

**AGREEMENT BETWEEN THE COUNTY OF TEHAMA AND  
AEGIS TREATMENT CENTERS, LLC**

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This agreement is entered into between the County of Tehama, through its Health Services Agency, (“County”) and Aegis Treatment Centers, LLC (“Contractor”) for the purpose of Narcotic Replacement Therapy.

**1. RESPONSIBILITIES OF CONTRACTOR**

During the term of this agreement, Contractor shall provide medically necessary Narcotic Replacement Therapy for Full-Scope Medi-Cal (County 52) beneficiaries. Contractor will verify beneficiary has County 52 Medi-Cal prior to billing, as outlined and attached herein as Exhibit B, Scope of Work. Contractor understands that court-ordered assessments, written reports, expert witness testimony, case conferences and other forensic or administrative professional services shall not be considered reimbursable activities under this Agreement.

**2. RESPONSIBILITIES OF THE COUNTY**

County shall compensate Contractor for said services pursuant to Section 3 and 4 of this agreement.

**3. COMPENSATION**

- A. County shall compensate Contractor for services rendered pursuant to the rates negotiated between County and Contractor, attached as Exhibit C and incorporated herein.
- B. The maximum compensation payable under this Agreement shall not exceed Six Hundred Thousand dollars and no Cents (\$600,000) per fiscal year.

**4. BILLING AND PAYMENT**

Contractor shall submit to County a monthly invoice of rendered services by the 15<sup>th</sup> day following the last day of the month in which the services were delivered. County shall make payment within 30 days of the date the services were approved for payment on the basis of retrospective review. County shall not be obligated to pay for services billed later than the 15<sup>th</sup> day following the last day of the month in which the services were delivered. County shall

render payment for services provided under this Agreement that meet service standards and documentation standards established in accordance with all applicable County, State, and Federal statutes, laws, regulations, and standards, required licenses, ordinances, rules, regulations, manuals, guidelines, and directives, the California Department of Health Care Services (DHCS), and TCHSA-Drug & Alcohol (DA) Medi-Cal contract. Compliance with such service standards and documentation standards shall be established on the basis of retrospective reviews performed by County. All claims for reimbursement under this Agreement shall be submitted together with an Assurance of Compliance and Letter of Transmittal form (see Exhibit D). When, on the basis of retrospective review, it has been determined that Contractor has failed to meet service standards or documentation standards established by DHCS, County, State, and Federal statutes, laws regulations and standards, required licenses, ordinances, rules, manuals, guidelines, and directives, payment will be denied on the basis of audit exception. Payment will not be made on the basis of added, amended, or altered records presented after the date of the retrospective review.

In the event that County or DHCS determines the Contractor's provision of DMC services are disallowed by the federal government or by state or federal audit or review, the Contractor shall be responsible for repayment of all disallowed federal funds. In addition to any other recovery methods available, including, but not limited to, offset of Medicaid federal participation funds owed to the impacted Contractor, DHCS may offset these amounts in accordance with Government Code Section 12419.5.

## **5. TERM OF AGREEMENT**

This agreement shall commence on July 1, 2023, and shall terminate on June 30, 2026, unless terminated in accordance with section 6 below.

## **6. TERMINATION OF AGREEMENT**

If Contractor fails to perform his/her duties to the satisfaction of the County, or if Contractor fails to fulfill in a timely and professional manner his/her obligations under this agreement, or if Contractor violates any of the terms or provisions of this agreement, then the County shall have the right to terminate this agreement effective immediately upon the County giving written notice thereof to the Contractor. Either party may terminate this agreement on 30 days' written notice. County shall pay contractor for all work satisfactorily completed as of the date of notice.

County may terminate this agreement immediately upon oral notice should funding cease or be materially decreased or should the Tehama County Board of Supervisors fail to appropriate sufficient funds for this agreement in any fiscal year.

The County's right to terminate this agreement may be exercised by the Health Services Agency's Executive Director.

**7. ENTIRE AGREEMENT; MODIFICATION**

This agreement for the services specified herein supersedes all previous agreements for these services and constitutes the entire understanding between the parties hereto. Contractor shall be entitled to no other benefits other than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Contractor specifically acknowledges that in entering into and executing this agreement, Contractor relies solely upon the provisions contained in this agreement and no other oral or written representation.

**8. NONASSIGNMENT OF AGREEMENT**

Inasmuch as this agreement is intended to secure the specialized services of Contractor, Contractor may not assign, transfer, delegate or sublet any interest herein without the prior written consent of the County.

**9. EMPLOYMENT STATUS**

Contractor shall, during the entire term of this agreement, be construed to be an independent contractor and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow County to exercise discretion or control over the professional manner in which Contractor performs the services which are the subject matter of this agreement; provided always, however, that the services to be provided by Contractor shall be provided in a manner consistent with the professional standards applicable to such services. The sole interest of the County is to ensure that the services shall be rendered and performed in a competent, efficient, and satisfactory manner. Contractor shall be fully responsible for payment of all taxes due to the State of California or the Federal government, which would be withheld from compensation of Contractor, if Contractor were a County employee. County shall not be liable for deductions for any amount for any purpose from Contractor's compensation. Contractor shall not be eligible for coverage under County's

Workers Compensation Insurance Plan nor shall Contractor be eligible for any other County benefit.

**10. INDEMNIFICATION**

Contractor shall defend, hold harmless, and indemnify Tehama County, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of County), damages, judgments, or decrees by reason of any person's or persons' injury, including death, or property (including property of County) being damaged, arising out of contractor's performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, whether by negligence or otherwise. Contractor shall, at its own expense, defend any suit or action founded upon a claim of the foregoing. Contractor shall also defend and indemnify County against any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency against the County with respect to Contractor's "independent contractor" status that would establish a liability for failure to make social security or income tax withholding payments, or any other legally mandated payment.

**11. INSURANCE**

Contractor shall procure and maintain insurance pursuant to Exhibit A, "Insurance Requirements For Contractor," attached hereto and incorporated by reference.

**12. PREVAILING WAGE**

Contractor certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services hereunder are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with and to require its subcontractors to fully comply with such Prevailing Wage Laws, to the extent that such laws apply. If applicable, County will maintain the general prevailing rate of per diem wages and other information set forth in Labor Code section 1773 at its principal office and will make this information available

to any interested party upon request. Contractor shall defend, indemnify, and hold the County, its elected officials, officers, employees, and agents free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure of the Contractor or its subcontractors to comply with the Prevailing Wage Laws. Without limiting the generality of the foregoing, Contractor specifically acknowledges that County has not affirmatively represented to contractor in writing, in the call for bids, or otherwise, that the work to be covered by the bid or contract was not a “public work.” To the fullest extent permitted by law, Contractor hereby specifically waives and agrees not to assert, in any manner, any past, present, or future claim for indemnification under Labor Code section 1781.

Contractor acknowledges the requirements of Labor Code sections 1725.5 and 1771.1 which provide that no contractor or subcontractor may be listed on a bid proposal or be awarded a contract for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5, with exceptions from this requirement specified under Labor Code sections 1725.5(f), 1771.1(a) and 1771.1(n).

If the services are being performed as part of the applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, Contractor acknowledges that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

### **13. NON-DISCRIMINATION**

Contractor shall not employ discriminatory practices in the treatment of persons in relation to the circumstances provided for herein, including assignment of accommodations, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

### **14. GREEN PROCUREMENT POLICY**

Through Tehama County Resolution No. 2021-140, the County adopted the Recovered Organic Waste Product Procurement Policy (available upon request) to (1) protect and conserve natural resources, water and energy; (2) minimize the jurisdiction’s contribution to pollution and solid waste disposal; (3) comply with state requirements as contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383); (4) support recycling and waste reduction; and (5) promote the purchase of products made with recycled materials, in compliance with the California Integrated

Waste Management Act of 1989 (AB 939) and SB1382 when product fitness and quality are equal and they are available at the same or lesser cost of non-recycled products. Contractor shall adhere to this policy as required therein and is otherwise encouraged to conform to this policy.

**15. COMPLIANCE WITH LAWS AND REGULATIONS**

All services to be performed by Contractor under to this Agreement shall be performed in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. Any change in status, licensure, or ability to perform activities, as set forth herein, must be reported to the County immediately.

**16. LAW AND VENUE**

This agreement shall be deemed to be made in and shall be governed by and construed in accordance with the laws of the State of California (excepting any conflict of laws provisions which would serve to defeat application of California substantive law). Venue for any action arising from this agreement shall be in Tehama County, California.

**17. AUTHORITY**

Each party executing this Agreement and each person executing this Agreement in any representative capacity, hereby fully and completely warrants to all other parties that he or she has full and complete authority to bind the person or entity on whose behalf the signing party is purposing to act.

**18. NOTICES**

Any notice required to be given pursuant to the terms and provisions of this agreement shall be in writing and shall be sent first class mail to the following addresses:

If to County:	Tehama County Health Services Agency Attn: Executive Director P.O. Box 400 Red Bluff, CA 96080 (530) 527-8491
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If to Contractor:	Aegis Treatment Centers, LLC ATTN: VP, Managed Care 1317 Route 73 North, Suite 200 Mount Laurel, NJ 08054
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Notice shall be deemed to be effective two days after mailing.

**19. NON-EXCLUSIVE AGREEMENT**

Contractor understands that this is not an exclusive agreement, and that County shall have the right to negotiate with and enter into agreements with others providing the same or similar services to those provided by Contractor, or to perform such services with County's own forces, as County desires.

**20. STANDARDS OF THE PROFESSION**

Contractor agrees to perform its duties and responsibilities pursuant to the terms and conditions of this agreement in accordance with the standards of the profession for which Contractor has been properly licensed to practice.

**21. LICENSING OR ACCREDITATION**

Where applicable the Contractor shall maintain the appropriate license or accreditation through the life of this contract.

**22. RESOLUTION OF AMBIGUITIES**

If an ambiguity exists in this Agreement, or in a specific provision hereof, neither the Agreement nor the provision shall be construed against the party who drafted the Agreement or provision.

**23. NO THIRD-PARTY BENEFICIARIES**

Neither party intends that any person shall have a cause of action against either of them as a third-party beneficiary under this Agreement. The parties expressly acknowledge that is not their intent to create any rights or obligations in any third person or entity under this Agreement. The parties agree that this Agreement does not create, by implication or otherwise, any specific, direct or indirect obligation, duty, promise, benefit and/or special right to any person, other than the parties hereto, their successors and permitted assigns, and legal or equitable rights, remedy, or claim under or in respect to this Agreement or provisions herein.

**24. HAZARDOUS MATERIALS**

Contractor shall provide to County all Safety Data Sheets covering all Hazardous Materials to be furnished, used, applied, or stored by Contractor, or any of its Subcontractors, in connection with the services on County property. Contractor shall provide County with copies of any such Safety Data Sheets prior to entry to County property or with a document certifying that no Hazardous Materials will be brought onto County property by Contractor, or any of its Subcontractors, during the performance of the services. County shall provide Safety Data Sheets for any Hazardous Materials that Contractor may be exposed to while on County property.

**25. HARASSMENT**

Contractor agrees to make itself aware of and comply with the County's Harassment Policy, TCPR §8102: Harassment, which is available upon request. The County will not tolerate or condone harassment, discrimination, retaliation, or any other abusive behavior. Violations of this policy may cause termination of this agreement.

**26. COUNTERPARTS, ELECTRONIC SIGNATURES – BINDING**

This agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (“CUETA”) Cal. Civil Code §§ 1633.1 to 1633.17), for executing this agreement. The Parties further agree that the electronic signatures of the Parties included in this agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of “electronic signature” as defined in subdivision (i) of Section 1633.2 of the Civil Code. Facsimile signatures or signatures transmitted via pdf document shall be treated as originals for all purposes.

**27. CULTURAL COMPETENCY**

Contractor shall ensure that services delivered under the terms of this Agreement reflect a comprehensive range of age appropriate, cost-effective, high quality intervention strategies directed so as to promote wellness, avert crises, and maintain beneficiaries within their own communities. Contractor shall make every effort to deliver services which are culturally sensitive and culturally competent, and which operationalize the following values:

- A. Services should be delivered in the client's primary language or language of choice since language is the primary "carrier of culture,"
- B. Services should encourage the active participation of individuals in their own care, protect confidentiality at all times, and recognize the rights of all individuals regardless of race, ethnicity, cultural background, disability or personal characteristics,
- C. Contractor will use best efforts to ensure service delivery staff should reflect the racial, ethnic, and cultural diversity of the population being served,
- D. Certain culturally sanctioned behaviors, values, or attitudes of individuals legitimately may conflict with "mainstream values" without indicating psychopathology or moral deviance,
- E. Service delivery systems should reflect cultural diversity in methods of service delivery as well as policy,
- F. The organization should instill values in staff which encourage them to confront racially or culturally biased behavior in themselves and others and which encourage them to increase their sensitivity and acceptance of culturally based differences.
- G. Contractor's staff shall receive cultural competency training and Contractor shall provide evidence of such training to County upon request.

## **28. CODE OF CONDUCT**

Tehama County Health Services Agency (TCHSA) maintains high ethical standards and is committed to complying with all applicable statutes, regulations, and guidelines. The TCHSA and each of its employees and contractors shall follow an established Code of Conduct.

## PURPOSE

The purpose of the TCHSA Code of Conduct is to ensure that all TCHSA employees and contractors are committed to conducting their activities in accordance with the highest levels of ethics and in compliance with all applicable State and Federal statutes, regulations, and guidelines. The Code of Conduct also serves to demonstrate TCHSA's dedication to providing quality care to its clients.

### CODE OF CONDUCT – General Statement

- A. The Code of Conduct is intended to provide TCHSA employees and contractors with general guidelines to enable them to conduct the business of TCHSA in an ethical and legal manner;
- B. Every TCHSA employee and contractor is expected to uphold the Code of Conduct;
- C. Failure to comply with the Code of Conduct or failure to report non-compliance may subject the TCHSA employee or contractor to disciplinary action, up to or including termination of employment or contracted status.

### CODE OF CONDUCT

All TCHSA employees and contractors:

- A. Shall perform their duties in good faith and to the best of their ability.
- B. Shall comply with all statutes, regulations, and guidelines applicable to Federal health care programs, and with TCHSA's own policies and procedures.
- C. Shall refrain from any illegal conduct. When an employee or contractor is uncertain of the meaning or application of a statute, regulation, or guideline, or the legality of a certain practice or activity, he or she shall seek guidance from his or her immediate Supervisor, Director, the Quality Assurance Manager, or the Compliance Officer.
- D. Shall not obtain any improper personal benefit by virtue of their employment or contractual relationship with TCHSA.

- E. Shall notify their Supervisor, Director, Assistant Executive Director, or Executive Director immediately upon receipt (at work or at home) of any inquiry, subpoena, or other agency or governmental request for information regarding TCHSA.
- F. Shall not destroy or alter TCHSA information or documents in anticipation of, or in response to, a request for documents by any applicable governmental agency or from a court of competent jurisdiction.
- G. Shall not engage in any practice intended to unlawfully obtain favorable treatment or business from any entity, physician, patient, resident, vendor, or any other person or entity in a position to provide such treatment or business.
- H. Shall not accept any gift of more than nominal value or any hospitality or entertainment, which because of its source or value, might influence the employee's or contractor's independent judgment in transactions involving TCHSA.
- I. Shall disclose to their Director any financial interest, official position, ownership interest, or any other relationship that they (or a member of their immediate family) have with TCHSA vendors or contractors.
- J. Shall not participate in any false billing of clients, governmental entities, or any other party.
- K. Shall not participate in preparation of any false cost report or other type of report submitted to the government.
- L. Shall not pay or arrange for TCHSA to pay any person or entity for the referral of clients to TCHSA and shall not accept any payment or arrangement for TCHSA to accept any payment for referrals from TCHSA.
- M. Shall not use confidential TCHSA information for their own personal benefit or for the benefit of any other person or entity while employed at or under contract to TCHSA, or at any time thereafter.
- N. Shall not disclose confidential medical information pertaining to TCHSA's clients without the express written consent of the clients or pursuant to court order and in

accordance with the applicable law and TCHSA applicable policies and procedures.

- O. Shall promptly report to the Compliance Officer any and all violations or suspected violations of the Code of Conduct.
- P. Shall promptly report to the Compliance Officer any and all violations or suspected violations of any statute, regulation, or guideline applicable to Federal health care programs or violations of TCHSA's own policies and procedures.
- Q. Shall not engage in or tolerate retaliation against employees or contractors who report or suspect wrongdoing.

**28. PERSONAL RIGHTS OF CLIENTS**

The Contractor shall protect and ensure that all clients receive their personal rights as authorized in Title 9, Subchapter 5, Section 10569 which include, but are not limited to the following:

- A. The right to confidentiality as provided for in Title 42, Subchapter A, Part 2, Code of Federal Regulations.
- B. To be accorded dignity in personal relationships with staff and other persons.
- C. To be accorded safe, healthful, and comfortable accommodations to meet his or her needs.
- D. To be free from intellectual, emotional and/or physical abuse.
- E. To be informed by the Contractor of the provisions of law regarding complaints, including, but not limited to, the address and telephone number of the Department of Health Care Services.
- F. To be free to attend religious services or activities of his or her choice and to have visits from a spiritual advisor provided that those services or activities do not conflict with Contractor facility requirements. Participation in religious services will be voluntary only.

All clients shall be personally advised of, and given at admission, a copy of the rights specified in (1) through (6) above. Any violation of these rights shall be reported to s the California Department of Health Care Services, the Tehama County Health Services Agency, Alcohol and Drug Program Administrator, or his/her designee, within three (3) days by telephone and will be followed up in writing.

**29. SERVICE STANDARDS**

Contractor agrees to abide by the same standards of care under which County provides service through programs staffed by County employees. Standards of care are communicated to Contractor via contract, orientation, state site certification process, retrospective reviews by County, and training as new standards of care are implemented.

**30. DOCUMENTS AND RECORDS**

- A. Upon written request, Contractor agrees to permit County, State, and/or Federal agencies authorized by the Executive Director or designee, to inspect, review, and copy all records, notes, and writing of any kind in connection with the services provided by Contractor under this Agreement. All such inspections and copying shall occur during normal business hours.
- B. If the California Department of Health Care Services, Center for Medicare and Medicaid Services (CMS), or Office of the Inspector General of the US Department of Health and Human Services determines there is a reasonable possibility of fraud or similar risk, the State, CMS, or HHS Inspector General may inspect, evaluate and audit subcontractor at any time.
- C. Contractor shall preserve all records relating to the services provided pursuant to this Agreement until at least ten years from the final date of the contract period or ten years from the date of completion of any audit, whichever is later.
- D. At the end of the period required for records retention, Contractor shall destroy all records made pursuant to the Agreement in accordance with the State and Federal law, and Contractor's State licensing requirements.

- E. Contractor shall document compliance with all contractual requirements. Such documentation shall be provided to County upon request.

**31. CLINICAL RECORDS**

Contractor shall maintain adequate records. Client records must comply with all appropriate State and Federal requirements, including legibility and timeliness of completion. Individual records shall contain intake information, interviews, and progress notes. Program records shall contain detail adequate for the evaluation of the service. Contractor agrees that its inability to produce records adequate for evaluation of the service shall constitute ground for audit exception and denial of Contractor's claim for payment for those services. Contractor shall provide monthly reports to the Executive Director or designee in conformance with the CalOMS data information system as prescribed by the Department of Health Care Services. If Contractor maintains an Electronic Health Record (EHR) with Protected Health Information (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 County to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.S> Section 17935€ and the HIPAA regulations.

**32. FINANCIAL RECORDS**

Appropriate service and financial records must be maintained until auditing is completed and retained for ten years following the close of the fiscal year, whichever is longer.

**33. MAINTENANCE OF RECORDS**

- A. Contractor shall maintain sufficient books, records, documents, and other evidence necessary for DHCS to audit contract performance and contract 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. All records must be capable of verification by qualified auditors.
- B. Contractor 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 it request.

- C. Contractor 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.
- D. Accounting records and supporting documents shall be retained for a ten-year period from the date the year-end cost settlement report was approved by DHCS for interim settlement. When an audit by the Federal Government, DHCS, or the California State Auditor has been started before the expiration of the ten-year period, 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. If an audit has not been completed within ten years, the interim settlement shall be considered as the final settlement.
- E. 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, payroll, appointment schedules, client data records, and schedules for allocating costs. All records must be capable of verification by qualified auditors.
- F. Should Contractor discontinue its contractual agreement with the County, or cease to conduct business in its entirety, Contractor shall be responsible for retaining the 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>

**34. DRUG MEDI-CAL CERTIFICATION AND CONTINUED CERTIFICATION**

The Contractor is required to be licensed, registered, DMC enrolled, and/or approved in accordance with applicable laws and regulations. Contractor is required to comply with the following regulations and guidelines, including, but not limited to:

- A. Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8
- B. Title 22, California Code Regulations (Cal. Code Regs.), Sections 51341.1, 51490.1, and 51516.1, (Document 2C).

- C. Minimum Quality Treatment Standards, (Document 2F(a)).
- D. Title 9, Cal. Code Regs., Div. 4, Chapter 4, Subchapter 1, Sections 10000, et seq.
- E. Title 22, Cal. Code Regs., Div. 3, Chapter 3, Sections 51000, et seq.
- F. In the event of conflicts, the provisions of Title 22 shall control if they are more stringent.
- G. All federal and State civil rights laws prohibiting the unlawful discrimination of individuals on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, or sexual orientation.

Within 30 days of receiving notification of a DMC provider's intent to reduce covered services or relocate, the Contractor shall 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.

A DMC provider's certification to participate in the DMC program shall automatically terminate in the event that the DMC 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.

Contractor that surrenders its certification or closes its facility shall be reported by the Contractor to DHCS' Provider Enrollment Division at [DHCSDMCRECERT@dhcs.ca.gov](mailto:DHCSDMCRECERT@dhcs.ca.gov) within five business days of notification or discovery. The Contractor shall keep and maintain records for each service rendered, to whom it was rendered, and the date of service, pursuant to W & I Code, Section 14124.1

### **35. DRUG MEDI-CAL CLAIMS AND REPORTS**

DMC providers that bill DHCS or the County for services identified in Section 51516.1 of Title 22 shall submit claims in accordance with DHCS' DMC Provider Billing Manual.

Contractors 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 shall be performed prior to rendering

service, in accordance with and as described in DHCS' DMC Provider Billing Manual. Options for verifying the eligibility of a Medi-Cal beneficiary are described in the DHCS' DMC Provider Billing Manual.

The Contractor must inform the County when a beneficiary that resides in the Tehama County is referred to, and served by, Aegis Treatment Centers as an out-of-county provider.

**36. INVESTIGATIONS AND CONFIDENTIALITY OF ADMINISTRATIVE ACTIONS**

If Contractor is under investigation by DHCS or any other state, local, or federal law enforcement agency for fraud or abuse, DHCS may temporarily suspend the subcontractor from the DMC program, pursuant to W&I Code, Section 14043.36(a). Information about a subcontractor's administrative sanction status is confidential until such time as the action is either completed or resolved. DHCS may also issue a Payment Suspension to a subcontractor pursuant to W&I Code, Section 14107 .11 and 42 CFR Section 455 .23. The County will withhold payments from a DMC subcontractor during the time a Payment Suspension is in effect.

**37. PARTICIPATION IN FEDERAL HEALTHCARE PROGRAMS**

**A. Assurance of Compliance and Letter of Transmittal:** Contractor shall provide assurances of compliance with current State of California and Federal regulations regulating the reimbursement and delivery of healthcare services.

(1) Statement of Understanding and Compliance is attached hereto as Exhibit E. This document is signed by an officer of the corporation and must accompany each claim for reimbursement.

(2) Assurance of Compliance and Letter of Transmittal is attached hereto as Exhibit D. This document is signed by an officer of the corporation and must accompany each claim for reimbursement.

**B. Exclusions Checks:** Consistent with the requirements of 42 Code of Federal Regulations, part 455.436, Contractor shall confirm the identity and determine the exclusion status of all providers (employees and subcontractors), as well as any person with an ownership or control interest, or who is an agent or managing employee of Contractor through monthly checks of

Federal and State databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the Office of Inspector General's List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), as well as the California Department of Health Care Services Medi-Cal Suspended and Ineligible Provider List (S & I List). Contractor shall retain evidence of monthly checks and provide to County upon request.

If the Contractor finds a party that is excluded, Contractor shall notify the County within 1 business day. Contractor shall not permit an excluded provider to render services to a County client.

**C. Ownership Disclosure:** Pursuant to the requirements of 42 C.F.R. § 455.104, Contractor must make disclosures regarding any person (individual or corporation) who has an ownership or control interest in the Contractor, whether the person (individual or corporation) is related to another person with an ownership or control interest in the Contractor as a spouse, parent, child, or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the Contractor has a 5% or more interest is related to another person with ownership or control interest in the Contractor as a spouse, parent, child or sibling. The term "person with an ownership or control interest means, with respect to the Contractor, a person who:

- (1) Has directly or indirectly an ownership of 5% or more in the Contractor; or
- (2) Is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured in whole or in part) by the Contractor or any property of or assets thereof, which whole or part interest is equal to or exceeds 5% of the total property and assets or the entity; or
- (3) Is an officer or director of the Contractor if the Contractor is organized as a corporation; or
- (4) Is a partner in the Contractor if the Contractor is organized as a partnership.

Contractor will provide County the following disclosures prior to the execution of this contract (and annually thereafter), prior to its extension or renewal, (and annually thereafter), and within 35 days after any change in Contractor ownership.

- (1) The name and address of any person (individual or corporation) with an ownership or control interest in the Contractor. The address for corporate

entities shall include, as applicable, a primary business address, every business location, and a P.O. Box address;

- (2) Date of birth and Social Security Number (in the case of an individual);
- (3) Other tax identification number (in the case of a corporation with an ownership or control interest in the Contractor or in any subcontractor in which the Contractor has a 5 percent or more interest);
- (4) Whether the person (individual or corporation) with an ownership or control interest in the Contractor is related to another person with ownership or control interest in the Contractor as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the Contractor has a 5 percent or more interest is related to another person with ownership or control interest in the Contractor as a spouse, parent, child, or sibling;
- (5) The name of any other disclosing entity in which the Contractor has an ownership or control interest. Other disclosing entity means any other Medicaid disclosing entity and any entity that does not participate in Medicaid, but is required to disclose certain ownership and control information because of participation in any of the programs established under title V, XVIII, or XX of the Act. This includes:
  - Any hospital, skilled nursing facility, home health agency, independent clinical laboratory, renal disease facility, rural health clinic, or health maintenance organization that participates in Medicare (title XVIII);
  - Any Medicare intermediary or carrier; and
  - Any entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health-related services for which it claims payment under any plan or program established under title V or title XX of the Act.
- (6) The name, address, date of birth, and Social Security Number of any managing employee of the managed care entity.

**D. Business Transactions Disclosure:** Contractor must submit disclosures and updated disclosures to County regarding certain business transactions within 35 days, upon request. The following must be disclosed:

- (1) The ownership of any subcontractor with whom Contractor had business transactions totaling more than \$25,000 during the 12-month period ending on the date of request; and
- (2) Any significant business transactions between Contractor and any wholly owned supplier, or between Contractor and any subcontractor, during the 5-year period ending on the date of request.

**E. Persons Convicted of Crimes Disclosure:** Contractor shall submit the following disclosures to County regarding Contractor's management prior to execution of this contract and at any time upon County request:

- (1) The identity of any person who is a managing employee of Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).)
- (2) The identity of any person who is an agent of Contractor who has been convicted of a crime related to federal health care programs. (42 C.F.R. § 455.106(a)(1), (2).) For this purpose, the word "agent" has the meaning described in 42 C.F.R. § 455.101.

**F. Criminal Background Checks:** Contractor must require providers (employees and contracted) to consent to criminal background checks including fingerprinting pursuant to 42 C.F.R. 455.434(a). Upon California Department of Health Care Services' (CDHCS's) determination that Contractor or a person with a 5% or more direct or indirect ownership interest in Contractor meets CDHCS's criteria for criminal background checks as a high risk to the Medicaid program, Contractor providers (employees and contracted) must submit fingerprints pursuant to 42 C.F.R. 455.434(b)(1).

### **38. MONITORING**

#### DHCS Post service Post payment Utilization Reviews

After DMC services are rendered and paid, DHCS shall conduct DMC Post service Post payment (PSPP) Utilization Reviews of the Contractor-operated provider DHCS shall monitor the Contractor for compliance with the provisions of this Agreement and in accordance with Title 22, Section 51341.1. Any claimed DMC service may be reviewed for compliance with all applicable standards, regulations, and program coverage after services are rendered and the claim is paid.

DHCS shall issue the DMC PSPP reports to the County with a copy to the Contractor. The Contractor shall be responsible for ensuring deficiencies are remediated pursuant to Section. The Contractor shall attest the deficiencies have been remediated and are complete.

If programmatic deficiencies are identified, the Contractor shall be required to submit a corrective action plan (CAP) to the County for review and approval. Said CAP shall be submitted to County within 30 days of the date of the PSPP report.

The CAP shall:

- Address each programmatic deficiency.
- Provide a specific description of how the deficiency shall be corrected.
- Specify the date of implementation of the corrective action.
- Identify who will be responsible for correction and who will be responsible for ongoing compliance.

DHCS shall provide written approval of the CAP to the County with a copy to the Contractor. If DHCS does not approve the CAP, DHCS or County will provide guidance on the deficient areas and request an updated CAP. The Contractor shall revise the CAP and submit it to the County for review and approval within 15 days of the DHCS or County notification.

If the Contractor does not submit an initial or revised CAP to the County or does not implement the approved CAP provisions within the designated timeline, then DHCS may withhold funds. DHCS shall inform the County when funds will be withheld.

The Contractor shall attest to County, using the form developed by County, that the requirements in the CAP have been completed by Contractor.

DHCS shall take appropriate steps in accordance with Title 22, Section 51341.1, to recover payments made if subsequent investigation uncovers evidence that the claim(s) should not have been paid or that DMC services have been improperly utilized.

The Contractor may appeal DMC dispositions concerning demands for recovery of payment and/or programmatic deficiencies of specific claims. Such appeals shall be handled pursuant to Title 22, Cal Code Regs., Section 51341.1(q).

DHCS shall monitor the Contractor's compliance with PSPP utilization review requirements in accordance with Title 22. The federal government may also review the existence and effectiveness of DHCS's utilization review system.

The Contractor shall implement and maintain compliance with the system of review described in Title 22, Section 51341.1(k), for the purposes of reviewing the utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.

The Contractor shall ensure sites keep a record of the beneficiaries being treated at each location. The Contractor shall retain beneficiary records for either ten years from the final date of a contract period, the completion of any audit, or the date a service was rendered, whichever occurs later.

### **39. PERSONNEL**

Contractor shall furnish such qualified professional personnel as prescribed in Title 9 of the California Code of Regulations required for the type of services described in Section I.

All Contractor's personnel (including independent contractors) shall have the appropriate current State licensure or certification required for their given profession.

The "Provider Information Change Form" attached hereto as Exhibit F, provides the information necessary for TCHSA-DA to bill federal healthcare programs. This form is required for each "covered individual". It is also required whenever there is a change in status (i.e., termination, re-hire) for a "covered individual". "Covered Individuals" are defined as the employees or independent contractors of the Contractor with responsibilities pertaining to the ordering, provision, documentation, coding, or billing of services for which County seeks reimbursement from the Federal Healthcare programs (e.g., Medicare, Medi-Cal). Individual providers who contract directly with TCHSA-DA are also required to complete this form.

Contractor shall comply with all applicable Federal and/or State laws, rules, and regulations

in regard to nondiscrimination in employment on the basis of race, color, ancestry, national origin, religion, sex, marital status, sexual orientation, age, medical condition, or disability (including compliance with the Federal Rehabilitation Act of 1973, section 504.

**40. TRAINING**

The Contractor shall complete training on the requirements of Title 22 regulations and DMC program requirements at least annually. Proof of training shall be made available to County.

**41. BYRD ANTI-LOBBYING AMENDMENT (31 USC 1352)**

Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Contractor shall also disclose to DHCS any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**42. EXHIBITS**

Contractor shall comply with all provisions of Exhibits A through F, attached hereto, and incorporated by reference. In the event of a conflict between the provisions of the main body of this Agreement and any attached Exhibit(s), the main body of the Agreement shall take precedence.

**43. TRAFFICKING VICTIMS PROTECTION ACT OF 2000**

Contractor and its Subcontractors that provide services covered by this Contract shall comply with Section 106(g) of the Trafficking Victims Protection Act of 2000 as amended (22 U.S.C. 7104).”

**44. CIVIL RIGHTS ACT**

The Contractor agrees to comply with Title VII of the Civil Rights Act of 1964, and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam Era veteran status, political affiliation or any other non-merit factors exclude an individual from any service or other benefit provided under the program or

activity set forth in this Agreement, or provide an individual any service or other benefit which is different or provided in a different form from that provided to others under the program or activity, subject an individual to segregated or separate treatment in any facility in, or in any manner or process, related to receipt of any service or benefit under the program or activity; restrict an individual in any way from the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit under the program or activity; treat an individual differently from others in determining whether that individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or other benefit under the program or activity; or deny any opportunity to participate in a program or activity as an employee. Notwithstanding the foregoing, the Contractor may deny services based on the availability of beds or to other standard admission procedures and requirements of the Contractor. Additionally, the nature of services that the Contractor provides will vary based on the treatment requirements of each individual client.

#### **45. DRUG-FREE WORKPLACE**

The Contractor and the Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither the Contractor nor the Contractor's employees shall unlawfully manufacture, distribute, dispense, possess, or use controlled substances as defined in 21 USCA 812, including but not limited to Marijuana, Heroin, Cocaine, and Amphetamines at any of the Contractor's facilities or worksites. If the Contractor or any employee of the Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a Contractor facility or worksite of which the Contractor has knowledge, the Contractor within five (5) days thereafter, shall notify the Tehama County Health Services Agency, Alcohol and Drug Program Administrator, or his/her designee, for County. Violation of this provision shall constitute a material breach of this Agreement.

#### **46. ADDITIONAL CONTRACT RESTRICTIONS**

This Contract is subject to any additional restrictions, limitations, or conditions enacted by the federal or state governments that affect the provisions, terms, or funding of this Contract in any manner.

**47. HATCH ACT**

Contractor agrees to comply with the provisions of the Hatch Act (USC, Title 5, Part III, Subpart F., Chapter 73, Subchapter III), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

**48. NO UNLAWFUL USE OR UNLAWFUL USE MESSAGES REGARDING DRUGS**

Contractor agrees that information produced through these funds, and which pertains to drugs 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, Division 10.7, Chapter 1429, Sections 11999-11999.3). By signing this Enclosure, County agrees that it will enforce, and will require its subcontractors to enforce, these requirements.

**49. LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES**

None of the funds made available through this Contract 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).

**50. DEBARMENT AND SUSPENSION**

County shall not subcontract with or employ any party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp. p. 189) and 12689 (3 CFR part 1989., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

The County shall advise all subcontractors of their obligation to comply with applicable federal debarment and suspension regulations, in addition to the requirements set forth in 42 CFR Part 1001.

If a County subcontracts or employs an excluded party, DHCS has the right to withhold payments, disallow costs, or issue a CAP, as appropriate, pursuant to HSC Code 11817.8(h).

**51. RESTRICTION ON DISTRIBUTION OF STERILE NEEDLES**

No SABG funds made available through this Contract shall be used to carry out any program that includes the distribution of sterile needles or syringes for the hypodermic injection of any illegal drug unless DHCS chooses to implement a demonstration syringe services program for injecting drug users.

**52. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OF 1996**

All work performed under this Contract is subject to HIPAA, County shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Exhibit G, DHCS and County shall cooperate to assure mutual agreement as to those transactions between them, to which this provision applies. Refer to Exhibit G for additional information.

**A. Trading Partner Requirements**

1. No Changes. County hereby agrees that for the personal health information (Information), it will not change any definition, data condition or use of a data element or segment as proscribed in the Federal Health and Human Services (HHS) Transaction Standard Regulation (45 CFR 162.915 (a)).

2. No Additions. County hereby agrees that for the Information, it will not add any data elements or segments to the maximum data set as proscribed in the HHS Transaction Standard Regulation (45 CFR 162.915 (b)).

3. No Unauthorized Uses. County hereby agrees that for the Information, it will 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 162.915 (c)).

4. No Changes to Meaning or Intent. County hereby agrees that for the Information, it will not change the meaning or intent of any of the HHS Transaction Standard’s implementation specification (45 CFR 162.915 (d)).

#### B. Concurrence for Test Modifications to HHS Transaction Standards

County 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, County agrees that it will participate in such test modifications.

#### C. Adequate Testing

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

#### D. Deficiencies

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

#### E. Code Set Retention

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

#### F. Data Transmission Log

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 Contract. Each party will 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 it is necessary to do so, the information contained in the Data Transmission Log may be retrieved in a timely manner and presented in readable form.

**53. NONDISCRIMINATION AND INSTITUTIONAL SAFEGAURDS FOR RELIGIOUS PROVIDERS**

Contractor shall establish such processes and procedures as necessary to comply with the provisions of USC, Title 42, Section 300x-65 and CFR, Title 42, Part 54.

**54. COUNSELOR CERTIFICATION**

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 registered or certified as defined in CCR, Title 9, Division 4, Chapter 8.

**55. CULTURAL AND LINGUISTIC PROFICIENCY**

To ensure equal access to quality care by diverse populations, each service provider receiving funds from this Contract shall adopt the Federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards as outlined online at:

<https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53https://thinkculturalhealth.hhs.gov/clas/standards>.

**56. INTRAVENOUS DRUG USE (IVDU) TREATMENT**

Contractor shall ensure that individuals in need of IVDU treatment shall be encouraged to undergo AOD treatment (42 USC 300x-23 (45 CFR 96.126(e)).

**57. TUBERCULOSIS TREATMENT**

County shall ensure the following related to Tuberculosis (TB):

- A. Routinely make available TB services to individuals receiving treatment.
- B. Reduce barriers to patients' accepting TB treatment.

C. Develop strategies to improve follow-up monitoring, particularly after patients leave treatment, by disseminating information through educational bulletins and technical assistance.

**58. TRIBAL COMMUNITIES AND ORGANIZATIONS**

County shall regularly review population information available through Census, compare to information obtained in the California Outcome Measurement System for Treatment (CalOMS-Tx) to determine whether the population is being reached, and survey Tribal representatives for insight in potential barriers to the substance use service needs of the American Indian/Alaskan Native (AI/AN) population within the County geographic area. Contractor shall also engage in regular and meaningful consultation and collaboration with elected officials of the tribe, Rancheria, or their designee for the purpose of identifying issues/barriers to service delivery and improvement of the quality, effectiveness, and accessibility of services available to AI/AN communities within the County.

**59. MARIJUANA RESTRICTION**

Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. See, e.g., 45 CFR. § 75.300(a) (requiring HHS to “ensure that Federal funding is expended . . . in full accordance with U.S. statutory . . . requirements.”); 21 USC § 812(c) (10) and 841 (prohibiting the possession, manufacture, sale, purchase, or distribution of marijuana). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under Federal law.

**60. PARTICIPATION OF COUNTY BEHAVIORAL HEALTH DIRECTOR’S ASSOCIATION OF CALIFORNIA**

The 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 AOD abuse services.

The County AOD Program Administrator shall attend any special meetings called by the Director of DHCS. Participation and representation shall also be provided by the County Behavioral Health Director's Association of California.

**61. ADOLESCENT BEST PRACTICES GUIDELINES**

County must utilize DHCS guidelines in developing and implementing youth treatment programs funded under this Enclosure The Adolescent Best Practices Guidelines can be found at:

[https://www.dhcs.ca.gov/Documents/CSD\\_CMHCS/Adol%20Best%20Practices%20Guide/AdolBestPracGuideOCTOBER2020.pdf](https://www.dhcs.ca.gov/Documents/CSD_CMHCS/Adol%20Best%20Practices%20Guide/AdolBestPracGuideOCTOBER2020.pdf).

**62. NONDISCRIMINATION IN EMPLOYMENT AND SERVICES**

Contractor certifies that under the laws of the United States and the State of California, Contractor will not unlawfully discriminate against any person.

**63. FEDERAL LAW REQUIREMENTS:**

A. 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.

B. 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.

C. Age Discrimination Act of 1975 (45 CFR Part 90), as amended 42 USC Sections 6101 – 6107), which prohibits discrimination on the basis of age.

D. Age Discrimination in Employment Act (29 CFR Part 1625).

E. Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.

F. Title II of the Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities.

- G. Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding access.
- H. Section 504 of the Rehabilitation Act of 1973, as amended (29 USC Section 794), prohibiting discrimination on the basis of individuals with disabilities.
- I. 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.
- J. Executive Order 13166 (67 FR 41455) to improve access to federal services for those with limited English proficiency.
- K. The Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse.
- L. Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR Part 2, Subparts A – E).

**64. STATE LAW REQUIREMENTS:**

- A. Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (2 CCR 7285.0 et seq.).
- B. Title 2, Division 3, Article 9.5 of the Government Code, commencing with Section 11135.
- C. Title 9, Division 4, Chapter 8 of the CCR, commencing with Section 13000.
- D. No federal funds shall be used by the County or its subcontractors for sectarian worship, instruction, or proselytization. No federal funds shall be used by the County or its subcontractors to provide direct, immediate, or substantial support to any religious activity.

**65. ADDITIONAL CONTRACT RESTRICTIONS**

- A. Noncompliance with the requirements of nondiscrimination in services shall constitute grounds for DHCS to withhold payments under this Contract or terminate all, or any type, of funding provided hereunder.

- B. This Contract is subject to any additional restrictions, limitations, or conditions enacted by the federal or state governments that affect the provisions, terms, or funding of this Contract in any manner.

**66. INFORMATION ACCESS FOR INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY**

- A. County shall comply with all applicable provisions of the Dymally-Alatorre Bilingual Services Act (Government Code sections 7290-7299.8) regarding access to materials that explain services available to the public as well as providing language interpretation services.
- B. County shall comply with the applicable provisions of Section 1557 of the Affordable Care Act (45 CFR Part 92), including, but not limited to, 45 CFR 92.201, when providing access to: (a) materials explaining services available to the public, (b) language assistance, (c) language interpreter and translation services, or (d) video remote language interpreting services.

**67. SUBCONTRACT PROVISIONS**

County shall include all of the foregoing Part II general provisions in all of its subcontracts. These requirements must be included verbatim in contracts with subrecipients and not through documents incorporated by reference.

IN WITNESS WHEREOF, County and Contractor have executed this agreement on the day and year set forth below.

Date: 9-1-23

COUNTY OF TEHAMA

Jayme S. Bottke  
Jayme S. Bottke, Executive Director

AEGIS TREATMENT CENTERS, LLC

Date: 8/30/2023

Susan D. Hoeflich  
Susan D. Hoeflich, VP Managed Care

-----  
Vendor Number

-----  
Budget Account Number

Standard Form of Agreement – Services adopted 12/08/22

Exhibit A

**INSURANCE REQUIREMENTS FOR CONTRACTOR**

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work described herein and the results of that work by Contractor, his/her agents, representatives, employees, or subcontractors. At a minimum, Contractor shall maintain the insurance coverage, limits of coverage and other insurance requirements as described below.

Commercial General Liability (including operations, products and completed operations) \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. If coverage is subject to an aggregate limit, that aggregate limit will be twice the occurrence limit, or the general aggregate limit shall apply separately to this project/location.

Automobile Liability

Automobile liability insurance is required with minimum limits of \$1,000,000 per accident for bodily injury and property damage, including owned and non-owned and hired automobile coverage, as applicable to the scope of services defined under this agreement.

Workers' Compensation

If Contractor has employees, he/she shall obtain and maintain continuously Workers' Compensation insurance to cover Contractor and Contractor's employees and volunteers, as required by the State of California, as well as Employer's Liability insurance in the minimum amount of \$1,000,000 per accident for bodily injury or disease.

Professional Liability (Contractor/Professional services standard agreement only)

If Contractor is a state-licensed architect, engineer, contractor, counselor, attorney, accountant, medical provider, and/or other professional licensed by the State of California to practice a profession, Contractor shall provide and maintain in full force and effect while providing services pursuant to this contract a professional liability policy (also known as Errors and Omissions or Malpractice liability insurance) with single limits of liability not less than \$1,000,000 per claim and \$2,000,000 aggregate on a claims made basis. However, if

coverage is written on a claims-made basis, the policy shall be endorsed to provide coverage for at least three years from termination of agreement.

If Contractor maintains higher limits than the minimums shown above, County shall be entitled to coverage for the higher limits maintained by Contractor.

All such insurance coverage, except professional liability insurance, shall be provided on an “occurrence” basis, rather than a “claims made” basis.

#### Endorsements: Additional Insureds

The Commercial General Liability and Automobile Liability policies shall include, or be endorsed to include “Tehama County, its elected officials, officers, employees and volunteers” as an additional insured.

The certificate holder shall be “County of Tehama.”

#### Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions of \$25,000 or more must be declared to, and approved by, the County. The deductible and/or self-insured retentions will not limit or apply to Contractor’s liability to County and will be the sole responsibility of Contractor.

#### Primary Insurance Coverage

For any claims related to this project, Contractor’s insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of Contractor’s insurance and shall not contribute with it.

#### Coverage Cancellation

Each insurance policy required herein shall be endorsed to state that “coverage shall not be reduced or canceled without 30 days’ prior written notice certain to the County.”

### Acceptability of Insurers

Contractor's insurance shall be placed with an insurance carrier holding a current A.M. Best & Company's rating of not less than A:VII unless otherwise acceptable to the County. The County reserves the right to require rating verification. Contractor shall ensure that the insurance carrier shall be authorized to transact business in the State of California.

### Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance that meets all the requirements stated herein.

### Material Breach

If for any reason, Contractor fails to maintain insurance coverage or to provide evidence of renewal, the same shall be deemed a material breach of contract. County, in its sole option, may terminate the contract and obtain damages from Contractor resulting from breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

### Policy Obligations

Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

### Verification of Coverage

Contractor shall furnish County with original certificates and endorsements effecting coverage required herein. All certificates and endorsements shall be received and approved by the County prior to County signing the agreement and before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements.

The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

EXHIBIT B  
**SCOPE OF WORK**

**OPERATION AND ADMINISTRATION**

Contractor shall administer Narcotic Replacement Therapy in accordance with all Local, County, State statutes / regulations including but not limited to California Code of Regulations Title 9 and Title 22; and Federal statutes / regulations including but not limited to HIPAA and 42CFR; and all other local, County, State, and Federal applicable statutes.

- A. Contractor shall designate, in writing, a Contract Manager who shall function as liaison with County of Tehama regarding Contractor's performance hereunder; and
- B. Contractor shall identify clients who are Medi-Cal eligible and verify residence of each beneficiary seeking Narcotic Replacement Therapy by means other than Medi-Cal registration or Department of Motor Vehicle license or Identification Card. Acceptable verification of residence shall be a rental agreement, utility bill with beneficiary's name, or letter from a landlord / shared housing or shelter provider confirming beneficiary resides at said premises. The Verification of Residence shall be clearly documented and presented, to County, upon request; and
- C. Contractor shall notify Tehama County Health Services Agency Executive Director and/or Designee within Five (5) calendar days of enrolling a new client(s) including name, DOB, SS#, address, verification of residence and a copy of the intake assessment by secured email or fax to the Tehama County Health Services Agency Executive Director and/or Designee for client registration and billing preparation; and
- D. Contractor shall send by secured email or fax a copy of the signed detox treatment plan and/or maintenance treatment plan with Counselor, Supervisor and Medical Director's signatures to the Tehama County Health Services Agency Executive Director and/or Designee within Five (5) calendar days from the date of the Medical Director's signature and within five (5) days of Medical Director's signature for each treatment plan change / update including, three (3) month renewals, twelve (12) month continuing service justifications and/or within two (2) consecutive years termination of maintenance treatment; and

- E. Contractor shall request each client, seeking narcotic replacement therapy/treatment, sign a release of information, releasing information related to each service being provided, to the Tehama County Health Services Agency and to the California Department of Health Care Services for billing purposes; and
- F. Contractor shall be responsible for California Outcome Measurement System (CalOMS) Participant (Client Admission, Discharge and Registration) Record entries which will be entered monthly, no later than 5 days after the report month, by Contractor into the Information System where the Contractor site is located, and services are provided and referencing (in the CalOMS system) Tehama County as the County of Residence responsible for beneficiary; and
- G. Contractor shall comply with the treatment quality data standards established by the California Department of Health Care Services which are identified in the CalOMS-TX Data Compliance Standards. Failure to meet these standards may result in County withholding funds, or Contractor repaying County; and
- H. If Contractor experiences system failure or other extraordinary circumstance which affects the ability to submit CalOMS-TX data compliance requirements in a timely manner, Contractor must report the problem in writing as soon as identified along with a remediation plan for County review. The County must approve the remediation plan to continue payment of services; and
- I. Contractor shall ensure that any County-related printed material or video media be reviewed and approved by the Tehama County Health Services Agency Executive Director and/or Designee prior to public distribution; and
- J. For each month throughout the term of this Agreement, Contractor shall submit to County a monthly report and/or document for each applicable service element delivered, in the form and content specified by County. Billing document must contain for each service billed:
  - a. Name of each beneficiary who received service(s)
  - b. Type of service(s);
  - c. Date of Service(s);

- d. Duration of service(s);
  - e. Fee of the service(s) per unit, number of units provided and total;
  - f. Location of service(s) provided;
  - g. Name of service provider; and
  - h. National Provider Identifier (NPI) of service provider.
- K. If, during Contractor's provision of services under this Agreement, there is any need for substantial deviation from the services as described in this Scope of Work, then Contractor shall submit a written request to the Tehama County Health Services Agency Executive Director and/or Designee requesting approval in writing before any such substantial deviation may occur.

### **PERFORMANCE OBJECTIVES**

Contractor will be evaluated by the following performance objectives:

- A. A minimum of 50% of all discharged clients who were in treatment at least 90 days will have been "successfully engaged in treatment"; and
- B. Within 90 days of admission, 60% of clients will be illicit opiate free; and
- C. All clients, "successfully engaged in treatment", shall regularly attend monthly fifty (50)-minute individual or group counseling sessions, not missing more than two (2) consecutive groups, at the Contractor location and may choose to attend the Tehama County Health Services Agency Substance Use Recovery Medication Assisted Treatment Support Group. Enrollment in the Health Services Agency Substance Use Recovery Medication Assisted Treatment Support group does not excuse the patient from meeting the mandatory Fifty (50)-minute face-to-face counseling service, in a calendar month, provided by the Contractor; and
- D. Successful completion, as a minimum, will be defined as being achieved when the Medical Director has successfully titrated a client off all Narcotic Replacement Medications or has determined a long term (three (3) or more) year maintenance treatment plan is medically necessary, and client concurs with the plan.

- E. Client progress, while in treatment, will be evaluated using an appropriate assessment and/or placement tool preferably the American Society of Addiction Medicine (ASAM) or other equivalent tool at no longer than ninety (90) day intervals as outlined in Title 9 and 22 of the California Code of Regulations.
- F. Client satisfaction survey shall be provided and collected at 6 months from intake, at one year; and every year thereafter; and no sooner than thirty (30) days prior to discharge. Client satisfaction surveys shall be securely emailed or mailed to the County by the 10<sup>th</sup> of each month following the month of survey completion.
- G. Contractor shall provide quarterly outcome data outlined above as performance objectives A, B, C & D by secured email or mail by the 10<sup>th</sup> of the month following each annual quarter. (for example: January through March due April 10<sup>th</sup>)



	increment						
NTP-Group Counseling	One 15- minute increment	\$95.33	\$95.33	\$95.33	\$95.33	\$95.33	\$95.33

(\* ) The NTP Contractors may be reimbursed for up to 200 minutes of individual and/or group counseling per calendar month.

**Host County Rate Parity**

Notwithstanding any other provision of this Exhibit "C", in the event that the rates are adjusted during the term of this Agreement (whether increased or decreased) in accordance with the established Drug Medi-Cal rates and codes as outlined in Department of Health Care Services (DHCS) Mental Health and Substance Use Disorder Services (MHSUDS) Information Notices published annually containing updated rates for each service. No additional compensation will be paid by County to Contractor for secretarial, clerical support staff, or overhead costs.

Exhibit D

Assurance of Compliance and Letter of Transmittal

Invoice Date: \_\_\_\_\_ Invoice Amount: \_\_\_\_\_ Invoice Number: \_\_\_\_\_

The purpose of this document is to transmit claims for reimbursement and to provide assurance of compliance with State and Federal regulations regulating healthcare services.

I understand that my signature on this letter of transmittal constitutes a “claim for reimbursement” as contemplated by the Federal False Claims Act.

I understand that by signing this letter of transmittal I am claiming reimbursement for services rendered under various Federal and State regulations and Tehama County Health Services Agency Policies and Procedures.

My signature on this letter of transmittal indicates that, for every claim I have identified as potentially reimbursable by Medi-Cal, Medicare, or any combination of fund sources including either Medi-Cal, or Medicare, or both, that:

1. I have made “Reasonable Efforts” to verify that the beneficiary of the claimed services was a resident of Tehama County and eligible to receive Medi-Cal services at the time the services were provided. “Reasonable Efforts” means that I have personally reviewed evidence establishing residence and Medi-Cal eligibility.
2. I have made “Reasonable Efforts” to verify that the diagnosis requirements of the beneficiary have been met in accordance with CCR Title 22 within 30 days of admission to treatment. “Reasonable Efforts” means that I have personally reviewed documentation that supports the diagnostic requirements completed within 30 days of admission to treatment, or, if no such documentation was present, that I have personally ensured diagnosis requirements are met prior to delivering any other service.
3. I have made “Reasonable Efforts” to verify that the diagnostic requirements for the services were present. “Reasonable Efforts” mean that I have personally verified that the diagnosis requirements have met criteria established by California Code of Regulations Title 22.
4. I have made “Reasonable Efforts” to verify that a client treatment plan was current and currently authorized, as required in CCR Title 9 or 22, for the services provided. “Reasonable Efforts” means that I have personally viewed a treatment plan for the provided services and that the treatment plan authorizing services was current.
5. I am certifying that the services being claimed for were provided, as claimed, and that the claimed services are properly coded identifying patient, residence, service type, duration, location, and/or reporting unit of the service and CalOMS data has been entered.
6. I am certifying that the services claimed here are documented completely, accurately, and appropriately on a progress note(s) for insertion into the medical record.

Certified under penalty of perjury this date \_\_\_\_\_ at \_\_\_\_\_ County, California:

\_\_\_\_\_  
SIGNATURE OF OFFICER OF  
CORPORATION

\_\_\_\_\_  
PRINTED NAME AND TITLE

Exhibit E

Statement of Understanding and Compliance

I understand that my signature on the [Service Activity Log (SAL)] \*\* printed on the facing side of this document (or attached to this document, whichever applies to Contractor) constitutes a “claim for reimbursement” as contemplated by the Federal False Claims Act.

I understand that by signing the [SAL]\*\* I am claiming reimbursement for services rendered under various Federal and State regulations and Tehama County Health Services Agency Policies and Procedures.

My signature on the foregoing (or attached, whichever applies to Contractor) [SAL]\*\* indicates that, for every claim I have identified as potentially reimbursable by Medi-Cal, Medicare, or any combination of fund sources including Medi-Cal, or Medicare, or both, that:

1. I have made “Reasonable Efforts” to verify that the beneficiary of the claimed services was a resident of Tehama County and eligible to receive Medi-Cal services at the time the services were provided. “Reasonable Efforts” means that I have personally reviewed evidence establishing residence and Medi-Cal eligibility.
2. I have made “Reasonable Efforts” to verify that the diagnosis requirements of the beneficiary have been met in accordance with CCR Title 22 within 30 days of admission to treatment. “Reasonable Efforts” means that I have personally reviewed documentation that supports the diagnostic requirements completed within 30 days of admission to treatment, or, if no such documentation was present, that I have personally ensured diagnosis requirements are met prior to delivering any other service.
3. I have made “Reasonable Efforts” to verify that the diagnostic requirements for the services were present. “Reasonable Efforts” mean that I have personally verified that the diagnosis requirements have met criteria established by California Code of Regulations Title 22.
4. I have made “Reasonable Efforts” to verify that a client treatment plan was current and currently authorized, as required in CCR Title 9 or 22, for the services provided. “Reasonable Efforts” means that I have personally viewed a treatment plan for the provided services and that the treatment plan authorizing services was current.
5. I am certifying that the services being claimed for were provided, as claimed, and that the claimed services are properly coded identifying patient, residence, service type, duration, location, and/or reporting unit of the service and CalOMS data has been entered.
6. I am certifying that the services claimed here are documented completely, accurately and appropriately on a progress note(s) for insertion into the medical record.

Certified under penalty of perjury this date \_\_\_\_\_ at Tehama County, California:

\_\_\_\_\_  
SIGNATURE OF PERSON DELIVERING SERVICES

\_\_\_\_\_  
PRINTED NAME OF PERSON

\*\* Contractor to insert the name of the form (i.e., daily billing form, activity log, time sheet)

Exhibit F

**Provider Information Change Form**

Directions: Please complete this form whenever you hire, re-hire, or terminate a “covered individual”. “Covered Individuals” are defined as employees or independent contractors of your organization with responsibilities pertaining to the ordering, provision, documentation, coding, or billing of services for which TCHSA seeks reimbursement from the Federal Healthcare programs (i.e., Medicare or Medi-Cal). Fax this form to Billing Supervisor at 527-0240. If you have questions on this form, please call the Billing Supervisor at 527-8491 x3176.

Please check one of the following:

*New Employee*  *Returning Employee*  *Terminated Employee*

Employer: \_\_\_\_\_ *Date:* \_\_\_\_\_

Employee’s Full Name: \_\_\_\_\_ *SSN* \_\_\_\_\_

Employee’s License Type: \_\_\_\_\_ *License Number:* \_\_\_\_\_

Employee’s NPI: \_\_\_\_\_ *Employee’s Date of Birth:* \_\_\_\_\_

Hire Date: \_\_\_\_\_ *Termination Date:* \_\_\_\_\_

FOR TCHSA USE ONLY		
CMHC ID: _____	Date Assigned: _____	Assigned by: _____
Federal Exclusions List	Date Verified: _____	Verified by: _____
Medi-Cal S&I List	Date Verified: _____	Verified by: _____
Licensure	Date Verified: _____	Verified by: _____

## **EXHIBIT G**

### **PRIVACY AND INFORMATION SECURITY PROVISIONS**

This Exhibit G is intended to protect the privacy and security of specified Department information that Contractor may access, receive, or transmit under this Agreement. The Department information covered under this Exhibit G 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 G consists of the following parts:

1. Exhibit G-1, HIPAA Business Associate Addendum, which provides for the privacy and security of PHI.
  
2. Exhibit G-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 G-2 further provides for the privacy and security of PI under Civil Code Section 1798.3(a) and 1798.29.
  
3. Exhibit G-3, Miscellaneous Provision, sets forth additional terms and conditions that extend to the provisions of Exhibit E in its entirety.

## EXHIBIT G-1

### **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”) 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 C.F.R. 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.”

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 G-1 of this Agreement. This information is hereafter referred to as “Department PHI”.

C. The purpose of this Exhibit G-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, 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.

To the extent that data is both PHI or ePHI and Personally Identifying Information, both Exhibit G-2 (including Attachment B, the SSA Agreement between SSA, CHHS and DHCS, referred to in Exhibit G-2) and this Exhibit G-1 shall apply.

D. The terms used in this Exhibit G-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, and the HIPAA regulations.

B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.

C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.

D. Department PHI shall mean Protected Health Information or Electronic Protected Health Information, as defined below, accessed by Contractor in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities, and services on behalf of the Department as specified in Section 1.A. of Exhibit G-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 G-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 G-1, Contractor may use or disclose Department PHI only to perform functions, activities or services specified in Section 1.A of Exhibit G-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 G-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 G-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.

**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; and

c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III- Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.

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 G.

6) **Reporting Unauthorized Use or Disclosure.** To report to Department any use or disclosure of Department PHI not provided for by this Exhibit G 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 G, and that require compliance with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, including the requirement that any agents, subcontractors or vendors implement reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI. As required by HIPAA, the HITECH Act and the HIPAA regulations, including 45 CFR Sections 164.308 and 164.314, Contractor shall incorporate, when applicable, the relevant provisions of this Exhibit G-1 into each subcontract or subaward to such agents, subcontractors and vendors, including the requirement that any security incidents or breaches of unsecured PHI be reported to Contractor.

b. In accordance with 45 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.

**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) **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 (20) days within which to make the amendment.

10) **Internal Practices.** To make Contractor's internal practices, books and records relating to the use and disclosure of Department PHI available to the Department or to the Secretary, for purposes of determining the Department's compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Contractor, Contractor shall provide written notification to the Department and shall set forth the efforts it made to obtain the information.

11) **Documentation of Disclosures.** To document and make available to the Department or (at the direction of the Department) to an individual such disclosures of Department PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of such PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 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.

12) **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 G-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](mailto: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](http://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; and
- 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 (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, and the HIPAA regulations. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the "Privacy Incident Report" form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the incident, Contractor needs more than ten (10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach

occurred and 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.

<b>Department Program Contract Manager</b>	<b>DHCS Privacy Officer</b>	<b>DHCS Information Security Officer</b>
See the Exhibit A, Program Specifications 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: <a href="mailto:privacyofficer@dhcs.ca.gov">privacyofficer@dhcs.ca.gov</a>  Fax: (916) 440-7680	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413  Email: <a href="mailto:iso@dhcs.ca.gov">iso@dhcs.ca.gov</a>  Telephone: ITSD Service Desk (916) 440-7000; (800) 579-0874  Fax: (916)440-5537

13) **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 G-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 G-1 and cure is not possible.

14) **Sanctions and/or Penalties.** Contractor understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Contractors may result in the imposition of sanctions and/or penalties on Contractor under HIPAA, the HITECH Act and the HIPAA regulations.

## **E. Obligations of the Department.**

The Department agrees to:

- 1) **Permission by Individuals for Use and Disclosure of PHI.** Provide the Contractor with any changes in, or revocation of, permission by an Individual to use or disclose Department PHI, if such changes affect the Contractor's permitted or required uses and disclosures.
- 2) **Notification of Restrictions.** Notify the Contractor of any restriction to the use or disclosure of Department PHI that the Department has agreed to in accordance with 45 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/NoticeofPrivacywww.dhcs.ca.gov/Practices.aspx> or the DHCS website at (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 G-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 G-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 G-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 G-1 and cure is not possible.

## **EXHIBIT G-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 E as Attachment B and is hereby incorporated in this Agreement.
  - 3) Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2.
- B. The purpose of this Exhibit G-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 G-1 of this Agreement, the HIPAA Business Associate Addendum; however, to the extent that data is both PHI or ePHI and PII, both Exhibit G-1 and this Exhibit G-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 G-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 G-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 B 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 G-2.

**5) Contractor's Agents and Subcontractors.** To impose the same restrictions and conditions set forth in this Exhibit G-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 E-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](http://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/DHCS.BusinessAssociatesOnly.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 (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the “Privacy Incident Report” form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Department requests information in addition to that listed on the “Privacy Incident Report” form, Contractor shall make reasonable efforts to provide the Department with such information. If, because of the circumstances of the

incident, Contractor needs more than ten (10) working days from the discovery to submit a complete report, the Department may grant a reasonable extension of time, in which case Contractor shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "Privacy Incident Report" form. The Department will review and approve the determination of whether a breach occurred and 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 1798.29 and as may be required under the IEA. Contractor shall bear all costs of required notifications to individuals as well as any costs associated with the breach. The 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.

<b>Department Program Contract</b>	<b>DHCS Privacy Officer</b>	<b>DHCS Information Security Officer</b>
See the Exhibit A, Program Specifications 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: <a href="mailto:privacyofficer@dhcs.ca.gov">privacyofficer@dhcs.ca.gov</a> Telephone:(916) 445-4646	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: <a href="mailto:iso@dhcs.ca.gov">iso@dhcs.ca.gov</a> Telephone: ITSD Service Desk (916) 440-7000 or (800) 579-0874

**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 G-2 and for communicating on security matters with the Department.

## EXHIBIT G-3

### Miscellaneous Terms and Conditions

#### Applicable to Exhibit G

- 1) **Disclaimer.** The Department makes no warranty or representation that compliance by Contractor with this Exhibit G, 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.
  
- 2) **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 E 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 G 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 E 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.

- 3) **Judicial or Administrative Proceedings.** Contractor will notify the Department if it is named as a defendant in a criminal proceeding for a violation of HIPAA or other security or privacy law. The Department may terminate this Agreement if Contractor is found guilty of a criminal violation of HIPAA. The Department may terminate this Agreement if a finding or stipulation that the Contractor has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Contractor is a party or has been joined. DHCS will consider the nature and seriousness of the violation in deciding whether or not to terminate the Agreement.
- 4) **Assistance in Litigation or Administrative Proceedings.** Contractor shall make itself and any subcontractors, employees or agents assisting Contractor in the performance of its obligations under this Agreement, available to the Department at no cost to the Department to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Department, its directors, officers or employees based upon claimed violation of HIPAA, or the HIPAA regulations, which involves inactions or actions by the Contractor, except where Contractor or its subcontractor, employee or agent is a named adverse party.
- 5) **No Third-Party Beneficiaries.** Nothing express or implied in the terms and conditions of this Exhibit G is intended to confer, nor shall anything herein confer, upon any person other than the Department or Contractor and their respective successors or assignees, any rights, remedies, obligations, or liabilities whatsoever.
- 6) **Interpretation.** The terms and conditions in this Exhibit G 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 G 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.

- 7) **Conflict.** In case of a conflict between any applicable privacy or security rules, laws, regulations, or standards the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI, 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.
- 8) **Regulatory References.** A reference in the terms and conditions of this Exhibit G to a section in the HIPAA regulations means the section as in effect or as amended.
- 9) **Survival.** The respective rights and obligations of Contractor under Section 3, Item D of Exhibit G-1, and Section 3, Item B of Exhibit G-2, Responsibilities of Contractor, shall survive the termination or expiration of this Agreement.
- 10) **No Waiver of Obligations.** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
- 11) **Audits, Inspection and Enforcement.** 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 G. Contractor shall promptly remedy any violation of any provision of this Exhibit G. 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 G. 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 G.
- 12) **Due Diligence.** Contractor shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Exhibit E 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 G.

- 13) Term.** The Term of this Exhibit G-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 G 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.

## **Attachment A**

### Data Security Requirements

#### **1. Personnel Controls**

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

security controls. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years.

## 2. **Technical Security Controls**

- A. **Workstation/Laptop encryption.** All workstations and laptops that store Department PHI or PI either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the Department Information Security Office.
- B. **Server Security.** Servers containing unencrypted Department PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- C. **Minimum Necessary.** Only the minimum necessary amount of Department PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. **Removable media devices.** All electronic files that contain Department PHI or PI data must be encrypted when stored on any removable media or portable device (i.e., USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.
- E. **Antivirus software.** All workstations, laptops and other systems that process and/or store Department PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- F. **Patch Management.** All workstations, laptops and other systems that process and/or store Department PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release. Applications and systems that cannot be patched within this time frame due to significant operational reasons must have

compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.

G. **User IDs and Password Controls.** All users must be issued a unique username for accessing Department PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed at least every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:

- 1) Upper case letters (A-Z)
- 2) Lower case letters (a-z)
- 3) Arabic numerals (0-9)
- 4) Non-alphanumeric characters (punctuation symbols)

H. **Data Destruction.** When no longer needed, all Department PHI or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the Department Information Security Office.

I. **System Timeout.** The system providing access to Department PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.

J. **Warning Banners.** All systems providing access to Department PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.

- K. **System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for Department PHI or PI, or which alters Department PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If Department PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- L. **Access Controls.** The system providing access to Department PHI or PI must use role-based access controls for all user authentications, enforcing the principle of least privilege.
- M. **Transmission encryption.** All data transmissions of Department PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing Department PHI can be encrypted. This requirement pertains to any type of Department PHI or PI in motion such as website access, file transfer, and E-Mail.
- N. **Intrusion Detection.** All systems involved in accessing, holding, transporting, and protecting Department PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

### 3. Audit Controls

- A. **System Security Review.** Contractor must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing Department PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- B. **Log Reviews.** All systems processing and/or storing Department PHI or PI must have a routine procedure in place to review system logs for unauthorized access.

- C. **Change Control.** All systems processing and/or storing Department PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity, and availability of data.

#### **4. Business Continuity / Disaster Recovery Controls**

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

#### **5. Paper Document Controls**

- A. **Supervision of Data.** Department PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk, or office. Unattended means that information is not being observed by an employee authorized to access the information. Department PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. **Escorting Visitors.** Visitors to areas where Department PHI or PI is contained shall be escorted and Department PHI or PI shall be kept out of sight while visitors are in the area.
- C. **Confidential Destruction.** Department PHI or PI must be disposed of through confidential means, such as crosscut shredding and pulverizing.

- D. **Removal of Data.** Only the minimum necessary Department PHI or PI may be removed from the premises of the Contractor except with express written permission of the Department. Department PHI or PI shall not be considered "removed from the premises" if it is only being transported from one of Contractor's locations to another of Contractor's locations.
- E. **Faxing.** Faxes containing Department PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- F. **Mailing.** Mailings containing Department PHI or PI shall be sealed and secured from damage or inappropriate viewing of such PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of Department PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of the Department to use another method is obtained.