent non-English language(s).
8. Operation of the QI program shall include substantial involvement by a licensed SUD staff person.
9. The QI Program shall include active participation by the Contractor's practitioners and providers, as well as beneficiaries and family members, in the planning, design and execution of the QI Program.
10. The Contractor shall maintain a minimum of two active Performance Improvement Projects (PIPs) that meet the criteria in 42 CFR 438.240(b)(1) and (d). Performance improvement projects shall focus on a clinical area, as well as one non-clinical area.
11. PIPs shall:
   i. Measure performance using required quality indicators.
   ii. Implement system interventions to achieve improvement in quality.
   iii. Evaluate the effectiveness of interventions.
   iv. Plan and initiate activities for increasing or sustaining improvement.
12. The Contractor shall report the status and results of each PIP to DHCS, as requested.
13. Each PIP shall be completed in a reasonable time period so as to generally allow information on the success of PIPs in the aggregate to produce new information on quality of care annually.

MM. Utilization Management (UM) Program

1. The Contractor shall have a Utilization Management (UM) Program assuring that beneficiaries have appropriate access to SUD services; medical necessity has been established, the beneficiary is at the appropriate ASAM level of care, and that the interventions are appropriate for the diagnosis and level of care. The Contractor shall have a documented system for collecting, maintaining and evaluating accessibility to care and waiting list information, including tracking the number of days to first DMC-ODS service at an appropriate level of care following initial request or referral for all DMC-ODS services.

NN. Formation and Purpose

1. **Authority**
   i. The state and the Contractor enter into this Agreement, by authority of Chapter 3 of Part 1, Division 10.5 of the Health and Safety Code (HSC) and with approval of Contractor's County Board of Supervisors (or designee) for the purpose of providing alcohol and drug services, which shall be reimbursed pursuant to Exhibit B. The state and the Contractor identified in the State Standard (STD) Form 213 are the only parties to this Intergovernmental Agreement. This Agreement is not intended, nor shall it be construed, to confer rights on any third party.
2. **Control Requirements**
   i. Performance under the terms of this Exhibit A, Attachment I, is subject to all applicable federal and state laws, regulations, and standards. The Contractor shall:
      a. Require its subcontractors to establish written policies and procedures consistent with the requirements listed in 2(c).
      b. Monitor for compliance with the written procedures.
      c. Be held accountable for audit exceptions taken by DHCS against the Contractor and its subcontractors for any failure to comply with these requirements:
         i. HSC, Division 10.5, commencing with Section 11760
         ii. Title 9, Division 8, commencing with Section 13000;
         iii. Government Code Section 16367.8

iv. Title 42, CFR, Sections 8.1 through 8.6
v. Title 21, CFR, Sections 1301.01 through 1301.93, Department of Justice, Controlled Substances; and,
vi. State Administrative Manual (SAM), Chapter 7200 (General Outline of Procedures).

3. Contractor shall be familiar with the above laws, regulations, and guidelines and shall assure that its subcontractors are also familiar with such requirements.

4. The provisions of this Exhibit A, Attachment I are not intended to abrogate any provisions of law or regulation, or any standards existing or enacted during the term of this Agreement.

OO. Performance Provisions

1. Monitoring

i. Contractor's performance under this Exhibit A, Attachment I, shall be monitored by DHCS annually during the term of this Agreement. Monitoring criteria shall include, but not be limited to:

a. Whether the quantity of work or services being performed conforms to this Exhibit.
b. Whether the Contractor has established and is monitoring appropriate quality standards.
c. Whether the Contractor is abiding by all the terms and requirements of this Agreement.
d. Contractor shall conduct annual onsite monitoring reviews of services and subcontracted services for programmatic and fiscal requirements. Contractor shall submit copy of their monitoring and audit reports to DHCS within two weeks of issuance. Reports should be sent by secure, encrypted e-mail to:

SUDCountyReports@dhcs.ca.gov

Alternatively, mail to:

Department of Health Care Services
SUD PPFD - Performance Management Branch
PO Box 997413, MS-2627
Sacramento, CA 95899-7413

ii. Failure to comply with the above provisions shall constitute grounds for DHCS to suspend or recover payments, subject to the Contractor's right of appeal, or may result in termination of this Agreement or both.

2. Performance Requirements

i. Contractor shall provide services based on funding set forth in Exhibit B, Attachment I, and under the terms of this Agreement.

ii. Contractor shall provide services to all eligible persons in accordance with federal and state statutes and regulations. Contractor shall assure that in planning for the provision of services, the following barriers to services are considered and addressed:

a. Lack of educational materials or other resources for the provision of services;
b. Geographic isolation and transportation needs of persons seeking services or remoteness of services;
c. Institutional, cultural, and/or ethnicity barriers;
d. Language differences;
e. Lack of service advocates;
f. Failure to survey or otherwise identify the barriers to service accessibility; and,
g. Needs of persons with a disability.

3. Contractor shall comply with any additional requirements of the documents that have been incorporated by reference, including, but not limited to, those in the Exhibit A – Statement of Work.

4. Amounts awarded pursuant to Exhibit B, Attachment I shall be used exclusively for providing DMC-ODS services consistent with the purpose of the funding.

5. DHCS shall issue a report to Contractor after conducting monitoring, utilization, or auditing reviews of county or county subcontracted providers. When the DHCS report identifies non-compliant services or processes, it shall require a CAP. The Contractor, or in coordination with its subcontracted provider, shall submit a CAP to DHCS within 60 calendar days from the date of the report to:

Department of Health Care Services
SUD PPFD, Performance Management Branch

PO Box 997413, MS-2621
Sacramento, CA 95899-7413;

Or by secure, encrypted email to:
SUDCountyReports@dhcs.ca.gov

6. The CAP shall include a statement of the problem and the goal of the actions the Contractor and or its sub-contracted provider shall take to correct the deficiency or non-compliance. The CAP shall:
   i. Address the specific actions to correct deficiency or non-compliance
   ii. Identify who/which unit(s) shall act; who/which unit(s) are accountable for acting; and
   iii. Provide a timeline to complete the actions.

PP. Requirements for Services

1. **Confidentiality.**
   i. All substance use disorder treatment services shall be provided in a confidential setting in compliance with 42 CFR, Part 2 requirements.
2. **Perinatal Services.**
   i. Perinatal services shall address treatment and recovery issues specific to pregnant and postpartum women, such as relationships, sexual and physical abuse, and development of parenting skills.
   ii. Perinatal services shall include:
      a. Mother/child habilitative and rehabilitative services (i.e., development of parenting skills, training in child development, which may include the provision of cooperative child care pursuant to Health and Safety Code Section 1596.792);
      b. Service access (i.e., provision of or arrangement for transportation to and from medically necessary treatment);
      c. Education to reduce harmful effects of alcohol and drugs on the mother and fetus or the mother and infant; and
      d. Coordination of ancillary services (i.e., assistance in accessing and completing dental services, social services, community services, educational/vocational training and other services which are medically necessary to prevent risk to fetus or infant).

iii. Medical documentation that substantiates the beneficiary's pregnancy and the last day of pregnancy shall be maintained in the beneficiary record.

3. Narcotic Treatment Programs.

i. Narcotic treatment programs services and regulatory requirements shall be provided in accordance with Title 9, Chapter 4.

4. Naltrexone Treatment Services.

i. For each beneficiary, all of the following shall apply:
   a. The provider shall confirm and document that the beneficiary meets all of the following conditions:

i. Has a documented history of opiate addiction.
ii. Is at least 18 years of age.
iii. Has been opiate free for a period of time to be determined by a physician based on the physician's clinical judgment. The provider shall administer a body specimen test to confirm the opiate free status of the beneficiary.
iv. Is not pregnant and is discharged from the treatment if she becomes pregnant.
v. The physician shall certify the beneficiary's fitness for treatment based upon the beneficiary's physical examination, medical history, and laboratory results; and
vi. The physician shall advise the beneficiary of the overdose risk should the beneficiary return to opiate use while taking Naltrexone and the ineffectiveness of opiate pain relievers while on Naltrexone

5. Substance Use Disorder Medical Director.

i. The substance use disorder medical director's responsibilities shall, at a minimum, include all of the following:
   a. Ensure that medical care provided by physicians, registered nurse practitioners, and physician assistants meets the applicable standard of care.
   b. Ensure that physicians do not delegate their duties to non-physician personnel.
   c. Develop and implement medical policies and standards for the provider.
   d. Ensure that physicians, registered nurse practitioners, and physician assistants follow the provider's medical policies and standards.
   e. Ensure that the medical decisions made by physicians are not influenced by fiscal considerations.

f. Ensure that provider's physicians and LPHAs are adequately trained to perform diagnosis of substance use disorders for beneficiaries, determine the medical necessity of treatment for beneficiaries
g. Ensure that provider's physicians are adequately trained to perform other physician duties, as outlined in this section.

ii. The substance use disorder medical director may delegate his/her responsibilities to a physician consistent with the provider's medical policies and standards; however, the substance use disorder medical director shall remain responsible for ensuring all delegated duties are properly performed.

6. Provider Personnel.

i. Personnel files shall be maintained on all employees and volunteers/interns and shall contain the following:
   a. Application for employment and/or resume;
   b. Signed employment confirmation statement/duty statement;
   c. Job description;
   d. Performance evaluations;
   e. Health records/status as required by the provider, AOD Certification or Title 9;
   f. Other personnel actions (e.g., commendations, discipline, status change, employment incidents and/or injuries);
   g. Training documentation relative to substance use disorders and treatment;
   h. Current registration, certification, intern status, or licensure;
   i. Proof of continuing education required by licensing or certifying agency and program; and
   j. Provider’s Code of Conduct and for registered, certified, and licensed staff, a copy of the certifying/licensing body’s code of conduct as well.

ii. Job descriptions shall be developed, revised as needed, and approved by the provider’s governing body. The job descriptions shall include:
   a. Position title and classification;
   b. Duties and responsibilities;
   c. Lines of supervision; and

d. Education, training, work experience, and other qualifications for the position.

iii. Written provider code of conduct for employees and volunteers/interns shall be established which addresses at least the following:
   a. Use of drugs and/or alcohol;
   b. Prohibition of social/business relationship with beneficiary's or their family members for personal gain;
   c. Prohibition of sexual contact with beneficiary's;
   d. Conflict of interest;
   e. Providing services beyond scope;
   f. Discrimination against beneficiary's or staff;
   g. Verbally, physically, or sexually harassing, threatening, or abusing beneficiary's, family members or other staff;
   h. Protection beneficiary confidentiality;
   i. The elements found in the code of conduct(s) for the certifying organization(s) the program's counselors are certified under; and
   j. Cooperate with complaint investigations.

iv. If a provider utilizes the services of volunteers and or interns, procedures shall be implemented which address:
   a. Recruitment;
   b. Screening; Selection;
   c. Training and orientation;
   d. Duties and assignments;
   e. Scope of practice;
   f. Supervision;
   g. Evaluation; and
   h. Protection of beneficiary confidentiality.

v. Written roles and responsibilities and a code of conduct for the medical director shall be clearly documented, signed and dated by a provider representative and the physician.

7. Beneficiary Admission.

i. Each provider shall include in its policies, procedures, and practice, written admission and readmission criteria for determining beneficiary's eligibility and the medical necessity for treatment. These criteria shall include, at minimum:
   a. DSM diagnosis;
   b. Use of alcohol/drugs of abuse;
   c. Physical health status; and

d. Documentation of social and psychological problems.

ii. If a potential beneficiary does not meet the admission criteria, the beneficiary shall be referred to an appropriate service provider.

iii. If a beneficiary is admitted to treatment, the beneficiary shall sign a consent to treatment form.

iv. The medical director or LPHA shall document the basis for the diagnosis in the beneficiary record.

v. All referrals made by the provider staff shall be documented in the beneficiary record.

vi. Copies of the following documents shall be provided to the beneficiary upon admission:

a. Share of cost if applicable, notification of DMC funding accepted as payment in full, and consent to treatment.

vii. Copies of the following shall be provided to the beneficiary or posted in a prominent place accessible to all beneficiaries:

a. A statement of nondiscrimination by race, religion, sex, ethnicity, age, disability, sexual preference, and ability to pay;

b. Complaint process and grievance procedures;

c. Appeal process for involuntary discharge; and

d. Program rules and expectations.

viii. Where drug screening by urinalysis is deemed medically appropriate the program shall:

a. Establish procedures which protect against the falsification and/or contamination of any urine sample; and

b. Document urinalysis results in the beneficiary's file.

8. Assessment.

i. The provider shall assure a counselor or LPHA completes a personal, medical, and substance use history for each beneficiary upon admission to treatment.

a. Assessment for all beneficiaries shall include at a minimum:

i. Drug/Alcohol use history;

ii. Medical history;

iii. Family history;

iv. Psychiatric/psychological history;

v. Social/recreational history;

vi. Financial status/history;

vii. Educational history;

viii. Employment history;

ix. Criminal history, legal status; and

x. Previous SUD treatment history

b. The medical director or LPHA shall review each beneficiary's personal, medical and substance use history if completed by a counselor.

9. Beneficiary Record.

i. In addition to the requirements of 22 CCR § 51476(a), the provider shall:
   a. Establish, maintain, and update as necessary, an individual beneficiary record for each beneficiary admitted to treatment and receiving services.
   b. Each beneficiary's individual beneficiary record shall include documentation of personal information.
   c. Documentation of personal information shall include all of the following:
      i. Information specifying the beneficiary's identifier (i.e., name, number).
      ii. Date of beneficiary's birth, the beneficiary's sex, race and/or ethnic background, beneficiary's address and telephone number, beneficiary's next of kin or emergency contact.

ii. Documentation of treatment episode information shall include documentation of all activities, services, sessions, and assessments, including but not limited to all of the following:
   a. Intake and admission data, including, if applicable, a physical examination.
   b. Treatment plans.
   c. Progress notes.
   d. Continuing services justifications.
   e. Laboratory test orders and results.
   f. Referrals.
   g. Counseling notes.
   h. Discharge plan.
   i. Discharge summary.
   j. Contractor authorizations for Residential Services.
   k. Any other information relating to the treatment services rendered to the beneficiary.

10. Medical Necessity and Diagnosis Requirements.

i. The medical director or LPHA shall evaluate each beneficiary's assessment and intake information if completed by a counselor through a face-to-face review or telehealth

with the counselor to establish a beneficiary meets medical necessity criteria.

a. The medical director or LPHA shall document separately from the treatment plan the basis for the diagnosis in the beneficiary's record within 30 calendar days of each beneficiary's admission to treatment date.
    i. The Medical Director or LPHA shall type or legibly print their name, and sign and date the diagnosis documentation.

11. Physical Examination Requirements.

i. If a beneficiary had a physical examination within the twelve month period prior to the beneficiary's admission to treatment date, the physician or registered nurse practitioner or physician’s assistant (physician extenders) shall review documentation of the beneficiary's most recent physical examination within 30 calendar days of the beneficiary's admission to treatment date.
    a. If a provider is unable to obtain documentation of a beneficiary's most recent physical examination, the provider shall describe the efforts made to obtain this documentation in the beneficiary's individual patient record.

ii. As an alternative to complying with paragraph (i) above or in addition to complying with paragraph (i) above, the physician or physician extender may perform a physical examination of the beneficiary within 30 calendar days of the beneficiary's admission to treatment date.

iii. If the physician or a physician extender, has not reviewed the documentation of the beneficiary's physical examination as provided for in paragraph (i), or the provider does not perform a physical examination of the beneficiary as provided for in paragraph (ii), then the LPHA or counselor shall include in the beneficiary's initial and updated treatment plans the goal of obtaining a physical examination, until this goal has been met.

12. Treatment Plan.

i. For each beneficiary admitted to treatment services, the LPHA or counselor shall prepare an individualized written initial treatment plan, based upon the information obtained in the intake and assessment process.

a. The LPHA or counselor shall attempt to engage the beneficiary to meaningfully participate in the preparation of the initial treatment plan and updated treatment plans.
    i. The initial treatment plan and updated treatment plans shall include all of the following:
        1. A statement of problems identified through the ASAM, other assessment tool(s) or intake documentation.
        2. Goals to be reached which address each problem.
        3. Action steps that will be taken by the provider and/or beneficiary to accomplish identified goals.
        4. Target dates for the accomplishment of action steps and goals.
        5. A description of the services, including the type of counseling, to be provided and the frequency thereof.
        6. The assignment of a primary therapist or counselor.
        7. The beneficiary's diagnosis as documented by the Medical Director or LPHA.
        8. If a beneficiary has not had a physical examination within the 12-month period prior to the beneficiary's admission to treatment date, a goal that the beneficiary have a physical examination.
        9. If documentation of a beneficiary's physical examination, which was performed during the prior twelve months, indicates a beneficiary has a significant medical illness, a goal that the beneficiary obtain appropriate treatment for the illness.
b. The provider shall ensure that the initial treatment plan meets all of the following requirements:
    i. The LPHA or counselor shall complete, type or legibly print their name, and sign and date

the initial treatment plan within 30 calendar days of the admission to treatment date.

ii. The beneficiary shall review, approve, type or legibly print their name, sign and date the initial treatment plan, indicating whether the beneficiary participated in preparation of the plan, within 30 calendar days of the admission to treatment date.

1. If the beneficiary refuses to sign the treatment plan, the provider shall document the reason for refusal and the provider's strategy to engage the beneficiary to participate in treatment.

iii. If a counselor completes the initial treatment plan, the medical director or LPHA shall review the initial treatment plan to determine whether services are a medically necessary and appropriate for the beneficiary.

1. If the medical director or LPHA determines the services in the initial treatment plan are medically necessary, the medical director or LPHA shall type or legibly print their name, and sign and date the treatment plan within 15 calendar days of signature by the counselor.

ii. The provider shall ensure that the treatment plan is reviewed and updated as described below:

a. The LPHA or counselor shall complete, type or legibly print their name, sign and date the updated treatment plan no later than 90 calendar days after signing the initial treatment plan, and no later than every 90 calendar days thereafter, or when there is a change in treatment modality or significant event, whichever comes first.

b. The beneficiary shall review, approve, type or legibly print their name and, sign and date the updated treatment plan, indicating whether the beneficiary participated in preparation of the plan, within 30 calendar days of signature by the LPHA or counselor.

i. If the beneficiary refuses to sign the updated treatment plan, the provider shall document the

reason for refusal and the provider's strategy to engage the beneficiary to participate in treatment.

c. If a counselor completes the updated treatment plan, the medical director or LPHA shall review each updated treatment plan to determine whether continuing services are a medically necessary and appropriate for the beneficiary.
    i. If the medical director or LPHA determines the services in the updated treatment plan are medically necessary, they shall type or legibly print their name and, sign and date the updated treatment plan, within 15 calendar days of signature by the counselor.

13. Sign-in Sheet.

i. Establish and maintain a sign-in sheet for every group counseling session, which shall include all of the following:
    a. The typed or legibly printed name and signature of the LPHA(s) and/or counselor(s) conducting the counseling session. By signing the sign-in sheet, the LPHA(s) and/or counselor(s) attest that the sign-in sheet is accurate and complete.
    b. The date of the counseling session.
    c. The topic of the counseling session.
    d. The start and end time of the counseling session.
    e. A typed or legibly printed list of the participants' names and the signature of each participant that attended the counseling session. The participants shall sign the sign-in sheet at the start of or during the counseling session.

14. Progress Notes.

i. Progress notes shall be legible and completed as follows:
    a. For outpatient services, Naltrexone treatment services, and recovery services, each individual and group session, the LPHA or counselor who conducted the counseling session or provided the service shall record a progress note for each beneficiary who participated in the counseling session or treatment service.
        i. The LPHA or counselor shall type or legibly print their name, and sign and date the progress note within seven calendar days of the counseling session.

ii. Progress notes are individual narrative summaries and shall include all of the following:
    1. The topic of the session or purpose of the service.
    2. A description of the beneficiary's progress on the treatment plan problems, goals, action steps, objectives, and/or referrals.
    3. Information on the beneficiary's attendance, including the date, start and end times of each individual and group counseling session or treatment service.
    4. Identify if services were provided in-person, by telephone, or by telehealth.
    5. If services were provided in the community, identify the location and how the provider ensured confidentiality.

b. For intensive outpatient treatment and residential treatment services, the LPHA or counselor shall record at a minimum one progress note, per calendar week, for each beneficiary participating in structured activities including counseling sessions or other treatment services.
    i. The LPHA or counselor shall type or legibly print their name, and sign and date progress notes within the following calendar week.
    ii. Progress notes are individual narrative summaries and shall include all of the following:
        1. A description of the beneficiary's progress on the treatment plan, problems, goals, action steps, objectives, and/or referrals.
        2. A record of the beneficiary's attendance at each counseling session including the date, start and end times and topic of the counseling session.
        3. Identify if services were provided in-person, by telephone, or by telehealth.
        4. If services were provided in the community, identify the location and how the provider ensured confidentiality.

c. For each beneficiary provided case management services, the LPHA or counselor who provided the treatment service shall record a progress note.
   i. The LPHA or counselor shall type or legibly print their name, and sign and date the progress note within seven calendar days of the case management service.
   ii. Progress notes shall include all of the following:
      1. Beneficiary's name.
      2. The purpose of the service.
      3. A description of how the service relates to the beneficiary's treatment plan problems, goals, action steps, objectives, and/or referrals.
      4. Date, start and end times of each service.
      5. Identify if services were provided in-person, by telephone, or by telehealth.
      6. If services were provided in the community, identify the location and how the provider ensured confidentiality.

d. For physician consultation services, additional medication assisted treatment, and withdrawal management, the medical director or LPHA working within their scope of practice who provided the treatment service shall record a progress note and keep in the beneficiary's file.
   i. The medical director or LPHA shall type or legibly print their name, and sign and date the progress note within seven calendar days of the service.
   ii. Progress notes shall include all of the following:
      1. Beneficiary's name.
      2. The purpose of the service.
      3. Date, start and end times of each service.
      4. Identify if services were provided face-to-face, by telephone or by telehealth.

15. Continuing Services.

i. Continuing services shall be justified as shown below:
   a. For case management, intensive outpatient treatment, Naltrexone treatment, and outpatient services:
      i. For each beneficiary, no sooner than five months and no later than six months after the beneficiary's admission to treatment date or the date of completion of the most recent

justification for continuing services, the LPHA or counselor shall review the beneficiary's progress and eligibility to continue to receive treatment services, and recommend whether the beneficiary should or should not continue to receive treatment services at the same level of care.

ii. For each beneficiary, no sooner than five months and no later than six months after the beneficiary's admission to treatment date or the date of completion of the most recent justification for continuing services, the medical director or LPHA shall determine medical necessity for continued services for the beneficiary. The determination of medical necessity shall be documented by the medical director or LPHA in the beneficiary's individual patient record and shall include documentation that all of the following have been considered:

1. The beneficiary's personal, medical and substance use history.
2. Documentation of the beneficiary's most recent physical examination.
3. The beneficiary's progress notes and treatment plan goals.
4. The LPHA’s or counselor's recommendation pursuant to Paragraph (i) above.
5. The beneficiary's prognosis.

i. The medical director or LPHA shall type or legibly print their name, and sign and date the continuing services information when completed.

iii. If the medical director or LPHA determines that continuing treatment services for the beneficiary is not medically necessary, the provider shall discharge the beneficiary from treatment and arrange for the beneficiary to an appropriate level of treatment services.

b. Residential services length of stay shall be in accordance with Article III.H of this Agreement.

16. Discharge.

i. Discharge of a beneficiary from treatment may occur on a voluntary or involuntary basis. For outpatient services, intensive outpatient services and residential services, in addition to the requirements of this subsection, an involuntary discharge is subject to the requirements set forth in Article II.G.2. Timely and Adequate Notice of Adverse Benefit.

ii. An LPHA or counselor shall complete a discharge plan for each beneficiary, except for a beneficiary with whom the provider loses contact.

a. The discharge plan shall include, but not be limited to, all of the following:

i. A description of each of the beneficiary's relapse triggers.

ii. A plan to assist the beneficiary to avoid relapse when confronted with each trigger.

iii. A support plan.

b. The discharge plan shall be prepared within 30 calendar days prior to the scheduled date of the last face-to-face treatment with the beneficiary.

i. If a beneficiary is transferred to a higher or lower level of care based on ASAM criteria within the same DMC certified program, they are not required to be discharged unless there has been more than a 30 calendar day lapse in treatment services.

c. During the LPHA’s or counselor's last face-to-face treatment with the beneficiary, the LPHA or counselor and the beneficiary shall type or legibly print their names, sign and date the discharge plan. A copy of the discharge plan shall be provided to the beneficiary and documented in the beneficiary record.

iii. The LPHA or counselor shall complete a discharge summary, for any beneficiary with whom the provider lost contact, in accordance with all of the following requirements:

a. The LPHA or counselor shall complete the discharge summary within 30 calendar days of the date of the last face-to-face treatment contact with the beneficiary.

b. The discharge summary shall include all of the following:

i. The duration of the beneficiary's treatment as determined by the dates of admission to and discharge from treatment.
ii. The reason for discharge.
iii. A narrative summary of the treatment episode.
iv. The beneficiary's prognosis.

17. Reimbursement of Documentation.

i. If permitted by the Contractor, reimbursement of units of service for documentation activities shall be as follows:
   a. The Medical Director, LPHA or counselor shall record their completion of progress notes, treatment plans, continuing services justification and discharge documentation that includes at a minimum the following:
      i. Name of beneficiary
      ii. Date original treatment service was provided
      iii. Date documentation of progress note, treatment plan, continuing services justification or discharge documentation was completed, which includes start and end time.
   b. The medical director, LPHA or counselor shall type or legibly print their name, and sign and date the record within seven calendar days of the service requiring documentation.

IV. Definitions

A. The words and terms of this Intergovernmental Agreement are intended to have their usual meaning unless a specific or more limited meaning is associated with their usage pursuant to the HSC, Title 6.

1. ***"Abuse"*** means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program.

2. ***"Adolescents"*** means beneficiaries between the ages of twelve and under the age of twenty-one.

3. ***"Administrative Costs"*** means the Contractor's actual direct costs, as recorded in the Contractor's financial records and supported by source documentation, to administer the program or an activity to provide service to the DMC program. Administrative costs do not include the cost of treatment or other direct services to the beneficiary. Administrative costs may include, but are not limited to, the cost of training, programmatic and financial audit reviews, and activities related to billing. Administrative costs may include Contractor's overhead per the approved indirect cost rate proposal pursuant to OMB Omni-Circular and the State Controller's Office Handbook of Cost Plan Procedures.

4. ***"Appeal"*** is the request for review of an adverse benefit determination.

5. ***"Adverse benefit determination"*** means, in the case of an MCO, PIHP, or PAHP, any of the following:

   (1) The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit.

   (2) The reduction, suspension, or termination of a previously authorized service.

   (3) The denial, in whole or in part, of payment for a service.

   (4) The failure to provide services in a timely manner, as defined by the state

   (5) The failure of an MCO, PIHP, or PAHP to act within the timeframes provided in § 438.408(b)(1) and (2) regarding the standard resolution of grievances and appeals.

   (6) For a resident of a rural area with only one MCO, the denial of an enrollee's request to exercise his or her right, under § 438.52(b)(2)(ii), to obtain services outside the network.

   (7) The denial of an enrollee's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities.

6. ***"Authorization"*** is the approval process for DMC-ODS Services

prior to the submission of a DMC claim.

7. ***"Available Capacity"*** means the total number of units of service (bed days, hours, slots, etc.) that a Contractor actually makes available in the current fiscal year.

8. ***"Beneficiary"*** means a person who: (a) has been determined eligible for Medi-Cal; (b) is not institutionalized; (c) has a substance-related disorder per the current "Diagnostic and Statistical Manual of Mental Disorders (DSM)" criteria; and (d) meets the admission criteria to receive DMC covered services.

9. ***"Beneficiary/Enrollee Encounter Data"*** means the information relating to the receipt of any item(s) or service(s) by an enrollee under a contract between a state and a MCO, PIHP, or PAHP that is subject to the requirements of §§438.242 and 438.818.

10. ***"Beneficiary Handbook"*** is the state developed model enrollee handbook.

11. ***"Calendar Week"*** means the seven day period from Sunday through Saturday.

12. ***"Case Management"*** means a service to assist a beneficiary to access needed medical, educational, social, prevocational, vocational, rehabilitative, or other community services.

13. ***"Certified Provider"*** means a substance use disorder clinic location that has received certification to be reimbursed as a DMC clinic by the state to provide services as described in Title 22, California Code of Regulations, Section 51341.1.

14. ***"Collateral Services"*** means sessions with therapists or counselors and significant persons in the life of a beneficiary, focused on the treatment needs of the beneficiary in terms of supporting the achievement of the beneficiary's treatment goals. Significant persons are individuals that have a personal, not official or professional, relationship with the beneficiary.

15. ***"Complaint"*** means requesting to have a problem solved or have a decision changed because you are not satisfied. A complaint is sometimes called a grievance or an appeal.

16. ***"Contractor"*** means the county identified in the Standard Agreement or DHCS authorized by the County Board of

Supervisors to administer substance use disorder programs.

17. ***"Corrective Action Plan (CAP)"*** means the written plan of action document which the Contractor or its subcontracted service provider develops and submits to DHCS to address or correct a deficiency or process that is non-compliant with laws, regulations or standards.

18. ***"County"*** means the county in which the Contractor physically provides covered substance use treatment services.

19. ***"County Realignment Funds"*** means Behavioral Health Subaccount funds received by the County as per California Code Section 30025.

20. ***"Crisis Intervention***" means a contact between a therapist or counselor and a beneficiary in crisis. Services shall focus on alleviating crisis problems. "Crisis" means an actual relapse or an unforeseen event or circumstance, which presents to the beneficiary an imminent threat of relapse. Crisis intervention services shall be limited to stabilization of the beneficiary's emergency situation.

21. ***"Days"*** means calendar days, unless otherwise specified.

22. ***"Dedicated Capacity"*** means the historically calculated service capacity, by modality, adjusted for the projected expansion or reduction in services, which the Contractor agrees to make available to provide DMC-ODS services to persons eligible for Contractor services.

23. ***"Delivery System"*** DMC-Organized Delivery System is a Medi-Cal benefit in counties that choose to opt into and implement the Pilot program. DMC-ODS shall be available as a Medi-Cal benefit for individuals who meet the medical necessity criteria and reside in a county that opts into the Pilot program. Upon approval of an implementation plan, the state shall contract with the county to provide DMC-ODS services. The county shall, in turn, contract with DMC certified providers or provide county-operated services to provide all services outlined in the DMC-ODS. Counties may also contract with a managed care plan to provide services. Participating counties with the approval from the state may develop regional delivery systems for one or more of the required modalities or request flexibility in delivery system design or comparability of

services. Counties may act jointly in order to deliver these services.

24. ***"Discharge services"*** means the process to prepare the beneficiary for referral into another level of care, post treatment return or reentry into the community, and/or the linkage of the individual to essential community treatment, housing and human services.

25. ***"DMC-ODS Services"*** means those DMC services authorized by Title XIX or Title XXI of the Social Security Act; Title 22 Section 51341.1; W&I Code, Section 14124.24; and California's Medicaid State Plan, including the DMC ODS 1115 Demonstration Waiver special terms and conditions.

26. ***"Drug Medi-Cal Program"*** means the state system wherein beneficiaries receive covered services from DMC-certified substance use disorder treatment providers.

27. ***"Drug Medi-Cal Termination of Certification"*** means the provider is no longer certified to participate in the Drug Medi-Cal program upon the state's issuance of a Drug Medi-Cal certification termination notice.

28. ***"Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT)"*** means the federally mandated Medicaid benefit that entitles full-scope Medi-Cal-covered beneficiaries less than 21 years of age to receive any Medicaid service necessary to correct or ameliorate a defect, mental illness, or other condition, such as a substance-related disorder, that is discovered during a health screening.

29. ***"Education and Job Skills"*** means linkages to life skills, employment services, job training, and education services.

30. ***"Emergency medical condition"*** means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:

    (1) Placing the health of the individual (or, for a pregnant woman, the health of the woman or her unborn child) in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

31. ***"Emergency services"*** means covered inpatient and outpatient services that are as follows:

    (1) Furnished by a provider that is qualified to furnish these services under this Title.

    (2) Needed to evaluate or stabilize an emergency medical condition.

32. ***"Excluded Services"*** means services that are not covered under this Agreement.

33. ***"Face-to-Face"*** means a service occurring in person.

34. ***"Family Support"*** means linkages to childcare, parent education, child development support services, and family and marriage education. Family support is only available under Recovery services.

35. ***"Family Therapy"*** means including a beneficiary's family members and loved ones in the treatment process, and education about factors that are important to the beneficiary's recovery as well as their own recovery can be conveyed. Family members may provide social support to beneficiaries, help motivate their loved one to remain in treatment, and receive help and support for their own family recovery as well.

36. ***"Fair Hearing"*** means the state hearing provided to beneficiaries upon denial of appeal pursuant to 22 CCR 50951 and 50953 and 9 CCR 1810.216.6. Fair hearings shall comply with 42 CFR 431.220(a)(5), 438.408(f), 438.414, and 438.10(g)(1).

37. ***"Federal Financial Participation (FFP)"*** means the share of federal Medicaid funds for reimbursement of DMC services.

38. ***"Final Settlement"*** means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for

interim settlement by the state. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.

39. ***"Fraud"*** means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or state law.

40. ***"Grievance"*** means an expression of dissatisfaction about any matter other than an adverse benefit determination. Grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the enrollee's rights regardless of whether remedial action is requested. Grievance includes an enrollee's right to dispute an extension of time proposed by the MCO, PIHP or PAHP to make an authorization decision.

41. ***"Grievance and Appeal System"*** means the processes the MCO, PIHP, or PAHP implements to handle appeals of an adverse benefit determination and grievances, as well as the processes to collect and track information about them.

42. ***"Group Counseling"*** means contacts in which one or more therapists or counselors treat two or more clients at the same time with a maximum of 12 in the group, focusing on the needs of the individuals served. A beneficiary that is 17 years of age or younger shall not participate in-group counseling with any participants who are 18 years of age or older. However, a beneficiary who is 17 years of age or younger may participate in group counseling with participants who are 18 years of age or older when the counseling is at a provider's certified school site.

43. ***"Hospitalization"*** means that a patient needs a supervised recovery period in a facility that provides hospital inpatient care.

44. ***"Individual Counseling"*** means contact between a beneficiary and a therapist or counselor. Services provided in-person, by telephone or by telehealth qualify as Medi-Cal reimbursable units of service, and are reimbursed without distinction.

45. ***"Intake"*** means the process of determining a beneficiary meets the medical necessity criteria and a beneficiary is admitted into a substance use disorder treatment program. Intake includes the evaluation or analysis of the cause or nature of mental, emotional, psychological, behavioral, and substance use disorders; and the assessment of treatment needs to provide medically necessary services. Intake may include a physical examination and laboratory testing (e.g., body specimen screening) necessary for substance use disorder treatment and evaluation.

46. ***"Intensive Outpatient Treatment"*** means (ASAM Level 2.1) structured programming services consisting primarily of counseling and education about addiction-related problems a minimum of nine (9) hours with a maximum of 19 hours per week for adults, and a minimum of six (6) hours with a maximum of 19 hours per week for adolescents. Services may be provided in any appropriate setting in the community. Services may be provided in-person, by telephone or by telehealth.

47. ***"Interim Settlement"*** means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.

48. ***"Key Points of Contact"*** means common points of access to substance use treatment services from the county, including but not limited to the county's beneficiary problem resolution process, county owned or operated or contract hospitals, and any other central access locations established by the county.

49. ***"Long-Term Services and Supports (LTSS)"*** means services and supports provided to beneficiaries of all ages who have functional limitations and/or chronic illnesses that have the primary purpose of supporting the ability of the beneficiary to live or work in the setting of their choice, which may include the individual's home, a worksite, a provider-owned or controlled residential setting, a nursing facility, or other institutional setting.

50. ***"Licensed Practitioners of the Healing Arts (LPHA)"*** includes: Physicians, Nurse Practitioners, Physician Assistants, Registered Nurses, Registered Pharmacists, Licensed Clinical Psychologist (LCP), Licensed Clinical Social Worker (LCSW), Licensed Professional Clinical Counselor (LPCC), and Licensed Marriage and Family Therapist (LMFT) and licensed-eligible

practitioners working under the supervision of licensed clinicians.

51. ***"Managed Care Organization (MCO)"*** means an entity that has, or is seeking to qualify for, comprehensive risk contract under this part, and that is-

    (1) A Federally qualified HMO that meets the advance directives requirements of subpart l of part 489 of this chapter; or

    (2) Any public Any public or private entity that meets the advance directives requirements and is determined by the Secretary to also meet the following conditions:

        (i) Makes the services it provides to its Medicaid enrollees as accessible (in terms of timeliness, amount, duration, and scope) as those services are to other Medicaid beneficiaries within the area served by the entity.

        (ii) Meets the solvency standards of the §438.116.

52. ***"Managed Care Program"*** means a managed care delivery system operated by a state as authorized under sections 1915(a), 1915(b), 1932(a), or 1115(a) of the Act.

53. ***"Maximum Payable"*** means the encumbered amount reflected on the Standard Agreement of this Agreement and supported by Exhibit B, Attachment I.

54. ***"Medical Necessity" and "Medically Necessary Services"*** means those SUD treatment services that are reasonable and necessary to protect life, prevent significant illness or significant disability, or alleviate severe pain through the diagnosis or treatment of a disease, illness or injury consistent with and 42 CFR 438.210(a)(4) or, in the case of EPSDT, services that meet the criteria specified in Title 22, Sections 51303 and 51340.1.

55. ***"Medical Necessity Criteria"*** means adult beneficiaries must have one diagnosis from the Diagnostic and Statistical Manual of Mental Disorders (DSM) Fifth Edition for Substance-Related and Addictive Disorders with the exception of Tobacco-Related Disorders and Non-Substance-Related Disorders, and must meet the ASAM Criteria definition of medical necessity for services based on the ASAM Criteria. Youth under 21 may be assessed to be at risk for developing a substance use disorder, and if applicable, must meet the ASAM adolescent treatment criteria. Beneficiaries under age 21

are eligible to receive Medicaid services pursuant to the Early Periodic Screening, Diagnostic and Treatment (EPSDT) mandate. Under the EPSDT mandate, beneficiaries under age 21 are eligible to receive all appropriate and medically necessary services needed to correct and ameliorate health.

56. ***"Medical psychotherapy"*** means a type of counseling service that has the same meaning as defined in 9 CCR § 10345.

57. ***"Medication Services"*** means the prescription or administration of medication related to substance use disorder treatment services, or the assessment of the side effects or results of that medication conducted by staff lawfully authorized to provide such services.

58. ***"Modality"*** means those necessary overall general service activities to provide substance use disorder services as described in Division 10.5 of the HSC.

59. ***"Opioid (Narcotic) Treatment Program"*** means an outpatient clinic licensed by the state to provide narcotic replacement therapy directed at stabilization and rehabilitation of persons who are opiate-addicted and have a substance use diagnosis.

60. ***"Naltrexone Treatment Services"*** means an outpatient treatment service directed at serving detoxified opiate addicts by using the drug Naltrexone, which blocks the euphoric effects of opiates and helps prevent relapse to opiate addiction.

61. ***"Network"*** means the group of entities that have contracted with the PIHP to provide services under this Agreement.

62. ***"Network Provider"*** means any provider, group of providers, or entity that has a network provider agreement with a MCO, PIHP, PAHP, or a subcontract, and receives Medicaid funding directly or indirectly to order, refer or render covered services as a result of the state's contract with an MCO, PIHP or PAHP. A network provider is not a subcontractor by virtue of the network provider agreement.

63. ***"Non-participating provider"*** means a provider that is not engaged in the continuum of services under this Agreement.

64. ***"Non-Perinatal Residential Program"*** services are provided in

DHCS licensed residential facilities that also have DMC certification and have been designated by DHCS as capable of delivering care consistent with ASAM treatment criteria. These residential services are provided to the non-perinatal population and do not require the enhanced services found in the perinatal residential programs.

65. ***"Nonrisk Contract"*** means a contract between the state and a PIHP or PAHP under which the contractor-

(1) Is not at financial risk for changes in utilization or for costs incurred under the contract that do not exceed the upper payment limits specified in § 447.362, and

(2) May be reimbursed by the state at the end of the contract period on the basis of the incurred costs, subject to the specified limits

66. ***"Notice of Adverse Benefit Determination"*** means a formal communication of any action and consistent with 42 CFR 438.404 and 438.10.

67. ***"Observation"*** means the process of monitoring the beneficiary's course of withdrawal. It is to be conducted as frequently as deemed appropriate for the beneficiary and the level of care the beneficiary is receiving. This may include but is not limited to observation of the beneficiary's health status.

68. ***"Outpatient Services"*** means (ASAM Level 1.0) outpatient service directed at stabilizing and rehabilitating persons up to nine hours of service per week for adults, and less than six hours per week for adolescents.

69. ***"Overpayment"*** means any payment made to a network provider by a MCO, PIHP, or PAHP to which the network provider is not entitled to under Title XIX of the Act or any payment to a MCO, PIHP, or PAHP by a state to which the MCO, PIHP, or PAHP is not entitled to under Title XIX of the Act.

70. ***"Patient Education"*** means providing research based education on addiction, treatment, recovery and associated health risks.

71. ***"Participating provider"*** means a provider that is engaged in the continuum of services under this Agreement.

72. ***"Payment Suspension"*** means the Drug Medi-Cal certified

provider has been issued a notice pursuant to W&I Code, Section 14107.11 and is not authorized to receive payments after the payment suspension date for DMC services, regardless of when the service was provided.

73. ***"Performance"*** means providing the dedicated capacity in accordance with Exhibit B, Attachment I, and abiding by the terms of this Exhibit A, including all applicable state and federal statutes, regulations, and standards, including Alcohol and/or Other Drug Certification Standards (Document 1P), in expending funds for the provision of SUD services hereunder.

74. "***Perinatal DMC Services"*** means covered services as well as mother/child habilitative and rehabilitative services; services access (i.e., provision or arrangement of transportation to and from medically necessary treatment); education to reduce harmful effects of alcohol and drugs on the mother and fetus or infant; and coordination of ancillary services (Title 22, Section 51341.1(c) 4).

75. ***"Physician"*** as it pertains to the supervision, collaboration, and oversight requirements in sections 1861(aa)(2)(B) and (aa)(3) of the Act, a doctor of medicine or osteopathy legally authorized to practice medicine or surgery in the State in which the function is performed.

76. ***"Physician Consultation"*** services are to support DMC physicians with complex cases, which may address medication selection, dosing, side effect management, adherence, drug-drug interactions, or level of care considerations.

77. ***"Physician services"*** means services provided by an individual licensed under state law to practice medicine.

78. ***"Plan"*** means any written arrangement, by one or more entities, to provide health benefits or medical care or assume legal liability for injury or illness.

79. ***"Postpartum"*** as defined for DMC purposes, means the 60-day period beginning on the last day of pregnancy, regardless of whether other conditions of eligibility are met. Eligibility for perinatal services shall end on the last day of the calendar month in which the 60th day occurs.

80. ***"Postservice Postpayment (PSPP) Utilization Review"*** means

the review for program compliance and medical necessity conducted by the state after service was rendered and paid. The Department may recover prior payments of Federal and state funds if such a review determines that the services did not comply with the applicable statutes, regulations, or terms as specified in Article III.PP of this Agreement.

81. ***"Potential Beneficiary/Enrollee"*** means a Medicaid beneficiary who is subject to mandatory enrollment or may voluntarily elect to enroll in a given MCO, PIHP, PAHP, PCCM or PCCM entity, but is not yet an enrollee of a specific MCO, PIHP, PAHP, PCCM, or PCCM entity.

82. ***"Preauthorization"*** means approval by the Plan that a covered service is medically necessary.

83. ***"Prepaid Ambulatory Health Plan (PAHP)"*** means an entity that:

(1) Provides services to enrollees under contract with the state, and on the basis of capitation payments, or other payment arrangements that do not use State Plan payment rates.

(2) Does not provide or arrange for, and is not otherwise responsible for the provision of any inpatient hospital or institutional services for its enrollees; and

(3) Does not have a comprehensive risk contract.

84. ***"Prepaid Inpatient Health Plan (PIHP)"*** means an entity that:

(1) Provides services to enrollees under contract with the state, and on the basis of capitation payments, or other payment arrangements that do not use State Plan payment rates.

(2) Provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its enrollees; and

(3) Does not have a comprehensive risk contract.

85. ***"Prescription drugs"*** means simple substances or mixtures of substances prescribed for the cure, mitigation, or prevention of disease, or for health maintenance that are:

(1) Prescribed by a physician or other licensed practitioner of the healing arts within the scope of this professional practice as defined

and limited by Federal and State law

(2) Dispensed by licensed pharmacists and licensed authorized practitioners in accordance with the State Medical Practice Act; and

(3) Dispensed by the licensed pharmacist or practitioner on a written prescription that is recorded and maintained in the pharmacist's or practitioner's records.

86. ***"Primary Care"*** means all health care services and laboratory services customarily furnished by or through a general practitioner, family physician, internal medicine physician, obstetrician/gynecologist, pediatrician, or other licensed practitioner as authorized by the State Medicaid program, to the extent the furnishing of those services is legally authorized in the state in which the practitioner furnishes them.

87. ***"Primary Care Case Management Entity (PCCM entity)"*** means an organization that provides any of the following functions, in addition to primary care case management services, for the state:

(1) Provision of intensive telephonic or face-to-face case management, including operation of a nurse triage advice line.

(2) Development of enrollee care plans.

(3) Execution of contracts with and/or oversight responsibilities for the activities of FFS providers in the FFS program.

(4) Provision of payments to FFS providers on behalf of the state.

(5) Provision of enrollee outreach and education activities.

(6) Operation of a customer service call center.

(7) Review of provider claims, utilization and practice patterns to conduct provider profiling and/or practice improvement.

(8) Implementation of quality improvement activities including administering enrollee satisfaction surveys or collecting data necessary for performance measurement of providers.

(9) Coordination with behavioral health systems/providers.

(10) Coordination with long-term services and supports

systems/providers.

88. ***"Primary Care Case Manager (PCCM)"*** means a physician, a physician group practice or, at State option, any of the following:

(1) A physician assistant

(2) A nurse practitioner.

(3) A certified nurse-midwife

89. ***"Primary care physician (PCP)"*** means a Physician responsible for supervising, coordinating, and providing initial and Primary Care to patients and serves as the medical home for Members. The PCP is a general practitioner, internist, pediatrician, family practitioner, or obstetrician/gynecologist.

90. ***"Primary care provider"*** means a person responsible for supervising, coordinating, and providing initial and Primary Care to patients; for initiating referrals; and, for maintaining the continuity of patient care. A Primary Care Provider may be a Primary Care Physician or Non-Physician Medical Practitioner.

91. ***"Projected Units of Service"*** means the number of reimbursable DMC units of service, based on historical data and current capacity, the Contractor expects to provide on an annual basis.

92. ***"Provider"*** means any individual or entity that is engaged in the delivery of services, or ordering or referring for those services, and is legally authorized to do so by the state in which it delivers the services.

93. ***"Provider-preventable condition"*** means a condition that meets the definition of a health care-acquired condition — a condition occurring in any inpatient hospital setting, identified as a HAC by the Secretary under section 1886(d)(4)(D)(iv) of the Act for purposes of the Medicare program identified in the State Plan as described in section 1886(d)(4)(D)(ii) and (iv) of the Act; other than Deep Vein Thrombosis (DVT)/Pulmonary Embolism (PE) as related to total knee replacement or hip replacement surgery in pediatric and obstetric patients — or an "other provider-preventable condition," which is defined as a condition occurring in any health care setting that meets the following criteria:

(1) Is identified in the State Plan.

(2) Has been found by the state, based upon a review of medical literature by qualified professionals, to be reasonably preventable through the application of procedures supported by evidence-based guidelines.

(3) Has a negative consequence for the beneficiary.

(4) Is auditable.

(5) Includes, at a minimum, wrong surgical or other invasive procedure performed on a patient; surgical or other invasive procedure performed on the wrong body part; surgical or other invasive procedure performed on the wrong patient.

94. ***"Re-certification"*** means the process by which the DMC certified clinic is required to submit an application and specified documentation, as determined by DHCS, to remain eligible to participate in and be reimbursed through the DMC program. Re-certification shall occur no less than every five years from the date of previous DMC certification or re-certification.

95. ***"Recovery monitoring"*** means recovery coaching, monitoring via telephone and internet. Recovery monitoring is only available in Recovery services.

96. ***"Recovery Services"*** are available after the beneficiary has completed a course of treatment. Recovery services emphasize the patient's central role in managing their health, use effective self-management support strategies, and organize internal and community resources to provide ongoing self-management support to patients.

97. ***"Rehabilitation Services"*** includes any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under state law, for maximum reduction of physical or mental disability and restoration of a beneficiary to his best possible functional level.

98. ***"Relapse"*** means a single instance of a beneficiary's substance use or a beneficiary's return to a pattern of substance use.

99. ***"Relapse Trigger"*** means an event, circumstance, place or person that puts a beneficiary at risk of relapse.

100. ***"Residential Treatment Services"*** means a non-institutional, 24-

hour non-medical, short-term residential program of any size that provides rehabilitation services to beneficiaries. Each beneficiary shall live on the premises and shall be supported in their efforts to restore, maintain, and apply interpersonal and independent living skills, and access community support systems. Programs shall provide a range of activities and services. Residential treatment shall include 24-hour structure with available trained personnel, seven days a week, including a minimum of five (5) hours of clinical service a week to prepare beneficiary for outpatient treatment.

101. ***"Revenue"*** means Contractor's income from sources other than the state allocation.

102. ***"Safeguarding medications,"*** means facilities will store all resident medication and facility staff members may assist with resident's self-administration of medication.

103. ***"Service Area"*** means the geographical area under Contractor's jurisdiction.

104. ***"Service Authorization Request"*** means a beneficiary's request for the provision of a service.

105. ***"Short-Term Resident"*** means any beneficiary receiving residential services pursuant to DMC-ODS, regardless of the length of stay, is a "short-term resident" of the residential facility in which they are receiving the services.

106. ***"State"*** means the Department of Health Care Services or DHCS.

107. ***"Subcontract"*** means an agreement between the Contractor and its subcontractors. A subcontractor shall not delegate its obligation to provide covered services or otherwise subcontract for the provision of direct patient/beneficiary services.

108. ***"Subcontractor"*** means an individual or entity that is DMC certified and has entered into an agreement with the Contractor to be a provider of covered services. It may also mean a vendor who has entered into a procurement agreement with the Contractor to provide any of the administrative functions related to fulfilling the Contractor's obligations under the terms of this Exhibit A, Attachment I.

109. ***"Substance Abuse Assistance"*** means peer-to-peer services and relapse prevention. Substance abuse assistance is only available in Recovery services.

110. ***"Substance Use Disorder Diagnoses"*** are those set forth in the Diagnostic and Statistical Manual of Mental Disorders Fifth Edition, published by the American Psychiatric Association.

111. ***"Substance Use Disorder Medical Director"*** has the same meaning as in 22 CCR § 51000.24.4.

112. ***"Support Groups"*** means linkages to self-help and support, spiritual and faith-based support.

113. ***"Support Plan"*** means a list of individuals and/or organizations that can provide support and assistance to a beneficiary to maintain sobriety.

114. ***"Telehealth Between Provider and Beneficiary"*** means office or outpatient visits via interactive audio and video telecommunication systems.

115. ***"Telehealth Between Providers"*** means communication between two providers for purposes of consultation, performed via interactive audio and video telecommunications systems.

116. ***"Temporary Suspension"*** means the provider is temporarily suspended from participating in the DMC program as authorized by W&I Code, Section 14043.36(a). The provider cannot bill for DMC services from the effective date of the temporary suspension.

117. ***"Threshold Language"*** means a language that has been identified as the primary language, as indicated on the Medi-Cal Eligibility System (MEDS), of 3,000 beneficiaries or five percent of the beneficiary population, whichever is lower, in an identified geographic area.

118. ***"Transportation Services"*** means provision of or arrangement for transportation to and from medically necessary treatment.

119. ***"Unit of Service"*** means:

(A) For case management, intensive outpatient treatment, outpatient services, Naltrexone treatment services, and recovery services contact with a beneficiary in 15-minute increments on a calendar day.

(B) For additional medication assisted treatment, physician services that includes ordering, prescribing, administering, and monitoring of all medications for substance use disorders per visit or in 15-minute increments.

(C) For narcotic treatment program services, a calendar month of treatment services provided pursuant to this section and Chapter 4 commencing with 9 CCR § 10000.

(D) For physician consultation services, consulting with addiction medicine physicians, addiction psychiatrists or clinical pharmacists in 15-minute increments.

(E) For residential services, providing 24-hour daily service, per beneficiary, per bed rate.

(F) For withdrawal management per beneficiary per visit/daily unit of service.

120. ***"Urgent care"*** means a condition perceived by a beneficiary as serious, but not life threatening. A condition that disrupts normal activities of daily living and requires assessment by a health care provider and if necessary, treatment within 24-72 hours.

121. ***"Utilization"*** means the total actual units of service used by beneficiaries and participants.

122. ***"Withdrawal Management"*** means detoxification services provided in either an ambulatory or non-ambulatory setting consistent with the ASAM level of care criteria to DMC ODS beneficiaries.

V. Contractor Specific Requirements

Beginning June 18, 2018 and ending June 30, 2020, in addition to the general requirements outlined in Exhibit A, Attachment I, the Contractor agrees to the following Contractor specific requirements:

A. Covered Services

In addition to the Mandatory Covered Services outlined in Article III.C of Exhibit A, Attachment I, the Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for

medically necessary Contractor Specific Covered Services in the Contractor's service area in compliance with 42 CFR 438.210(a)(1), 438.210(a)(2), and 438.210(a)(3).

1. The Contractor shall deliver the Contractor Specific Covered Services within a continuum of care as defined in the ASAM criteria.

2. Contractor Specific Covered Services include:

i. Additional Medication Assisted Treatment (MAT)

ii. Recovery Residences

B. Access to Services

In addition to the general access to services requirements outlined in Article III.F of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific access to services requirements:

1. Beneficiary Access Line (BAL)

i. The Contractor shall provide a toll-free 24/7 BAL to beneficiaries seeking access to Substance Use Disorder (SUD) services.

ii. The Contractor's BAL shall provide oral and audio-logical (TTY/TDY) translations in the beneficiary's primary language.

iii. The Contractor shall publish the BAL information on the Contractor's web page, on all information brochures, and prevention materials in all threshold languages.

iv. The BAL shall provide 24/7 referrals to services for urgent conditions and medical emergencies

2. The Contractor shall allow the beneficiary point of entry through the BAL. Alternatively, the Contractor shall allow beneficiaries to appear in person at any Contractor-operated or subcontracted DMC-ODS service provider.

i. BAL Point of Entry

a. The BAL shall:
    i. Provide beneficiaries over the phone access to initial screening and referrals to DMC-ODS providers for SUD services.
b. Initial screening shall determine a beneficiary's:
    i. Medi-Cal eligibility or current enrollment
    ii. Demographic information
c. Contractor shall provide an intake and ASAM assessment appointment within 7 working days from the day the individual requests services at which time medical necessity criteria for SUD services will be determined.

ii. Contractor-operated service provider Point of Entry

a. The Contractor-operated service providers shall:
    i. Provide beneficiaries that present directly through walk-in and pre-scheduled appointments a screening, ASAM assessment, and referrals to DMC-ODS services.
        a. Screening and ASAM assessment shall determine a beneficiary's:
            1. Medi-Cal eligibility or current enrollment
            2. Medical necessity
            3. LOC designation
    ii. Be staffed by Licensed Practitioners of the Healing Arts (LPHA) and certified or registered alcohol and drug counselors who have been trained on ASAM criteria.
b. The Contractor shall ensure that assessments are conducted by an LPHA or by a certified/registered alcohol and drug counselor and reviewed and approved by a LPHA.
c. The Contractor shall use an SUD Assessment and ASAM Criteria during the assessment process.

d. The Medical Director, a licensed physician, or a LPHA must diagnose the beneficiary as having at least one DSM-5 Substance Use Disorder.
e. Medical necessity for DMC-ODS services shall be determined as part of the assessment process and shall be performed through a face-to-face interview or via telehealth.
f. In the event that the full ASAM assessment yields an ASAM LOC recommendation that does not agree with the preliminary ASAM assessment result, the beneficiary shall be transitioned to the appropriate LOC.
g. If the entity screening or assessing the beneficiary determines that the medical necessity criteria, pursuant to DMC-ODS Special Terms and Conditions (STCs) 128 (e), has not been met, then a written Notice of Adverse Benefit Determination shall be issued in accordance with 42 CFR 438.404.

iii. Subcontracted DMC-ODS service provider Point of Entry

a. The Contractor shall ensure subcontracted DMC-ODS service providers:
    i. Provide beneficiaries that present directly through walk-in and pre-scheduled appointments a screening, ASAM assessment, and referrals to DMC-ODS services.
        a. Screening and ASAM assessment shall determine a beneficiary's:
            1. Medi-Cal eligibility or current enrollment
            2. Medical necessity
            3. LOC designation
    ii. Be staffed by Licensed Practitioners of the Healing Arts (LPHA) and certified or registered alcohol and drug counselors who have been trained on ASAM criteria.
b. The Contractor shall ensure that assessments are conducted by a LPHA or by a certified/registered alcohol and drug counselor and reviewed and approved by a LPHA.

c. The Contractor shall use an SUD Assessment and ASAM Criteria during the assessment process.
d. The Medical Director, a licensed physician, or a LPHA must diagnose the beneficiary as having at least one DSM5 Substance Use Disorder.
e. Medical necessity for DMC-ODS services shall be determined as part of the assessment process and shall be performed through a face-to-face interview or via telehealth.
f. In the event that the full ASAM assessment yields an ASAM LOC recommendation that does not agree with the preliminary ASAM assessment result, the beneficiary shall be transitioned to the appropriate LOC.
g. If the entity screening or assessing the beneficiary determines that the medical necessity criteria, pursuant to DMC-ODS Special Terms and Conditions (STCs) 128 (e), has not been met, then a written Notice of Adverse Benefit Determination shall be issued in accordance with 42 CFR 438.404.

C. Timely Access

In addition to the general timely access requirements outlined in Article II.E of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific timely access requirements:

1. The Contractor shall include language in all of its DMC-ODS provider subcontracts outlining timely access to care requirements and performance standards, taking into account the urgency of need for services.
2. The Contractor shall require hours of operation during which services are provided to DMC beneficiaries to be no less than the hours of operation in which the provider offers services to non-DMC beneficiaries.

3. The Contractor shall provide, directly, or through the BAL, referral to services 24 hours a day, 7 days a week, when medically necessary.

i. The BAL and DMC-ODS providers shall have policies and

procedures in place to screen for emergency medical conditions and immediately refer beneficiaries to emergency medical care.

4. The Contractor and subcontractors shall provide eligible, non-urgent beneficiaries a face-to-face appointment with appropriate LOC provider within 10 business days from the service authorization request.

5. The Contractor and subcontractors shall provide beneficiaries requiring OTP services a face-to-face appointment within 3 days of service authorization request.

6. In the event of non-compliance with timely access to care requirements, the Contractor shall provide the subcontractor or provider technical assistance to adhere to the requirements. Contractor shall also issue a written report documenting the non-compliance and require the provider or subcontractor to submit a Corrective Action Plan (CAP) within 30 days of the report. Contractor shall be responsible for approving the CAP and verifying corrections have been made to resolve timely access.

D. Coordination of Care

In addition to the general coordination and continuity of care requirements outlined in Article III.G of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor coordination and continuity of care requirements:

1. Reassessments:

i. The Contractor shall reassess all Outpatient and Intensive Outpatient treatment beneficiaries, at a minimum of every 90 days, unless medical necessity warrants more frequent reassessments as documented in the individualized treatment plan.

ii. The Contractor shall reassess beneficiaries initially authorized for residential treatment, at a maximum of every 30 days, unless medical necessity warrants more frequent

reassessments, as documented in the individualized treatment plan.

2. Transitions to Other Levels of Care:

i. The Case Managers shall ensure the transition of the beneficiaries to appropriate LOC. This may include step-up or step-down in SUD treatment services. Case Managers shall ensure warm hand-offs and transportation to the new LOC when medically necessary and documented in the individualized treatment plan.

ii. Case Managers shall ensure transitions to other LOCs occur no later than 10 business days from the time of assessment or reassessment with no interruption of current treatment services.

iii. Case managers from both the discharging and admitting provider agencies shall be responsible to facilitate the transition between levels of care, including assisting in scheduling an intake appointment, ensuring a minimal delay between discharge and admission at the next LOC.

iv. The Contractor shall manage a beneficiary's transition of care to a DMC-ODS provider when that beneficiary has received, and no longer requires, inpatient SUD services (ASAM level 3.7 and 4.0 services) in an acute care hospital, or another Fee for Service (FFS) facility.

v. The Contractor shall manage a beneficiary's transition of care to a DMC-ODS provider when that beneficiary has received, and no longer requires, inpatient SUD services (ASAM level 3.7 and 4.0 services) in a subcontracted Chemical Dependency Recovery Hospital (CDRH) or Acute Freestanding Psychiatric hospital.

3. Co-occurring Disorders:

i. The Contractor shall ensure:

a. Subcontractors conduct comprehensive assessment with each beneficiary that includes a determination of other co-occurring conditions.

b. Beneficiaries determined to have co-occurring disorders receive referral to concurrently participate in a complementary program specialized in the treating the other type of condition.

E. Memorandum of Understanding

In addition to the general memorandum of understanding requirements outlined in Article III.G.3 of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor Memorandum of Understanding (MOU) requirements:

1. The Contractor shall enter into MOUs with managed care plans. The MOU shall outline the mechanism for sharing information and coordination of service delivery pursuant to STC 151 (b) and (c).

F. Authorization of Services – Residential Programs

In addition to the general authorization of residential services requirements outlined in Article III.H of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific authorization of residential services requirements:

1. Authorization Requests

i. The Contractor shall process prior authorization determinations for residential treatment within 24 hours of the service authorization request.

ii. The Contractor shall ensure the beneficiaries meet the DSM and ASAM criteria requirements to receive residential services.

iii. Medical necessity for beneficiaries presenting for residential treatment shall be determined by either a Medical Director or an LPHA.

iv. The Contractor shall ensure the beneficiary is continually assessed throughout treatment and prior to the end of the initial 30 days of treatment.
   a. Lengths of stay shall vary according to the assessed clinical need for each client and progress in treatment.
   b. The provider shall submit either a discharge plan or a request for continued residential services to the Contractor.

v. The Contractor shall give written notice to the beneficiary of any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested.

G. Outpatient Services (ASAM Level 1)

In addition to the general outpatient services requirements outlined in Article III.O of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific outpatient services requirements:

1. The Contractor shall provide Outpatient services (ASAM Level 1) to beneficiaries (up to nine hours a week for adults, and less than six hours a week for adolescents) when determined by a Medical Director or LPHA to be medically necessary, and in accordance with an individualized treatment plan.

2. The Contractor may provide outpatient services in-person or by telephone by a licensed professional or a registered or certified counselor in any appropriate setting in the community, in accordance with HIPAA and 42 CFR Part 2.

3. The components of outpatient services shall include intake, individual counseling, group counseling, family therapy, patient education, medication services, collateral services, crisis intervention services, treatment planning and discharge services.

4. The Contractor shall provide case management services to beneficiaries receiving outpatient services to coordinate care with ancillary service providers and facilitate transitions between LOC, when medically necessary.

H. Intensive Outpatient Services (ASAM Level 2.1)

In addition to the general intensive outpatient services requirements outlined in Article III.P of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific intensive outpatient services requirements:

1. The Contractor shall provide Intensive Outpatient services (ASAM Level 2.1) to adult beneficiaries a minimum of nine hours with a maximum of 19 hours a week, when determined by a Medical Director or LPHA to be medically necessary, and in accordance with an individualized treatment plan.

i. The Contractor and its subcontracted DMC-ODS providers may provide more than 19 hours per week to adults when determined by a Medical Director or LPHA to be medical necessary, and in accordance with the individualized treatment plan.

ii. The Contractor and its subcontracted DMC-ODS providers may extend a beneficiary's length of treatment when determined by a Medical Director or LPHA to be medically necessary, and in accordance with the individualized treatment plan.

2. The Contractor shall provide Intensive Outpatient services (ASAM Level 2.1) to adolescent beneficiaries a minimum of six hours with a maximum of 19 hours a week, when determined by a Medical Director or LPHA to be medically necessary, and in accordance with an individualized treatment plan.

i. The Contractor and its subcontracted DMC-ODS providers may provide more than 19 hours per week to adolescents when determined by a Medical Director or LPHA to be medical necessary, and in accordance with the individualized treatment plan.

ii. The Contractor and its subcontracted DMC-ODS providers may extend a beneficiary's length of treatment when determined by a Medical Director or LPHA to be medically

necessary, and in accordance with the individualized treatment plan.

3. The Contractor may provide intensive outpatient services in-person or by telephone by a licensed professional or a certified counselor in any appropriate setting in the community in accordance with HIPAA and 42 CFR Part 2.

4. Intensive outpatient services shall include counseling and education about addiction-related problems, with specific components including intake, individual counseling, group counseling, family therapy, patient education, medication services, collateral services, crisis intervention services, treatment planning and discharge services.

5. The Contractor shall provide case management services to beneficiaries receiving intensive outpatient services to coordinate care with ancillary service providers and facilitate transitions between LOC, when medically necessary.

I. Residential Treatment Services

In addition to the general residential treatment services requirements outlined in Article III.Q of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific residential treatment services requirements:

1. The Contractor shall ensure residential services are provided to beneficiaries in DHCS licensed residential facilities that also have DMC certification and have been designated by DHCS as capable of delivering care consistent with ASAM treatment criteria.

2. The length of residential services ranges from one to 90 days with a 90-day maximum for adults, unless medical necessity authorizes a one-time extension of up to 30 days on an annual basis.

3. Adolescents, under the age of 21, shall receive continuous residential services for a maximum of 30 days. Adolescent beneficiaries may receive a 30-day extension if that extension is

determined to be medically necessary. Adolescent beneficiaries are limited to one extension per year.

i. Nothing in the DMC-ODS overrides any EPSDT requirements. Adolescent beneficiaries may receive a longer length of stay based on medical necessity.

4. Only two non-continuous 90-day regimens shall be authorized in a one-year period.

5. Perinatal and criminal justice clients shall receive a longer length of stay based on medical necessity. Pursuant to STC 141, if extended lengths of stay for criminal justice offenders are needed and provided, other county identified funds can be used. Services to incarcerated inmates are not reimbursable through the DMC-ODS waiver.

6. Medical necessity for beneficiaries presenting for residential treatment shall be determined by either a Medical Director or an LPHA.

7. The components of Residential Treatment Services shall include intake, individual and group counseling, family therapy, patient education, safeguarding medications, collateral services, crisis intervention services, treatment planning, transportation services and discharge services

8. Pursuant to STC 134 (c), perinatal clients shall receive lengths of stay up to the length of the pregnancy and postpartum period (60 days after the pregnancy ends).

9. The Contractor shall make ASAM LOC Designations for 3.1 (Clinically Managed Low-Intensity Residential Services), 3.3 (Clinically Managed Population–High Intensity Residential Services) and 3.5 (Clinically Managed Population-Specific High-Intensity Residential Services) available for adult beneficiaries.

10. The Contractor shall make ASAM LOC Designations for 3.1 (Clinically Managed Low-Intensity Residential Services) available for adolescent beneficiaries.

11. In all instances, the Contractor shall ensure 42 CFR Part 2

compliant releases are in place in order to coordinate care with inpatient and out-of-county facilities accepting DMC-ODS beneficiaries that are (county) residents.

J. Case Management

In addition to the general case management requirements outlined in Article III.R of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific case management requirements:

1. Contractor shall provide case management services to all eligible beneficiaries, based on the frequency documented in the individualized treatment plan.

2. As documented on the treatment plan, case management shall provide advocacy and care coordination to physical health, mental health, transportation, housing, vocational, educational, and transition services for reintegration into the community.

3. The Contractor shall be responsible for the oversight and monitoring of case management services.

4. Case management activities and services shall be provided by a registered or certified counselor or LPHA.

5. Case management shall be consistent with and shall not violate confidentiality of alcohol and drug patients as set forth in 42 CFR Part 2, and California law.

K. Physician Consultation

In addition to the general physician consultation requirements outlined in Article III.S of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific physician consultation requirements:

1. Physician Consultation shall include DMC-ODS physicians' consulting with addiction medicine physicians, addiction psychiatrists or clinical pharmacists for complex cases which may address medication selection, dosing, side effect management, adherence, drug-to-drug interactions or LOC considerations.

i. Physician consultation services shall only be billed by and reimbursed to DMC-ODS providers.

L. Recovery Services

In addition to the general recovery services requirements outlined in Article III.T of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific recovery services requirements:

1. The Contractor shall offer DMC-ODS beneficiaries SUD recovery services, when a Medical Director or LPHA has determined that recovery services are medically necessary and, after the DMC-ODS beneficiary is discharged from SUD treatment services.

i. Recovery services shall be made available to DMC-ODS beneficiaries in accordance with their individualized treatment plan.
ii. The Contractor shall not provide a DMC-ODS beneficiary with recovery services while the DMC-ODS beneficiary is receiving SUD treatment services.

2. The components of recovery services shall include:

i. Outpatient individual or group counseling (relapse prevention).
ii. Recovery monitoring/coaching (via telephone or the internet).
iii. Peer-to-peer assistance.
iv. Care coordination to services to education services, life skills, employment services, and job training.
v. Care coordination to child care, child development and support services, and marriage/family counseling.
vi. Care coordination to housing assistance, transportation, case management, and individual service coordination.

M. Withdrawal Management

In addition to the general withdrawal management requirements outlined in Article III.U of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific withdrawal management requirements:

1. The Contractor shall provide Withdrawal Management ASAM (Level 1-WM, 2-WM, and 3.2-WM) to beneficiaries.

2. Withdrawal Management services shall be determined by the Medical Director, LPHAs, by contracted and licensed physicians, or by nurse practitioners, as medically necessary, and in accordance with an individualized beneficiary's treatment plan.

3. The components of Withdrawal Management services shall include intake, observation, medication services, care coordination and discharge services.

4. For beneficiaries in Withdrawal Management, the Contractor shall provide case management services to coordinate care with ancillary service providers and facilitate transitions between LOCs, when medically necessary.

N. Opioid (Narcotic) Treatment Program Services

In addition to the general opioid (narcotic) treatment program services requirements outlined in Article III.V of Exhibit A, Attachment I, the Contractor shall comply with the following Contractor specific opioid (narcotic) treatment program services requirements:

1. The Contractor shall ensure Opioid (Narcotic) Treatment Program (ASAM OTP Level 1) services are provided in Narcotic Treatment Provider licensed facilities. Medically necessary services shall be provided in accordance with an individualized treatment plan determined by a licensed physician, and approved and authorized according to the State of California requirements.

2. The components of OTPs shall include intake, individual and group counseling, patient education, transportation services, medication services, collateral services, crisis intervention services, treatment planning, medical psychotherapy and discharge services.

3. The Contractor shall ensure NTP licensed facilities provide the beneficiary, at minimum 50 minutes of counseling sessions with a therapist or counselor for up to 200 minutes per calendar month,

although additional services may be provided based on medical necessity.

4. The Contractor shall ensure NTP licensed facilities schedule beneficiaries for their first face-to-face service and intake assessment on the same day they are admitted.

5. The Contractor shall ensure NTP licensed facilities provide case management services to coordinate care with treatment and ancillary service providers and facilitate transitions between levels of care, when medically necessary. Beneficiaries may be simultaneously participating in OTP services and other ASAM LOCs.

O. Additional Medication Assisted Treatment (MAT)

As stated in Article V.A of Exhibit A, Attachment I, the Contractor has elected to provide MAT services as a Contractor specific service. Therefore, the Contractor shall comply with the following Contractor specific MAT requirements:

1. Additional MAT shall include the assessment, treatment planning, ordering, prescribing and monitoring of all medications for SUDs. Medically necessary services are provided in accordance with an individualized treatment plan determined by a licensed physician or LPHA working within their scope of practice.

2. The Contractor shall provide naltrexone, both oral (ReVia) and extended release injectable (Vivitrol), topiramate (Topamax), gabapentin (Neurontin), acamprosate (Campral), and disulfiram (Antabuse). Other approved medications in the treatment of SUDs may also be prescribed, as medically necessary.

3. The Contractor shall provide case management to coordinate care with treatment and ancillary service providers and facilitate transitions between levels of care, when medically necessary. Beneficiaries may simultaneously participate in MAT services and other ASAM LOCs.

P. Recovery Residences

Exhibit A, Attachment I
Program Specifications

As stated in Article V.A of Exhibit A, Attachment I, the Contractor has elected to provide Recovery Residence services as a Contractor specific service. Therefore, the Contractor shall comply with the following Contractor specific Recovery Residence requirements:

1. The Contractor shall develop standards for subcontracted RR providers and shall monitor to these standards.

2. The Contractor shall ensure Recovery Residences (RR) are provided to beneficiaries who require housing assistance in order to support their health, wellness, and recovery.

3. The Contractor shall ensure beneficiaries are receiving SUD treatment or recovery services in order to participate in recovery residences.

4. Recovery Residences are not reimbursable through the DMC-ODS Waiver.

Exhibit B
Budget Detail and Payment Provisions

Part I – General Fiscal Provisions

Section 1 – General Fiscal Provisions

A. Fiscal Provisions

For services satisfactorily rendered, and upon receipt and approval of documentation as identified in Exhibit A, Attachment I, Article III, the Department of Health Care Services (DHCS) agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates and/or allowable costs specified herein.

B. Use of State General Funds

Contractor may not use allocated Drug Medi-Cal (DMC) State General Funds to pay for any non-Drug Medi-Cal services.

C. Funding Authorization

Contractor shall bear the financial risk in providing any substance use disorder (SUD) services covered by this Agreement.

D. Availability of Funds

It is understood that, for the mutual benefit of both parties, this Intergovernmental Agreement may have been written before ascertaining the availability of congressional appropriation of funds in order to avoid program and fiscal delays that would occur if this Agreement were not executed until after that determination. In this event, DHCS may amend the amount of funding provided for in this Agreement based on the actual congressional appropriation.

E. Subcontractor Funding Limitations

Contractor shall reimburse its subcontractors that receive a combination of Drug Medi-Cal Organized Delivery System (DMC-ODS) funding and other federal or county realignment funding for the same service element and location based on the subcontractor's actual costs in accordance with Medicaid reimbursement requirements as specified in Title XIX or of the Social Security Act, DMC-ODS Special Terms and Conditions (STCs), and STCs' Attachments. Payments at interim rates shall be settled to lower of actual cost or customary charge at year-end.

F. Budget Contingency Clause

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, DHCS shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, DHCS shall solely have the option to either cancel this Agreement with no liability

occurring to DHCS, or offer an amended agreement to Contractor to reflect the reduced amount.

G. Expense Allowability/Fiscal Documentation

1. Invoices, received from a Contractor and accepted and/or submitted for payment by DHCS, shall not be deemed evidence of allowable agreement costs.

2. Contractor shall maintain for review and audit and supply to DHCS upon request, adequate documentation of all expenses claimed pursuant to this Agreement to permit a determination of expense allowability.

3. If the allowability or appropriateness of an expense cannot be determined by DHCS because invoice detail, fiscal records, or backup documentation is nonexistent or inadequate according to generally accepted accounting principles, and generally accepted governmental audit standards, all questionable costs may be disallowed and payment may be withheld by DHCS. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.

4. Costs and/or expenses deemed unallowable shall not be reimbursed or, if mistakenly reimbursed, those costs and/or expenses shall be subject to recovery by DHCS pursuant to Article III.DD of Exhibit A, Attachment I, the DMC-ODS STCs, and the STCs' Attachments.

Section 2 – General Fiscal Provisions – DMC-ODS

A. Return of Unexpended Funds

Contractor assumes the total cost of providing covered services on the basis of the payments delineated in this Exhibit B, Part II. Any State General Funds or Federal Medicaid funds paid to the Contractor, but not expended for DMC-ODS services shall be returned to DHCS.

B. Amendment or Cancellation Due to Insufficient Appropriation

This Agreement is valid and enforceable only if sufficient funds are made available to DHCS by the United States Government for the purpose of the DMC-ODS program. It is mutually agreed that if the Congress does not appropriate sufficient funds for this program, DHCS solely has the option to void this Agreement or to amend the Agreement to reflect any reduction of funds.

C. Exemptions

Exemptions to the provisions of Item B above, of this Exhibit, may be granted by the California Department of Finance provided that the Director of DHCS certifies in writing that federal funds are available for the term of the Agreement.

D. Allowable costs

Allowable costs, as defined and in accordance with the DMC-ODS STCs and the STCs' Attachments, shall be determined in accordance with Title 42, Code of Federal Regulations (CFR), Chapter IV, Subchapter B, Parts 405 and 413, and Centers for Medicare and Medicaid

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Services (CMS), "Medicare Provider Reimbursement Manual (Publication Number 15)," which can be obtained from the Centers for Medicare & Medicaid Services, or http://www.cms.hhs.gov

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Part II – Reimbursements

Section 1. General Reimbursement

A. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

B. Amounts Payable

1. The amount payable under this Agreement shall not exceed the amount identified on the State of California Standard Agreement form STD 213_DHCS.

2. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are performed and/or goods are received.

3. The funds identified for the fiscal years covered by under this Section, within this Exhibit, are subject to change depending on the availability and amount of funds appropriated by the Legislature and the Federal Government. The amount of funds available for expenditure by the Contractor shall be limited to the amount identified in the final allocations issued by DHCS for that fiscal year. Changes to allocated funds will require written amendment to the Agreement.

4. For each fiscal year, DHCS may settle costs for services to the Contractor and its subcontractors based on each fiscal year-end cost settlement report as the final amendment for the specific fiscal year cost settlement report to the approved Agreement.

Section 2. DMC-ODS

A. To the extent that the Contractor provides the covered services in a satisfactory manner, in accordance with the terms and conditions of this Agreement, DHCS agrees to pay the Contractor Federal Medicaid funds according to Article III of Exhibit A, Attachment I. Subject to the availability of such funds, Contractor shall receive Federal Medicaid funds and/or State General Funds for allowable expenditures as established by the Federal Government and approved by DHCS, for the cost of services rendered to beneficiaries.

B. Any payment for covered services rendered pursuant to Exhibit A, Attachment I shall only be made pursuant to applicable provisions of Title XIX or Title XXI of the Social Security Act, the Welfare and Institutions (W&I) Code, the Health and Safety Code (HSC), the DMC-ODS STCs, and the STCs' Attachments.

C. It is understood and agreed that failure by the Contractor or its subcontractors to comply with applicable federal and state requirements in rendering covered services shall be sufficient cause for DHCS to deny payments, to recover payments, and/or terminate the Contractor or its subcontractor from DMC-ODS program participation. If DHCS or the Department of Health and Human Services (DHHS) disallows or denies payments for any claim, Contractor shall repay to DHCS the Federal Medicaid funds and/or State General Funds it received for all claims so disallowed or denied. The overpayment shall be recovered by any of the methods allowed in

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Division 9, Part 3, Chapter 7, Article 5.3 of the W&I Code and DMC-ODS STC 143(h)(vi).

D. Before a denial, recoupment, or disallowances are made, DHCS shall provide the Contractor with written notice of its proposed action. Such notice shall include the reason for the proposed action and shall allow the Contractor 60 days to submit additional information before the proposed action is taken. This requirement does not apply to the DMC-ODS Post Service Post Payment Utilization Reviews.

E. DHCS shall refund to the Contractor any recovered Federal DMC-ODS overpayment that is subsequently determined to have been erroneously collected, together with interest, in accordance with Division 9, Part 3, Chapter 7, Article 5.3 of the W&I Code.

F. Contractor shall be reimbursed by DHCS on the basis of its actual net reimbursable cost, not to exceed the unit of service maximum rate.

G. Claims submitted to the Contractor by a subcontracted provider that is not certified or whose certification has been suspended pursuant to the W&I Code section 14107.11 and 42 CFR 455.23, shall not be certified or processed for federal or state reimbursement by the Contractor. Payments for any DMC-ODS services shall be held by the Contractor until the payment suspension is resolved.

H. In the event an Agreement amendment is required pursuant to the preceding paragraph, Contractor shall submit to DHCS information as identified in Exhibit E, Section 1(D). To the extent the Contractor is notified of DHCS Budget Act allocation prior to the execution of the Agreement, DHCS and the Contractor may agree to amend the agreement after the issuance of the first revised allocation.

I. Reimbursement for covered services, other than Narcotic Treatment Program (NTP) services, shall be limited to the lower of:

   1. The provider's usual and customary charges to the general public for the same or similar services.

   2. The provider's actual allowable costs.

J. Reimbursement to NTP shall be limited to the lower of either the Uniform Statewide Daily Reimbursement (USDR) rate, pursuant to W&I Code Section 14021.51(h), or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public for the purpose of this section (W&I Code Section 14021.51(h)(2)(A)).

K. DHCS shall reimburse the Contractor the State General Funds and/or Federal Medicaid fund amount of the approved DMC-ODS claims and documents submitted in accordance with Article III of Exhibit A, Attachment I.

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L. DHCS will adjust subsequent reimbursements to the Contractor to actual allowable costs. Actual allowable costs are defined in the Medicare Provider Reimbursement Manual (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov.

M. Contractors and subcontractors must accept, as payment in full, the amounts paid by DHCS in accordance with the DMC-ODS STCs and the STCs' Attachments. Contractors and subcontractors may not demand any additional payment from DHCS, client, or other third party payers.

N. Contractor shall require all subcontractors to comply with 45 CFR 162.410(a)(1) for any subpart that would be a covered health care provider if it were a separate legal entity. For purposes of this paragraph, a covered health care provider shall have the same definition as set forth in 45 CFR 160.103. DHCS shall make payments for covered services only if Contractor is in compliance with federal regulations.

Part III - Financial Audit Requirements

Exhibit B
Budget Detail and Payment Provisions

Section 1. General Fiscal Audit Requirements

A. In addition to the requirements identified below, the Contractor and its subcontractors are required to meet the audit requirements as delineated in Exhibit C, General Terms and Conditions, and Exhibit D(F), Special Terms and Conditions, of this Agreement.

B. All expenditures of county realignment funds, state and federal funds furnished to the Contractor and its subcontractors pursuant to this Agreement are subject to audit by DHCS. Objectives of such audits may include, but not limited to, the following:

1. To determine whether units of service claimed/reported are properly documented by service records and accurately accumulated for claiming/reporting.

2. To validate data reported by the Contractor for prospective agreement negotiations.

3. To provide technical assistance in addressing current year activities and providing recommendation on internal controls, accounting procedures, financial records, and compliance with laws and regulations.

4. To determine the cost of services, net of related patient and participant fees, third-party payments, and other related revenues and funds.

5. To determine that expenditures are made in accordance with applicable state and federal laws and regulations and Agreement requirements.

6. To determine the facts in relation to analysis of data, complaints, or allegations, which may be indicative of fraud, abuse, willful misrepresentation, or failure to achieve the Agreement objectives of Exhibit C and D(F).

C. Unannounced visits may be made at the discretion of the DHCS to the Contractor and/or its subcontractors.

D. The refusal of the Contractor or its subcontractors to permit access to, and inspection of, electronic or print books and records, physical facilities, and/or refusal to permit interviews with employees, as described in this part, constitutes an express and immediate material breach of this Agreement and will be sufficient basis to terminate the Agreement for cause or default.

E. Reports of audits conducted by DHCS shall reflect all findings, recommendations, adjustments, and corrective action as a result of its finding in any areas.

Section 2. DMC-ODS Financial Audits

A. In addition to the audit requirements set forth in Exhibit D(F), DHCS may also conduct financial audits of DMC-ODS programs, exclusive of NTP services, to accomplish any of, but not limited to, the following audit objectives:

1. To review reported costs for validity, appropriate allocation methodology, and compliance with Medicaid laws and regulations.

2. To ensure that only the cost of allowable DMC-ODS activities are included in reported costs.

3. To determine the provider's usual and customary charge to the general public in accordance with CMS (The Medicare Provider Reimbursement Manual) (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov, for comparison to the DMC-ODS cost per unit.

4. To review documentation of units of service and determine the final number of approved units of service.

5. To determine the amount of clients' third-party revenue and Medi-Cal share of cost to offset allowable DMC-ODS reimbursement.

6. To compute final settlement based on the lower of actual allowable cost or the usual and customary charge, in accordance with the DMC-ODS STCs and the STCs' Attachments.

B. In addition to the audit requirements set forth in Exhibit D(F), DHCS may conduct financial audits of NTP programs. For NTP services, the audits will address items A(3) through A(5) above, except that the comparison of the provider's usual and customary charge in A(3) will be to the DMC USDR rate in lieu of DMC-ODS cost per unit. In addition, these audits will include, but not be limited to:

1. For those NTP providers required to submit a cost report pursuant to W&I Code Section 14124.24, a review of cost allocation methodology between NTP and other service modalities, and between DMC-ODS and other funding sources.

2. A review of actual costs incurred for comparison to services claimed.

3. A review of counseling claims to ensure that the appropriate group or individual counseling rate has been used and that counseling sessions have been billed appropriately.

4. A review of the number of clients in group sessions to ensure that sessions include no less than two and no more than twelve clients at the same time, with at least one Medi-Cal client in attendance.

5. Computation of final settlement based on the lower of USDR or the provider's usual and customary charge to the general public.

6. A review of supporting service, time, financial, and patient records to verify the validity of counseling claims.

C. Contractor shall be responsible for any disallowances taken by the Federal Government, DHCS, or the Bureau of State Audits as a result of any audit exception that is related to its responsibilities. Contractor shall not use funds administered by DHCS to repay one federal funding source with funds provided by another federal funding source, or to repay federal funds with state funds, or to repay state funds with federal funds.

D. Contractor agrees to promptly develop and implement any corrective action plans in a manner acceptable to DHCS in order to comply with recommendations contained in any audit report.

Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by DHCS within six months from the date of the plan.

E. Contractor, in coordination with DHCS, shall provide follow-up on all significant findings in the audit report, including findings relating to a subcontractor, and submit the results to DHCS.

If differences cannot be resolved between DHCS and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit B, Contractor may request an appeal in accordance with the appeal process described in the Exhibit A, Attachment I and Division 9, Part 3, Chapter 7, Article 5.3 of the W&I Code. Contractor shall include a provision in its subcontracts regarding the process by which a subcontractor may file an audit appeal via the Contractor.

F. Providers of DMC-ODS services shall, upon request, make available to DHCS their fiscal and other records to assure that such providers have adequate recordkeeping capability and to assure that reimbursement for covered DMC-ODS services are made in accordance with Exhibit A, Attachment I, the DMC-ODS STCs, and the STCs' Attachments. These records include, but are not limited to, matters pertaining to:

1. Provider ownership, organization, and operation
2. Fiscal, medical, and other recordkeeping systems
3. Federal income tax status
4. Asset acquisition, lease, sale, or other action
5. Franchise or management arrangements
6. Patient service charge schedules
7. Costs of operation
8. Cost allocation methodology
9. Amounts of income received by source and purpose
10. Flow of funds and working capital

G. Contractor shall retain records of utilization review activities, required in Exhibit A, Attachment I, Article III.EE herein, for a minimum of ten (10) years.

Part IV – Records

Section 1. General Provisions

A. Maintenance of Records

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Contractor shall maintain sufficient books, records, documents, and other evidence necessary for DHCS to audit Agreement performance and compliance. Contractor shall make these records available to DHCS, upon request, to evaluate the quality and quantity of services, accessibility and appropriateness of services, and to ensure fiscal accountability. Regardless of the location or ownership of such records, they shall be sufficient to determine if costs incurred by Contractor are reasonable, allowable and allocated appropriately. All records must be capable of verification by qualified auditors.

1. Contractor and subcontractors shall include in any contract with an audit firm a clause to permit access by DHCS to the working papers of the external independent auditor, and require that copies of the working papers shall be made for DHCS at its request.

2. Contractor and subcontractors shall keep adequate and sufficient financial records and statistical data to support the year-end documents filed with DHCS. All records must be capable of verification by qualified auditors.

3. Accounting records and supporting documents shall be retained for ten years. When an audit by the Federal Government, DHCS, or the California State Auditor has been started, the records shall be retained until completion of the audit and final resolution of all issues that arise in the audit. Final settlement shall be made at the end of the audit and appeal process.

4. Financial records shall be kept so that they clearly reflect the source of funding for each type of service for which reimbursement is claimed. These documents include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs. All records must be capable of verification by qualified auditors.

5. Contractor's subcontracts shall require that all subcontractors comply with the requirements of Exhibit A, Attachment I, Article II and Article III.

6. Should a subcontractor discontinue its contractual agreement with the Contractor, or cease to conduct business in its entirety, Contractor shall be responsible for retaining the subcontractor's fiscal and program records for the required retention period. DHCS Administrative Manual (SAM) contains statutory requirements governing the retention, storage, and disposal of records pertaining to state funds. Contractor shall follow SAM requirements located at http://sam.dgs.ca.gov/TOC/1600.aspx.

   The Contractor shall retain all records required by W&I Code section 14124.1, 42 CFR 433.32, Exhibit A, Attachment I, the DMC-ODS STCs and STCs' Attachments for reimbursement of services and financial audit purposes.

7. In the expenditure of funds hereunder, Contractor shall comply with the requirements of SAM and the laws and procedures applicable to the obligation and expenditure of federal and state funds.

B. Dispute Resolution Process

1. In the event of a dispute under Exhibit A, Attachment I, Article III other than an audit

dispute, Contractor shall provide written notice of the particulars of the dispute to DHCS before exercising any other available remedy. Written notice shall include the Agreement number. The Director (or designee) of DHCS and the County Drug or Alcohol Program Administrator (or designee) shall meet to discuss the means by which they can effect an equitable resolution to the dispute. Contractor shall receive a written response from DHCS within 60 days of the notice of dispute. The written response shall reflect the issues discussed at the meeting and state how the dispute will be resolved.

2. As stated in Part III, Section 2, of this Exhibit, in the event of a dispute over financial audit findings between DHCS and the Contractor, Contractor may appeal the audit in accordance with Exhibit A, Attachment I and Division 9, Part 3, Chapter 7, Article 5.3 of the W&I Code. Contractor shall include a provision in its subcontracts regarding the process by which a subcontractor may file an audit appeal via the Contractor.

3. Contractors that conduct financial audits of subcontractors, other than a subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify subcontractors of their appeal rights pursuant to that process. This section shall not apply to those grievances or compliances arising from the financial findings of an audit or examination made by or on behalf of DHCS pursuant to Part III of this Exhibit.

4. To ensure that necessary corrective actions are taken, financial audit findings are either uncontested or upheld after appeal may be used by DHCS during prospective agreement negotiations.

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Part V. DMC-ODS Reimbursement Rates

A. **"Uniform Statewide Daily Reimbursement Rate (USDR)"** means the rate for NTP services based on a unit of service that is a daily treatment service, developed in accordance with Section 14021.6 of the W&I Code Section, Section 11758.42 of the HSC and Title 9, CCR, commencing with Section 10000 (Document 3G). The following table shows USDR rates.

STATE FISCAL YEAR 2017-2018

Service	Type of Unit of Service (UOS)	SFY 2017/18 Non-Perinatal (Regular) Rate Per UOS	SFY 2017/18 Perinatal Rate Per UOS
NTP - Methadone Dosing	Daily	$13.11	$14.11
NTP - Individual Counseling (*)	One 10-minute increment	$15.37	$16.39
NTP - Group Counseling (*)	One 10-minute increment	$3.43	$4.28
NTP - Buprenorphine [1]	Daily	$20.18	$28.02
NTP - Disulfiram [2]	Daily	$10.47	$10.84
NTP - Naloxone [3] (2-pack Nasal Spray)	Dispensed as needed	$150.00	$150.00

(*) The NTP Contractors may be reimbursed for up to 200 minutes (20 ten-minute increments) of individual and/or group counseling per calendar month. If a medical necessity determination is made that requires additional NTP counseling beyond 200 minutes per calendar month, NTP Contractors may bill and be reimbursed for additional counseling (in 10 minute increments). Medical justification for the additional counseling must be clearly documented in the patient record.

Reimbursement for covered NTP services shall be limited to the lower of the NTP's usual and customary charge to the general public for the same or similar services or the USDR rate.

[1] - Buprenorphine: Average daily dose of 16 milligrams, sublingual tablets.

[2] - Disulfiram: Average daily dose between 250 and 500 milligrams.

[3] - Naloxone: One dose equal to 4 milligrams per 0.1 milliliter.

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B. **"Unit of Service"** means a contact on a calendar day for outpatient drug free, intensive outpatient treatment, partial hospitalization, and residential treatment services. Units of service are identified in the following table:

Services Provided by Modality (funded by DMC-ODS)	Billing/Unit of Service (minutes, day, hour)	Interim Rate
Encounter Rates		
Outpatient	15 minute increments	$ 26.75
Intensive Outpatient	15 minute increments	$ 28.15
Recovery Services	15 minute increments	$ 25.13
Case Management	15 minute increments	$ 27.34
Physician Consultation	15 minute increments	$ 166.30
Daily Rates		
Level 1-WM	Per Day	$ 158.88
Level 2-WM	Per Day	$ 167.49
Level 3.2-WM	Per Day	$ 253.15
Level 3.1- Residential	Per Day	$ 164.00
Level 3.3 - Residential	Per Day	$ 262.00
Level 3.5 - Residential	Per Day	$ 183.85
Optional		
Additional Medication Assisted Treatment	15 minute increments	$150.27
Partial Hospitalization	Per Day	N/A

Special Terms and Conditions

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

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

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

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

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

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1. Federal Equal Opportunity Requirements

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

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. The Contractor will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

b. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era.

c. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the Federal Government or the State, advising the labor union or workers' representative of the Contractor's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor will comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, ‘Amending Executive Order 11246 Relating to Equal Employment Opportunity,‘ and as supplemented by regulation at 41 CFR part 60, “Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The Contractor will furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, ‘Amending Executive Order 11246 Relating to Equal Employment Opportunity,‘ and as supplemented by regulation at 41 CFR part 60, “Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” and the Rehabilitation Act of 1973, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the State and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f. In the event of the Contractor's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, ‘Amending Executive Order 11246 Relating to Equal Employment Opportunity,‘ and as supplemented by regulation at 41 CFR part 60, “Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

2. Travel and Per Diem Reimbursement

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

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

3. Procurement Rules

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

a. **Equipment/Property definitions**

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

(1) **Major equipment/property**: A tangible or intangible item having a base unit cost of **$5,000 or more** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement. Software and videos are examples of intangible items that meet this definition.

(2) **Minor equipment/property**: A tangible item having a base unit cost of **less than $5,000** with a life expectancy of one (1) year or more and is either furnished by DHCS or the cost is reimbursed through this Agreement.

b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment/property and services related to such purchases for performance under this Agreement.

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

To secure equipment/property above the annual maximum limit of $50,000, the Contractor shall make arrangements through the appropriate DHCS Program Contract Manager, to have all remaining equipment/property purchased through DHCS' Purchasing Unit. The cost of equipment/property purchased by or through DHCS shall be deducted from the funds available in this Agreement. Contractor shall submit to the DHCS Program Contract Manager a list of equipment/property specifications for those items that the State must procure. DHCS may pay the vendor directly for such arranged equipment/property purchases and title to the equipment/property will remain with DHCS. The equipment/property will be delivered to the Contractor's address, as stated on the face of the Agreement, unless the Contractor notifies the DHCS Program Contract Manager, in writing, of an alternate delivery address.

(2) All equipment/property purchases are subject to Paragraphs d through h of Provision 3. Paragraph b of Provision 3 shall also apply, if equipment/property purchases are delegated to subcontractors that are either a government or public entity.

(3) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:

(a) Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement, or bid contract in which, to his or her knowledge, he or she has a financial interest.

(b) Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.

(c) Procurements shall be conducted in a manner that provides for all of the following:

[1] Avoid purchasing unnecessary or duplicate items.

[2] Equipment/property solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.

[3] Take positive steps to utilize small and veteran owned businesses.

d. Unless waived or otherwise stipulated in writing by DHCS, prior written authorization from the appropriate DHCS Program Contract Manager will be required before the Contractor will be reimbursed for any purchase of $5,000 or more for commodities, supplies, equipment/property, and services related to such purchases. The Contractor must provide in its request for authorization all particulars necessary, as specified by DHCS, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from a subcontractor and public utility services at rates established for uniform applicability to the general public.

e. In special circumstances, determined by DHCS (e.g., when DHCS has a need to monitor certain purchases, etc.), DHCS may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. DHCS reserves the right to either deny claims for reimbursement or to request repayment for any Contractor and/or subcontractor purchase that DHCS determines to be unnecessary in carrying out performance under this Agreement.

f. The Contractor and/or subcontractor must maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this Agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or subcontractor at any time.

g. For all purchases, the Contractor and/or subcontractor must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or subcontractor for inspection or audit.

h. DHCS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase

authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

4. Equipment/Property Ownership / Inventory / Disposition

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

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

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

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

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

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

(a) Include in the inventory report, equipment and/or property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).

(b) Submit the inventory report to DHCS according to the instructions appearing on the inventory form or issued by the DHCS Program Contract Manager.

(c) Contact the DHCS Program Contract Manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by either the DHCS Program Contract Manager or DHCS' Asset Management Unit.

b. Title to state equipment and/or property shall not be affected by its incorporation or attachment to any property not owned by the State.

c. Unless otherwise stipulated, DHCS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or property.

d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or property.

(1) In administering this provision, DHCS may require the Contractor and/or Subcontractor to repair or replace, to DHCS' satisfaction, any damaged, lost or stolen state equipment and/or property. In the event of state equipment and/or miscellaneous property theft, Contractor and/or Subcontractor shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and Contractor shall promptly submit one copy of the theft report to the DHCS Program Contract Manager.

e. Unless otherwise stipulated by the Program funding this Agreement, equipment and/or property purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall only be used for performance of this Agreement or another DHCS agreement.

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

g. **Motor Vehicles**

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

(1) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, within thirty (30) calendar days prior to the termination or end of this Agreement, the Contractor and/or Subcontractor shall return such vehicles to DHCS and shall deliver all necessary documents of title or registration to enable the proper transfer of a marketable title to DHCS.

(2) If motor vehicles are purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the State of California shall be the legal owner of said motor vehicles and the Contractor shall be the registered owner. The Contractor and/or a subcontractor may only use said vehicles for performance and under the terms of this Agreement.

(3) The Contractor and/or Subcontractor agree that all operators of motor vehicles, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, shall hold a valid State of California driver's license. In the event that ten or more passengers are to be transported in any one vehicle, the operator shall also hold a State of California Class B driver's license.

(4) If any motor vehicle is purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, the Contractor and/or Subcontractor, as applicable, shall provide, maintain, and certify that, at a minimum, the following type and amount of automobile liability insurance is in effect during the term of this Agreement or any extension period during which any vehicle remains in the Contractor's and/or Subcontractor's possession:

Automobile Liability Insurance

(a) The Contractor, by signing this Agreement, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of $1,000,000 per occurrence for bodily injury and property damage combined. Said insurance must be obtained and made effective upon the delivery date of any motor vehicle, purchased/reimbursed with agreement funds or furnished by DHCS under the terms of this Agreement, to the Contractor and/or Subcontractor.

(b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHCS Program Contract Manager. The certificate of insurance shall identify the DHCS contract or agreement number for which the insurance applies.

(c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this Agreement or until such time as the motor vehicle is returned to DHCS.

(d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this Agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.

(e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:

[1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Care Services).

[2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this Agreement and any extension or continuation of this Agreement.

[3] The insurance carrier shall notify the California Department of Health Care Services (DHCS), in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to each agreement number for which the insurance was obtained.

(f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHCS, in writing, if this provision is applicable to this Agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.

(g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHCS may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

5. RESERVED

6. Income Restrictions

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

7. RESERVED

8. Site Inspection

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

9. Federal Contract Funds

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

a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.

b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the fiscal years covered by the term of this Agreement. In addition, this

Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.

c. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

d. DHCS has the option to invalidate or cancel the Agreement with 30-days advance written notice or to amend the Agreement to reflect any reduction in funds.

10. Intellectual Property Rights

a. Ownership

(1) Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

(2) For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, good will and all other legal rights protecting intangible proprietary information as may exist now and/or here after come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

(a) For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.

(3) In the performance of this Agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Contractor may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Contractor shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. **Except as otherwise set forth herein, neither the Contractor nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this Agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHCS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third-party's license agreement.

(4) Contractor agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this Agreement, Contractor shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHCS and which result directly or indirectly from this Agreement or any subcontract.

(5) Contractor further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

b. Retained Rights / License Rights

(1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Contractor hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.

(2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

(1) Contractor agrees that for purposes of copyright law, all works [as defined in Paragraph a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this Agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such person that: (i) all work performed for Contractor shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement.

(2) All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© *[Enter Current Year e.g., 2010, etc.]*, California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matter on the page where it appears. Audio productions shall contain a similar audio notice of copyright.

d. Patent Rights

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

e. Third-Party Intellectual Property

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

f. Warranties

(1) Contractor represents and warrants that:

(a) It is free to enter into and fully perform this Agreement.

(b) It has secured and will secure all rights and licenses necessary for its performance of this Agreement.

(c) Neither Contractor's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third-party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Contractor.

(d) Neither Contractor's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.

(e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.

(f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.

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

(h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this Agreement.

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

g. Intellectual Property Indemnity

(1) Contractor shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened

litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHCS.

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

(3) Contractor agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

h. Federal Funding

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

i. Survival

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

11. Air or Water Pollution Requirements

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

a. Government contractors agree to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act [42 U.S.C. 1857(h)], section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

b. Institutions of higher education, hospitals, nonprofit organizations and commercial businesses agree to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

12. Prior Approval of Training Seminars, Workshops or Conferences

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

13. Confidentiality of Information

a. The Contractor and its employees, agents, or subcontractors shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Contractor, its employees, agents, or subcontractors as a result of services performed under this Agreement, except for statistical information not identifying any such person.

b. The Contractor and its employees, agents, or subcontractors shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.

c. The Contractor and its employees, agents, or subcontractors shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person.

d. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.

e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

14. Documents, Publications and Written Reports

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

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

15. Dispute Resolution Process

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

(1) The Contractor should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. If the Contractor disagrees with the Branch Chief's decision, the Contractor may appeal to the second level.

(2) When appealing to the second level, the Contractor must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the appeal a copy of the Contractor's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Contractor within twenty (20) working days of receipt of the Contractor's second level appeal.

b. If the Contractor wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Contractor shall follow the procedures set forth in Health and Safety Code Section 100171.

c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.

d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Contractor shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

16. Financial and Compliance Audit Requirements

a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.

b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (H&S Code Section 38030).

c. The Contractor, as indicated below, agrees to obtain one of the following audits:

(1) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040)*** and receives **$25,000 or more** from any State agency under a direct service contract or agreement; the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(2) ***If the Contractor is a nonprofit organization (as defined in H&S Code Section 38040)*** and receives **less than $25,000** per year from any State agency under a direct service contract or agreement, the Contractor agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Contractor's fiscal year, **and/or**

(3) ***If the Contractor is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133)*** and expends $500,000 or more in Federal awards, the Contractor agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:

(a) The Contractor is a recipient expending Federal awards received directly from Federal awarding agencies, or

(b) The Contractor is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.

(4) If the Contractor submits to DHCS a report of an audit other than an OMB A-133 audit, the Contractor must also submit a certification indicating the Contractor has not expended $500,000 or more in federal funds for the year covered by the audit report.

d. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Contractor's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 16.c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.

e. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Contractor's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.

f. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.

g. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.

h. Nothing in this provision limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.

i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.

j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.

k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

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

17. Human Subjects Use Requirements

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

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

18. Novation Requirements

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

19. Debarment and Suspension Certification

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

a. By signing this Agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.

b. By signing this Agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(2) Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph b(2) herein; and

(4) Have not within a three-year period preceding this application/proposal/agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(5) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR part 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State.

(6) Will include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

c. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation to the DHCS Program Contract Manager.

d. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.

e. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, the DHCS may terminate this Agreement for cause or default.

20. Smoke-Free Workplace Certification

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

a. Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed.

b. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.

c. By signing this Agreement, Contractor or Grantee certifies that it will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The prohibitions herein are effective December 26, 1994.

d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

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

22. Payment Withholds

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

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

23. Performance Evaluation

(Not applicable to grant agreements.)

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

24. Officials Not to Benefit

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

25. Four-Digit Date Compliance

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

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

26. Prohibited Use of State Funds for Software

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

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

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

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

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

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming purchasing and contracting opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Federal Small Business Administration and the U.S. Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

28. Alien Ineligibility Certification

(Applicable to sole proprietors entering federally funded agreements.)

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

29. Union Organizing

(Applicable only to grant agreements.)

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

a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.

b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.

c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro-rata basis, all disbursements that support the grant program.

d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

30. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

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

a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.

b. As used herein, fringe benefits do not include:

(1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
(2) Director's and executive committee member's fees.
(3) Incentive awards and/or bonus incentive pay.
(4) Allowances for off-site pay.
(5) Location allowances.
(6) Hardship pay.
(7) Cost-of-living differentials

c. Specific allowable fringe benefits include:

(1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.

d. To be an allowable fringe benefit, the cost must meet the following criteria:

(1) Be necessary and reasonable for the performance of the Agreement.
(2) Be determined in accordance with generally accepted accounting principles.
(3) Be consistent with policies that apply uniformly to all activities of the Contractor.

e. Contractor agrees that all <u>fringe benefits</u> shall be at <u>actual cost</u>.

f. Earned/Accrued Compensation

(1) Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.

(2) For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.

(3) For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.

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

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

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

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

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

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

31. Suspension or Stop Work Notification

a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Contractor is to suspend and/or stop all, or any part, of the work called for by this Agreement.

b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.

(1) Upon receipt of a suspension or stop work notification, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.

(2) Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:

(a) Cancel, extend, or modify the suspension or stop work notification; or

(b) Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.

c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Contractor may resume work only upon written concurrence of funding Program's Contract Manager.

d. If the suspension or stop work notification is cancelled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.

e. If a suspension or stop work notification is not canceled and the Agreement is cancelled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.

f. DHCS shall not be liable to the Contractor for loss of profits because of any suspension or stop work notification issued under this clause.

32. Lobbying Restrictions and Disclosure Certification

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

a. Certification and Disclosure Requirements

(1) Each person (or recipient) who requests or receives a contract or agreement, subcontract, grant, or subgrant, which is subject to Section 1352 of the 31, U.S.C., and which exceeds $100,000 at any tier, shall file a certification (in the form set forth in Attachment 1, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph b of this provision.

(2) Each recipient shall file a disclosure (in the form set forth in Attachment 2, entitled "Standard Form-LLL 'disclosure of Lobbying Activities'") if such recipient has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action) in connection with a contract, or grant or any extension or amendment of that contract, or grant, which would be prohibited under Paragraph b of this provision if paid for with appropriated funds.

(3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:

(a) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;

(b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or

(c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.

(4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract or agreement, subcontract, grant or subgrant exceeding $100,000 at any tier under a contract or agreement, or grant shall file a certification, and a disclosure form, if required, to the next tier above.

(5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHCS Program Contract Manager.

b. Prohibition

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

Attachment 1
State of California
Department of Health Care Services

CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

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

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

California Department of Health Care Services

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

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: [ ] a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: [ ] a. bid/offer/application b. initial award c. post-award	3. Report Type: [ ] a. initial filing b. material change For Material Change Only: Year _____ quarter _____ date of last report _____.
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier ___, if known: Congressional District, If known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: 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 No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)	

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 appropriateclassification 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 itis, 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 organizationallevel below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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

Exhibit E
Additional Provisions

1. Amendment Process

A. Both the Contractor and the State may agree to amend or renegotiate the Intergovernmental Agreement.

B. Should either party, during the term of this Intergovernmental Agreement, desire a change or amendment to the terms of this Intergovernmental Agreement, 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 accepted and after negotiations are concluded, the agreed upon changes shall be made through the State's official agreement amendment process. No amendment will be considered binding on either party until it is formally approved by the both parties and the Department of General Services (DGS), if DGS approval is required.

C. Intergovernmental Agreement amendments will be required to change encumbered amounts for each year of a multi-year contract period, of which the first amendment will be based on the Governor's Budget Act allocation of that specific fiscal year. The signed Intergovernmental Agreement from the Contractor will be due to the Department of Health Care Services (DHCS) within 90 days from the issuance to the County. If the signed Intergovernmental Agreement from the Contractor is not received within 90 days from the issuance to the County, DHCS may withhold all non-DMC payments under Exhibit B of this Intergovernmental Agreement until the required amendment is received by the State.

D. Intergovernmental Agreement amendments may be requested by the Contractor until May 1 of each of the contract's fiscal years. An amendment proposed by either the Contractor or the State shall be forwarded in writing to the other party.

1) The proposed amendment submitted by Contractor shall include the proposed changes, and a statement of the reason and basis for the proposed change.

2) Amendments shall be duly approved by the County Board of Supervisors or its authorized designee, and signed by a duly authorized representative.

E. Contractor acknowledges that any newly allocated funds that are in excess of the initial amount for each fiscal year may be forfeited if DHCS does not receive a fully executable Intergovernmental Agreement amendment on or before June 30th.

F. State may settle costs for substance use disorder services based on the year-end cost settlement report as the final amendment to the approved Intergovernmental Agreement.

2. Cancellation / Termination

A. This Intergovernmental Agreement may be cancelled by DHCS without cause upon 30 calendar days advance written notice to the Contractor.

Exhibit E
Additional Provisions

B. DHCS reserves the right to cancel or terminate this Intergovernmental Agreement immediately for cause. The Contractor may submit a written request to terminate this Intergovernmental Agreement only if DHCS substantially fails to perform its responsibilities as provided herein.

C. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of this Intergovernmental Agreement.

D. Intergovernmental Agreement termination or cancellation shall be effective as of the date indicated in DHCS' notification to the Contractor. The notice shall stipulate any final performance, invoicing or payment requirements.

E. Upon receipt of a notice of termination or cancellation, the Contractor shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.

F. In the event of early termination or cancellation, the Contractor shall be entitled to payment for all allowable costs authorized under this Intergovernmental Agreement 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.

G. In the event of changes in law that affect provisions of this Intergovernmental Agreement, the parties agree to amend the affected provisions to conform to the changes in law retroactive to the effective date of such changes in law. The parties further agree that the terms of this Intergovernmental Agreement are severable and in the event that changes in law render provisions of the Intergovernmental Agreement void, the unaffected provisions and obligations of this Intergovernmental Agreement will remain in full force and effect.

H. The following additional provisions regarding termination apply only to Exhibit A, Attachment I, of this Intergovernmental Agreement:

1) In the event the federal Department of Health and Human Services (hereinafter referred to as DHHS), or State determines Contractor does not meet the requirements for participation in the DMC-ODS Waiver Program, State will terminate payments for services provided pursuant to Exhibit A, Attachment I, of this Intergovernmental Agreement for cause.

2) All obligations to provide covered services under this Intergovernmental Agreement will automatically terminate on the effective date of any termination of this Intergovernmental Agreement. Contractor will be responsible for providing or arranging for covered services to beneficiaries until the effective date of termination or expiration of the Intergovernmental Agreement.

   Contractor will remain liable for processing and paying invoices and statements for covered services and utilization review requirements prior to the expiration or termination until all obligations have been met.

3) In the event Exhibit A, Attachment I, of this Intergovernmental Agreement is nullified, Contractor shall refer DMC clients to providers who are certified to provide State Plan services.

Exhibit E
Additional Provisions

I. In the event this Intergovernmental Agreement is terminated, Contractor shall deliver its entire fiscal and program records pertaining to the performance of this Intergovernmental Agreement to the State, which will retain the records for the required retention period.

3. 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 and directors of the Contractor or subcontractors. 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; and, if a conflict is found to exist, to require the Contractor to submit additional information or a plan for resolving the conflict, subject to DHCS review and prior approval.

B. Conflicts of interest include, but are not limited to:

1) An instance where the Contractor or any of its subcontractors, or any employee, officer, or director of the Contractor or any subcontractor has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the Intergovernmental Agreement would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the Intergovernmental Agreement.

2) An instance where the Contractor's or any subcontractor's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.

C. If DHCS is or becomes aware of a known or suspected conflict of interest, the Contractor will be given an opportunity to submit additional information or to resolve the conflict. A Contractor with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by DHCS to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by DHCS and cannot be resolved to the satisfaction of DHCS, the conflict will be grounds for terminating the Agreement. DHCS may, at its discretion upon receipt of a written request from the Contractor, authorize an extension of the timeline indicated herein.

D. Contractor acknowledges that state laws on conflict of interest, found in the Political Reform Act, Public Contract Code Section 10365.5, and Government Code Section 1090, apply to this Intergovernmental Agreement.

4. Freeze Exemptions

A. Contractor agrees that any hiring freeze adopted during the term of this Intergovernmental Agreement shall not be applied to the positions funded, in whole or part, by this Intergovernmental Agreement.

B. Contractor agrees not to implement any personnel policy, which may adversely affect performance or the positions funded, in whole or part, by this Intergovernmental Agreement.

C. Contractor agrees that any travel freeze or travel limitation policy adopted during the term of this Intergovernmental Agreement shall not restrict travel funded, in whole or part, by this Intergovernmental Agreement.

Exhibit E
Additional Provisions

D. Contractor agrees that any purchasing freeze or purchase limitation policy adopted during the term of this Intergovernmental Agreement shall not restrict or limit purchases funded, in whole or part, by this Intergovernmental Agreement.

4. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight-embargo, related-utility, or governmental statutes or regulations super-imposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its Subcontractor, and if such default of its Subcontractor, arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

Exhibit F
Privacy and Information Security Provisions

This Exhibit F is intended to protect the privacy and security of specified Department information that the Contractor may access, receive, or transmit under this Agreement. The Department information covered under this Exhibit F consists of: (1) Protected Health Information as defined under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA")(PHI) and (2) Personal Information (PI) as defined under the California Information Practices Act (CIPA), at California Civil Code Section 1798.3. Personal Information may include data provided to the Department by the Social Security Administration.

Exhibit F consists of the following parts:

1. Exhibit F-1, HIPAA Business Associate Addendum, which provides for the privacy and security of PHI.

2. Exhibit F-2, which provides for the privacy and security of PI in accordance with specified provisions of the Agreement between the Department and the Social Security Administration, known as the Information Exchange Agreement (IEA) and the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (Computer Agreement) to the extent Contractor access, receives, or transmits PI under these Agreements. Exhibit F-2 further provides for the privacy and security of PI under Civil Code Section 1798.3(a) and 1798.29.

3. Exhibit F-3, Miscellaneous Provision, sets forth additional terms and conditions that extend to the provisions of Exhibit F in its entirety.

Exhibit F
Privacy and Information Security Provisions

F1
HIPAA Business Associate Addendum

1. Recitals.

A. A business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), 42 U.S.C. Section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") and the Final Omnibus Rule of 2013 between Department and Contractor arises only to the extent that Contractor creates, receives, maintains, transmits, uses or discloses PHI or ePHI on the Department's behalf, or provides services, arranges, performs, or assists in the performance of functions or activities on behalf of the Department that are included in the definition of "business associate" in 45 CFR. 160.103 where the provision of the service involves the disclosure of PHI or ePHI from the Department, including but not limited to, utilization review, quality assurance, or benefit management. To the extent Contractor performs these services, functions, and activities on behalf of Department, Contractor is the Business Associate of the Department, acting on the Department's behalf. The Department and Contractor are each a party to this Agreement and are collectively referred to as the "parties." A business associate is also directly liable and subject to civil penalties for failing to safeguard electronic protected health information in accordance with the HIPAA Security Rule. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate. Business Associate shall incorporate, when applicable, the relevant provisions of this Addendum into each subcontract or sub-award to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI or PI be reported to Business Associate.

B. The Department wishes to disclose to Contractor certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under Federal law, to be used or disclosed in the course of providing services and activities as set forth in Section 1.A. of Exhibit F-1 of this Agreement. This information is hereafter referred to as "Department PHI".

C. The purpose of this Exhibit F-1 is to protect the privacy and security of the PHI and ePHI that may be created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations and the Final Omnibus Rule of 2013, including, but not limited to, the requirement that the Department must enter into a contract containing specific requirements

with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH Act and the Final Omnibus Rule of 2013. To the extent that data is both PHI or ePHI and Personally Identifying Information, both Exhibit F-2 (including Attachment I, the SSA Agreement between SSA, CHHS and DHCS, referred to in Exhibit F-2) and this Exhibit F-1 shall apply.

D. The terms used in this Exhibit F-1, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

2. Definitions.

A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations and the Final Omnibus Rule of 2013.

B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, the HIPAA regulations and the Final Omnibus Rule of 2013.

C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, HIPAA regulations and the Final Omnibus of 2013.

D. Department PHI shall mean Protected Health Information or Electronic Protected Health Information, as defined below, accessed by Contractor in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services on behalf of the Department as specified in Section 1.A. of Exhibit F-1 of this Agreement. The terms PHI as used in this document shall mean Department PHI.

E. Electronic Health Records shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921 and implementing regulations.

F. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.

G. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer, or health care clearinghouse, and relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to

believe the information can be used to identify the individual, as set forth under 45 CFR Section 160.103.

H. Privacy Rule shall mean the HIPAA Regulations that are found at 45 CFR Parts 160 and 164, subparts A and E.

I. Protected Health Information (PHI) means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR Section 160.103 and as defined under HIPAA.

J. Required by law, as set forth under 45 CFR Section 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.

L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Department PHI, or confidential data utilized by Contractor to perform the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit F-1 of this Agreement; or interference with system operations in an information system that processes, maintains or stores Department PHI.

M. Security Rule shall mean the HIPAA regulations that are found at 45 CFR Parts 160 and 164.

N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. Section 17932(h), any guidance issued by the Secretary pursuant to such Act and the HIPAA regulations.

3. Terms of Agreement.

A. **Permitted Uses and Disclosures of Department PHI by Contractor.**

Except as otherwise indicated in this Exhibit F-1, Contractor may use or disclose Department PHI only to perform functions, activities, or services specified in Section 1.A of Exhibit F-1 of this Agreement, for, or on behalf of the Department,

provided that such use or disclosure would not violate the HIPAA regulations or the limitations set forth in 42 CFR Part 2, or any other applicable law, if done by the Department. Any such use or disclosure, if not for purposes of treatment activities of a health care provider as defined by the Privacy Rule, must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR Section 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.

B. **Specific Use and Disclosure Provisions**. Except as otherwise indicated in this Exhibit F-1, Contractor may:

1) **Use and Disclose for Management and Administration**. Use and disclose Department PHI for the proper management and administration of the Contractor's business, provided that such disclosures are required by law, or the Contractor obtains reasonable assurances from the person to whom the information is disclosed, in accordance with section D(7) of this Exhibit F-1, that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware that the confidentiality of the information has been breached.

2) **Provision of Data Aggregation Services**. Use Department PHI to provide data aggregation services to the Department to the extent requested by the Department and agreed to by Contractor. Data aggregation means the combining of PHI created or received by the Contractor, as the Business Associate, on behalf of the Department with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of the Department

C. **Prohibited Uses and Disclosures**

1) Contractor shall not disclose Department PHI about an individual to a health plan for payment or health care operations purposes if the Department PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. Section 17935(a) and 45 CFR Section 164.522(a).

2) Contractor shall not directly or indirectly receive remuneration in exchange for Department PHI.

Exhibit F
Privacy and Information Security Provisions

D. **Responsibilities of Contractor**

Contractor agrees:

1) **Nondisclosure**. Not to use or disclose Department PHI other than as permitted or required by this Agreement or as required by law, including but not limited to 42 CFR Part 2.

2) **Compliance with the HIPAA Security Rule**. To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Department PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of the Department, in compliance with 45 CFR Sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of Department PHI other than as provided for by this Agreement. Contractor shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR Section 164, subpart C, in compliance with 45 CFR Section 164.316. Contractor shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Contractor will provide the Department with its current and updated policies upon request.

3) **Security**. Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:

   a. Complying with all of the data system security precautions listed in Attachment A, Data Security Requirements.

   b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of DHCS under this Agreement.

   c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III- Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.

4) **Security Officer**. Contractor shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with

the Department.

5) **Mitigation of Harmful Effects**. To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PHI by Contractor or its subcontractors in violation of the requirements of this Exhibit F.

6) **Reporting Unauthorized Use or Disclosure.** To report to Department any use or disclosure of Department PHI not provided for by this Exhibit F of which it becomes aware.

7) **Contractor's Agents and Subcontractors**.

a. To enter into written agreements with any agents, including subcontractors and vendors to whom Contractor provides Department PHI, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Contractor with respect to such Department PHI under this Exhibit F, and that require compliance with all applicable provisions of HIPAA, the HITECH Act the HIPAA regulations, and the Final Omnibus Rule of 2013 including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI. As required by HIPAA, the HITECH Act, the HIPAA regulations and the Final Omnibus Rule of 2013 , including 45 CFR Sections 164.308 and 164.314, Contractor shall incorporate, when applicable, the relevant provisions of this Exhibit F-1 into each subcontract or sub-award to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI be reported to Contractor.

b. In accordance with 45 CFR Section 164.504(e)(1)(ii), upon Contractor's knowledge of a material breach or violation by its subcontractor of the agreement between Contractor and the subcontractor, Contractor shall:

i) Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by the Department; or

ii) Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

Exhibit F
Privacy and Information Security Provisions

8) **Availability of Information to the Department and Individuals to Provide Access and Information:**

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

b. If Contractor maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Contractor shall provide such information in an electronic format to enable the Department to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. Section 17935(e) and the HIPAA regulations.

9) **Confidentiality of Alcohol and Drug Abuse Patient Records.** Contractor agrees to comply with all confidentiality requirements set forth in Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2. Contractor is aware that criminal penalties may be imposed for a violation of these confidentiality requirements.

10) **Amendment of Department PHI**. To make any amendment(s) to Department PHI that were requested by a patient and that the Department directs or agrees should be made to assure compliance with 45 CFR Section 164.526, in the time and manner designated by the Department, with the Contractor being given a minimum of twenty days within which to make the amendment.

11) **Internal Practices**. To make Contractor's internal practices, books, and records relating to the use and disclosure of Department PHI available to the Department or to the Secretary, for purposes of determining the Department's compliance with the HIPAA regulations. If any information

needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Contractor, Contractor shall provide written notification to the Department and shall set forth the efforts it made to obtain the information.

12) **Documentation of Disclosures**. To document and make available to the Department or (at the direction of the Department) to an individual such disclosures of Department PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of such PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR Section 164.528 and 42 U.S.C. Section 17935(c). If Contractor maintains electronic health records for the Department as of January 1, 2009 and later, Contractor must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting.

13) **Breaches and Security Incidents.** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:

a. **Initial Notice to the Department.** (1) To notify the Department **immediately by telephone call or email or fax** upon the discovery of a breach of unsecured PHI in electronic media or in any other media if the PHI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person. (2) To notify the Department **within 24 hours (one hour if SSA data) by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement or this Exhibit F-1 or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Contractor.

Notice shall be provided to the Information Protection Unit, Office of HIPAA Compliance. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall be provided by calling the Information Protection Unit (916) 445-4646, (866) 866-0602 or by emailing privacyofficer@dhcs.ca.gov. Notice shall be made using the DHCS “Privacy Incident Report” form, including all information known at the time. Contractor shall use the most

current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link: http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx

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

i) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment.

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

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

c. **Complete Report**. To provide a complete report of the investigation to the Department Program Contract Manager and the Information Protection Unit within ten working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, and the HIPAA regulations. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised

or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and whether individual notifications and a corrective action plan are required.

d. **Responsibility for Reporting of Breaches.** If the cause of a breach of Department PHI is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary (after obtaining prior written approval of DHCS). If a breach of unsecured Department PHI involves more than 500 residents of the State of California or under its jurisdiction, Contractor shall first notify DHCS, then the Secretary of the breach immediately upon discovery of the breach. If a breach involves more than 500 California residents, Contractor shall also provide, after obtaining written prior approval of DHCS, notice to the Attorney General for the State of California, Privacy Enforcement Section. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents, or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

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

f. **Department Contact Information**. To direct communications to the above referenced Department staff, the Contractor shall

initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

Department Program Contract Manager	**DHCS Privacy Officer**	**DHCS Information Security Officer**
See the Exhibit A, Scope of Work for Program Contract Manager information	Information Protection Unit c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 (916) 445-4646; (866) 866-0602 Email: privacyofficer@dhcs.ca.gov Fax: (916) 440-7680	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Telephone: ITSD Service Desk (916) 440-7000; (800) 579-0874 Fax: (916) 440-5537

14) **Termination of Agreement.** In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Contractor knows of a material breach or violation by the Department of this Exhibit F-1, it shall take the following steps:

a. Provide an opportunity for the Department to cure the breach or end the violation and terminate the Agreement if the Department does not cure the breach or end the violation within the time specified by Contractor or

b. Immediately terminate the Agreement if the Department has breached a material term of the Exhibit F-1 and cure is not possible.

15) **Sanctions and/or Penalties**. Contractor understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Contractors may result in the imposition of sanctions and/or penalties on Contractor under HIPAA, the HITECH Act and the HIPAA regulations.

Exhibit F
Privacy and Information Security Provisions

E. Obligations of the Department.

The Department agrees to:

1) **Permission by Individuals for Use and Disclosure of PHI**. Provide the Contractor with any changes in, or revocation of, permission by an Individual to use or disclose Department PHI, if such changes affect the Contractor's permitted or required uses and disclosures.

2) **Notification of Restrictions**. Notify the Contractor of any restriction to the use or disclosure of Department PHI that the Department has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect the Contractor's use or disclosure of PHI.

3) **Requests Conflicting with HIPAA Rules**. Not request the Contractor to use or disclose Department PHI in any manner that would not be permissible under the HIPAA regulations if done by the Department.

4) **Notice of Privacy Practices**. Provide Contractor with the web link to the Notice of Privacy Practices that DHCS produces in accordance with 45 CFR Section 164.520, as well as any changes to such notice. Visit the DHCS website to view the most current Notice of Privacy Practices at: http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/NoticeofPrivacyPractices.aspx or the DHCS website at www.dhcs.ca.gov (select "Privacy in the right column and "Notice of Privacy Practices" on the right side of the page).

F. Audits, Inspection and Enforcement

If Contractor is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office for Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Exhibit F-1,Contractor shall immediately notify the Department. Upon request from the Department, Contractor shall provide the Department with a copy of any Department PHI that Contractor, as the Business Associate, provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI to the Secretary. Contractor is responsible for any civil penalties assessed due to an audit or investigation of Contractor, in accordance with 42 U.S.C. Section 17934(c).

G. Termination.

1) **Term.** The Term of this Exhibit F-1 shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 CFR Section 164.504(e)(2)(ii)(J).

2) **Termination for Cause**. In accordance with 45 CFR Section 164.504(e)(1)(iii), upon the Department's knowledge of a material breach or

violation of this Exhibit F-1 by Contractor, the Department shall:

a. Provide an opportunity for Contractor to cure the breach or end the violation and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by the Department or

b. Immediately terminate this Agreement if Contractor has breached a material term of this Exhibit F-1 and cure is not possible.

F-2
Privacy and Security of Personal Information and Personally Identifiable Information Not Subject to HIPAA

1. Recitals.

A. In addition to the Privacy and Security Rules under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) the Department is subject to various other legal and contractual requirements with respect to the personal information (PI) and personally identifiable information (PII) it maintains. These include:

1) The California Information Practices Act of 1977 (California Civil Code §§1798 et seq.).

2) The Agreement between the Social Security Administration (SSA) and the Department, known as the Information Exchange Agreement (IEA), which incorporates the Computer Matching and Privacy Protection Act Agreement (CMPPA) between the SSA and the California Health and Human Services Agency. The IEA, including the CMPPA is attached to this Exhibit F as Attachment I and is hereby incorporated in this Agreement.

3) Title 42 CFR, Chapter I, Subchapter A, Part 2.

B. The purpose of this Exhibit F-2 is to set forth Contractor's privacy and security obligations with respect to PI and PII that Contractor may create, receive, maintain, use, or disclose for, or on behalf of Department, pursuant to this Agreement. Specifically this Exhibit applies to PI and PII which is not Protected Health Information (PHI) as defined by HIPAA and therefore is not addressed in Exhibit F-1 of this Agreement, the HIPAA Business Associate Addendum; however, to the extent that data is both PHI or ePHI and PII, both Exhibit F-1 and this Exhibit F-2 shall apply.

C. The IEA Agreement referenced in A. 2) above requires the Department to extend its substantive privacy and security terms to subcontractors who receive data provided to DHCS by the Social Security Administration. If Contractor receives data from DHCS that includes data provided to DHCS by the Social Security Administration, Contractor must comply with the following specific sections of the IEA Agreement: E. Security Procedures, F. Contractor/Agent Responsibilities,

and G. Safeguarding and Reporting Responsibilities for Personally Identifiable Information ("PII"), and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the Social Security Administration. Contractor must also ensure that any agents, including a subcontractor, to whom it provides DHCS data that includes data provided by the Social Security Administration, agree to the same requirements for privacy and security safeguards for such confidential data that apply to Contractor with respect to such information.

D. The terms used in this Exhibit F-2, but not otherwise defined, shall have the same meanings as those terms have in the above referenced statute and Agreement. Any reference to statutory, regulatory, or contractual language shall be to such language as in effect or as amended.

2. Definitions.

A. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.

B. "Breach of the security of the system" shall have the meaning given to such term under the California Information Practices Act, Civil Code section 1798.29(f).

C. "CMPPA Agreement" means the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).

D. "Department PI" shall mean Personal Information, as defined below, accessed in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services specified in this Agreement on behalf of the Department.

E. "IEA" shall mean the Information Exchange Agreement currently in effect between the Social Security Administration (SSA) and the California Department of Health Care Services (DHCS).

F. "Notice-triggering Personal Information" shall mean the personal information identified in Civil Code section 1798.29 whose unauthorized access may trigger notification requirements under Civil Code section 1798.29. For purposes of this provision, identity shall include, but not be limited to, name, address, email address, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering Personal Information includes PI in electronic, paper or any other medium.

G. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the IEA and CMPPA.

H. "Personal Information" (PI) shall have the meaning given to such term in California Civil Code Section 1798.3(a).

I. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

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

3. Terms of Agreement

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

Except as otherwise indicated in this Exhibit F-2, Contractor may use or disclose Department PI only to perform functions, activities or services for or on behalf of the Department pursuant to the terms of this Agreement provided that such use or disclosure would not violate the California Information Practices Act (CIPA) if done by the Department.

B. **Responsibilities of Contractor**

Contractor agrees:

1) **Nondisclosure.** Not to use or disclose Department PI or PII other than as permitted or required by this Agreement or as required by applicable state and Federal law.

2) **Safeguards.** To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of Department PI and PII, to protect against anticipated threats or hazards to the security or integrity of Department PI and PII, and to prevent use or disclosure of Department PI or PII other than as provided for by this Agreement. Contractor shall develop and maintain a written information privacy and security program that include administrative, technical and physical safeguards appropriate to the size and complexity of Contractor's operations and the nature and scope of its activities, which

incorporate the requirements of section 3, Security, below. Contractor will provide DHCS with its current policies upon request.

3) **Security.** Contractor shall take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:

a. Complying with all of the data system security precautions listed in Attachment A, Business Associate Data Security Requirements;

b. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III-Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies; and

c. If the data obtained by Contractor from DHCS includes PII, Contractor shall also comply with the substantive privacy and security requirements in the Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health and Human Services Agency (CHHS) and in the Agreement between the SSA and DHCS, known as the Information Exchange Agreement, which are attached as Attachment I and incorporated into this Agreement. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. Contractor also agrees to ensure that any agents, including a subcontractor to whom it provides DHCS PII, agree to the same requirements for privacy and security safeguards for confidential data that apply to Contractor with respect to such information.

4) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Department PI or PII by Contractor or its subcontractors in violation of this Exhibit F-2.

5) **Contractor's Agents and Subcontractors*.*** To impose the same restrictions and conditions set forth in this Exhibit F-2 on any subcontractors or other agents with whom Contractor subcontracts any activities under this Agreement that involve the disclosure of Department PI or PII to the subcontractor.

6) **Availability of Information to DHCS*.*** To make Department PI and PII available to the Department for purposes of oversight, inspection,

amendment, and response to requests for records, injunctions, judgments, and orders for production of Department PI and PII. If Contractor receives Department PII, upon request by DHCS, Contractor shall provide DHCS with a list of all employees, contractors and agents who have access to Department PII, including employees, contractors and agents of its subcontractors and agents.

7) **Cooperation with DHCS*.*** With respect to Department PI, to cooperate with and assist the Department to the extent necessary to ensure the Department's compliance with the applicable terms of the CIPA including, but not limited to, accounting of disclosures of Department PI, correction of errors in Department PI, production of Department PI, disclosure of a security breach involving Department PI and notice of such breach to the affected individual(s).

8) **Confidentiality of Alcohol and Drug Abuse Patient Records.** Contractor agrees to comply with all confidentiality requirements set forth in Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2. Contractor is aware that criminal penalties may be imposed for a violation of these confidentiality requirements.

9) **Breaches and Security Incidents*.*** During the term of this Agreement, Contractor agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:

a. Initial Notice to the Department. (1) To notify the Department **immediately by telephone call or email or fax** upon the discovery of a breach of unsecured Department PI or PII in electronic media or in any other media if the PI or PII was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, or upon discovery of a suspected security incident involving Department PII. (2) To notify the Department **within one (1) hour by email or fax** if the data is data subject to the SSA Agreement; and **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of Department PI or PII in violation of this Agreement or this Exhibit F-1 or potential loss of confidential data affecting this Agreement. A breach shall be treated as discovered by Contractor as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Contractor.

b. Notice shall be provided to the Information Protection Unit, Office of HIPAA Compliance. If the incident occurs after business hours or on a weekend or holiday and involves electronic Department PI or PII, notice shall be provided by calling the Department

Information Security Officer. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link: http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx .

c. Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of Department PI or PII, Contractor shall take:

i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment and

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

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

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

completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and whether individual notifications and a corrective action plan are required.

f. **Responsibility for Reporting of Breaches***.* If the cause of a breach of Department PI or PII is attributable to Contractor or its agents, subcontractors or vendors, Contractor is responsible for all required reporting of the breach as specified in CIPA, section 1798.29and as may be required under the IEA. Contractor shall bear all costs of required notifications to individuals as well as any costs associated with the breach. The Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. The Department will provide its review and approval expeditiously and without unreasonable delay.

g. If Contractor has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to the Department in addition to Contractor, Contractor shall notify the Department, and the Department and Contractor may take appropriate action to prevent duplicate reporting.

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

Exhibit F
Privacy and Information Security Provisions

Department Program Contract Manager	**DHCS Privacy Officer**	**DHCS Information Security Officer**
See the Exhibit A, Scope of Work for Program Contract Manager information	Information Protection Unit c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 (916) 445-4646 Email: privacyofficer@dhcs.ca.gov Telephone:(916) 445-4646 Fax: (916) 440-7680	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Telephone: ITSD Service Desk (916) 440-7000 or (800) 579-0874 Fax: (916) 440-5537

10) Designation of Individual Responsible for Security

Contractor shall designate an individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying out the requirements of this Exhibit F-2 and for communicating on security matters with the Department.

Exhibit F
Privacy and Information Security Provisions

F-3
Miscellaneous Terms and Conditions

Applicable to Exhibit F

1) **Confidentiality of Alcohol and Drug Abuse Patient Records.** Contractor agrees to comply with all confidentiality requirements set forth in Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2. Contractor is aware that criminal penalties may be imposed for a violation of these confidentiality requirements.

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

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

   a) Contractor does not promptly enter into negotiations to amend this Exhibit F when requested by the Department pursuant to this section; or

   b) Contractor does not enter into an amendment providing assurances regarding the safeguarding of Department PHI that the Department deems is necessary to satisfy the standards and requirements of HIPAA and the HIPAA regulations.

4) **Judicial or Administrative Proceedings**. Contractor will notify the Department if it is named as a defendant in a criminal proceeding for a violation of HIPAA or other security or privacy law. The Department may terminate this Agreement if Contractor is found guilty of a criminal violation of HIPAA. The Department may terminate this Agreement if a finding or stipulation that the Contractor has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Contractor is a party or has been joined. DHCS will

consider the nature and seriousness of the violation in deciding whether or not to terminate the Agreement.

5) **Assistance in Litigation or Administrative Proceedings**. Contractor shall make itself and any subcontractors, employees, or agents assisting Contractor in the performance of its obligations under this Agreement, available to the Department at no cost to the Department to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Department, its directors, officers or employees based upon claimed violation of HIPAA, or the HIPAA regulations, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, employee or agent is a named adverse party.

6) **No Third-Party Beneficiaries**. Nothing expressed or implied in the terms and conditions of this Exhibit F is intended to confer, nor shall anything herein confer, upon any person other than the Department or Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

7) **Interpretation**. The terms and conditions in this Exhibit F shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, and the HIPAA regulations. The parties agree that any ambiguity in the terms and conditions of this Exhibit F shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations, and, if applicable, any other relevant state and Federal laws.

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

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

10) **Survival.** The respective rights and obligations of Contractor under Section 3, Item D of Exhibit F-1, and Section 3, Item B of Exhibit F-2, Responsibilities of Contractor, shall survive the termination or expiration of this Agreement.

11) **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.

Exhibit F
Privacy and Information Security Provisions

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

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

14) **Term.** The Term of this Exhibit F-1 shall extend beyond the termination of the Agreement and shall terminate when all Department PHI is destroyed or returned to the Department, in accordance with 45 CFR Section 164.504(e)(2)(ii)(I), and when all Department PI and PII is destroyed in accordance with Attachment A.

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

Exhibit F
Privacy and Information Security Provisions

Attachment I
Business Associate Data Security Requirements

I. Personnel Controls

A. ***Employee Training.*** All workforce members who assist in the performance of functions or activities on behalf of DHCS, or access or disclose DHCS PHI or PI must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.

B. ***Employee Discipline.*** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.

C. ***Confidentiality Statement.*** All persons that will be working with DHCS PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to DHCS PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for DHCS inspection for a period of six (6) years following contract termination.

D. ***Background Check.*** Before a member of the workforce may access DHCS PHI or PI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

II. Technical Security Controls

A. ***Workstation/Laptop encryption.*** All workstations and laptops that process and/or store DHCS PHI or PI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the DHCS Information Security Office.

B. ***Server Security.*** Servers containing unencrypted DHCS PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

C. ***Minimum Necessary.*** Only the minimum necessary amount of DHCS PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.

Exhibit F
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D. ***Removable media devices.*** All electronic files that contain DHCS PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, smartphones, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.

E. ***Antivirus software.*** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

F. ***Patch Management.*** All workstations, laptops and other systems that process and/or store DHCS PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.

G. ***User IDs and Password Controls.*** All users must be issued a unique user name for accessing DHCS PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

- Upper case letters (A-Z)
- Lower case letters (a-z)
- Arabic numerals (0-9)
- Non-alphanumeric characters (punctuation symbols)

H. ***Data Destruction.*** When no longer needed, all DHCS PHI or PI must be cleared, purged, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the PHI or PI cannot be retrieved.

I. ***System Timeout.*** The system providing access to DHCS PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.

J. ***Warning Banners.*** All systems providing access to DHCS PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.

K. ***System Logging*****.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for DHCS PHI or PI, or which alters DHCS PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to

authorized users. If DHCS PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.

L. ***Access Controls.*** The system providing access to DHCS PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.

M. ***Transmission encryption.*** All data transmissions of DHCS PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file transfer, and E-Mail.

N. ***Intrusion Detection***. All systems involved in accessing, holding, transporting, and protecting DHCS PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

III. Audit Controls

A. ***System Security Review.*** All systems processing and/or storing DHCS PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.

B. ***Log Reviews.*** All systems processing and/or storing DHCS PHI or PI must have a routine procedure in place to review system logs for unauthorized access.

C. ***Change Control.*** All systems processing and/or storing DHCS PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

IV. Business Continuity / Disaster Recovery Controls

A. ***Emergency Mode Operation Plan.*** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic DHCS PHI or PI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than 24 hours.

B. ***Data Backup Plan.*** Contractor must have established documented procedures to backup DHCS PHI to maintain retrievable exact copies of DHCS PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore DHCS PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of DHCS data.

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V. Paper Document Controls

A. ***Supervision of Data.*** DHCS PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. DHCS PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

B. ***Escorting Visitors.*** Visitors to areas where DHCS PHI or PI is contained shall be escorted and DHCS PHI or PI shall be kept out of sight while visitors are in the area.

C. ***Confidential Destruction.*** DHCS PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.

D. ***Removal of Data.*** DHCS PHI or PI must not be removed from the premises of the Contractor except with express written permission of DHCS.

E. ***Faxing.*** Faxes containing DHCS PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.

F. ***Mailing.*** Mailings of DHCS PHI or PI shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of DHCS PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of DHCS to use another method is obtained.