

Check here if additional pages are added: 2 Page(s)

Agreement Number 12-89195	Amendment Number A02
Registration Number:	

1. This Agreement is entered into between the State Agency and Contractor named below:
 State Agency's Name (Also known as DHCS, CDHS, DHS or the State)
Department of Health Care Services

 Contractor's Name (Also referred to as Contractor)
County of Santa Barbara
2. The term of this Agreement is: **July 1, 2010**
 through **June 30, 2014**
3. The maximum amount of this **\$ 22,482,944**
 Agreement after this amendment is: **Twenty-two million, four hundred eighty-two thousand, nine hundred forty-four dollars**
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:
 - I. **Amendment effective date:** July 1, 2013
 - II. **Purpose of amendment:** This amendment: 1) modifies the terms and conditions; and 2) increases funding for Fiscal Year 2013-14. The contractor is performing more of the same services as outlined in the original contract.
 - III. Certain changes made in this amendment are shown within the attached document entitled "Standard Agreement Attachment for Counties – Contract Changes from Fiscal Year 2012-13 to Fiscal Year 2013-14" as: Text additions are displayed in **bold and underline**. Text deletions are displayed as strike through text (i.e., **Strike**).
 - IV. Paragraph 3 (maximum amount) of the face of the amended STD 213 is increased by \$565,902 and amended to read: ~~\$21,917,042 (Twenty-One Million, Nine Hundred Seventeen Thousand, Forty-Two Dollars)~~. **\$22,482,944 (Twenty-Two Million, Four Hundred Eighty-Two Thousand, Nine Hundred Forty-Four Dollars)**.

(Continued on next page)

All other terms and conditions shall remain the same.

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

CONTRACTOR		CALIFORNIA Department of General Services Use Only
Contractor's Name <i>(If other than an individual, state whether a corporation, partnership, etc.)</i>		
County of Santa Barbara		
By <i>(Authorized Signature)</i>	Date Signed <i>(Do not type)</i>	
Printed Name and Title of Person Signing		
Address		
STATE OF CALIFORNIA		<input checked="" type="checkbox"/> Exempt per: DGS Memo dated 07/10/96 and Welfare and Institutions Code 14087.4
Agency Name		
Department of Health Care Services		
By <i>(Authorized Signature)</i>	Date Signed <i>(Do not type)</i>	
Printed Name and Title of Person Signing		
Address		
1501 Capitol Avenue, Suite 71.5195, MS 1403, P.O. Box 997413, Sacramento, CA 95899-7413		

- V. Attached to this contract amendment is a listing of standard agreement changes from Fiscal Year 2012-13 to Fiscal Year 2013-14.
- VI. Attached to this contract amendment is Exhibit A1 of the Fiscal Year 2013-14 Substance Use Disorder Budget for the County of Santa Barbara, ADP Contract #10-NNA42 V.2 and DHCS Contract #12-89195 A02.
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STANDARD AGREEMENT AMENDMENT

STD 213A_DHCS (Rev 01/13)

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12-89195

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A02

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STANDARD AGREEMENT AMENDMENT

STD. 213A_DHCS (Rev. 01/13)

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Agency Name <u>Department of Health Care Services</u>		<input checked="" type="checkbox"/> Exempt per: DGS Memo dated 07/10/96 and Welfare and Institutions Code 14087.4
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FISCAL CONTRACT DETAIL
DEPARTMENT OF HEALTH CARE SERVICES
Fiscal Year 2013-14 Substance Use Disorder Budget
ADP Contract #10-NNA42, V.2
DHCS Contract #12-89195, A02

State General Funds**Amounts****Totals****State General Funds (July 1, 2013 - June 30, 2014)**

Parolee Services Network Funds		4260-116-0001
Drug Medi-Cal	\$ 72,262	4260-601-0001
Total State General Funds		\$ 72,262

TOTAL STATE GENERAL FUNDS**\$ 72,262****Federal Funds****SAPT Block Grant - 93.959 (FFY 2014 Award) (October 1, 2013 to June 30, 2015 - 21 Months)**

SAPT Female Offender Treatment Services - FFY 2014 Award	\$ -	4260-116-0890
SAPT Discretionary - FFY 2014 Award	\$ 1,559,912	4260-116-0890
SAPT Adolescent/Youth Treatment Program - FFY 2014 Award	\$ 188,235	4260-116-0890
SAPT Friday Night Live/Club Live - FFY 2014 Award	\$ 30,000	4260-116-0890
SAPT Primary Prevention Set-Aside - FFY 2014 Award	\$ 501,591	4260-116-0890
SAPT HIV Set-Aside - FFY 2014 Award	\$ 67,558	4260-116-0890
SAPT Perinatal Set-Aside - FFY 2014 Award	\$ 168,718	4260-116-0890
SAPT Special Projects - FFY 2014 Award	\$ -	4260-116-0890
Total SAPT Block Grant - FFY 2014 Award		\$ 2,516,014

Federal Drug Medi-Cal Funds (Reimbursement) (July 1, 2013 to June 30, 2014) (12 Months)

Drug Medi-Cal	\$ 2,307,583	4260-601-0912
Perinatal Drug Medi-Cal	\$ 160,160	4260-601-0912
Total Federal Drug Medi-Cal Funds		\$ 2,467,743

TOTAL FEDERAL FUNDS**\$ 4,983,757****GRAND TOTAL - ALL FUNDS****\$ 5,056,019**

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2013-14 ~~2012-13~~

EXHIBIT B - GENERAL TERMS AND CONDITIONS

A. Contract Exhibits

This Contract between the State with both the Department of Alcohol and Drug Programs (ADP) and the Department of Health Care Services (DHCS) and the county named in the Standard Agreement attached hereto (Contractor) consists of the Standard Agreement; Exhibit A1's listing ADP's and DHCS's allocated funding sources; Exhibit B, entitled "General Terms and Conditions," which contains Contract provisions applicable to all of the Contractors; Exhibit C, entitled "Non-Drug Medi-Cal Substance Abuse Treatment Services and Funding Conditions" which defines the rights and obligations of the parties regarding non-Drug Medi-Cal funds managed by ADP; and Exhibit D, entitled "Drug Medi-Cal Treatment Program and Funding Conditions" which defines the rights and obligations of the parties regarding Medicaid/Medi-Cal funds, as expended through the Drug Medi-Cal (DMC) Treatment Program, managed by DHCS.

B. Contract Term

The term of this Contract shall be from July 1, 2010, through June 30, 2014. Except as provided in Exhibit C, Article III, Sections G and H, the expenditure period for the funds available hereunder shall be as stated on the Exhibit A1's. The State is under no obligation to extend or renew this Contract.

C. Nullification of Exhibit D (if applicable)

In the event Exhibit D becomes null and void, an updated Exhibit A1's will take effect reflecting the removal of federal Medicaid funds from this Contract. Exhibit C of this Contract will remain in effect until amended or terminated.

ED. Use of State Funds

1. **Contractor may not use SGF DMC funds allocated pursuant to Exhibit D to pay for any non-DMC services.**

~~2.4.~~ State General Fund (SGF) provided by the State California Department of Corrections and Rehabilitation (CDCR) through an interagency agreement with ~~DHCS~~ADP shall be subject to specific expenditure requirements as stated in the "Services to California Department of Corrections and Rehabilitation Parolee Services Network," as identified in Document 1D(a) of Exhibit C, which is incorporated by this reference.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2013-14 ~~2012-13~~

F. Contract Amendments

2. Contract amendments will be required to change encumbered amounts for each year of a multi-year contract period, of which the first amendment will be based on the Governor's Budget Act allocation of that specific fiscal year. The signed contract from the Contractor will be due to the Department of ~~Health Care Services~~ Alcohol and Drug Programs within 90 days from the issuance to the County. If the signed Contract from the Contractor is not received within 90 days from the issuance to the County, DHCSADP may withhold all non-DMC payments under Exhibit C of this Contract until the required amendment is received by the State.
5. Contractor acknowledges that any newly allocated funds that are in excess of the initial amount for each fiscal year may be forfeited if DHCSADP does not receive a fully executable contract amendment on or before June 30, 2014~~3~~.

H. Audit

1. In addition to the audit requirements in Exhibits C and D, this Contract, and any Subcontracts, shall be subject to the examination and audit by the California State Auditor ~~Bureau of State Audits~~ for a period of three years from the date that final payment is made pursuant to the Contract (Government Code, Section 8546.7).

J. Lobbying and Restrictions and Disclosure Certification

1. Certification and Disclosure Requirements
 - (a) Each person (or recipient) who requests or receives a contract, subcontract, grant, or sub grants~~subgrants~~, which is subject to Title 31, USC, Section 1352, and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Exhibit C, Document 1W, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph 2 of this provision.
 - (c) Each recipient shall require that the language of this certification be included in the award documents for all sub award~~subawards~~ at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients~~subrecipients~~ shall certify and disclose accordingly.

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2013-14 ~~2012-13~~

- (d) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph 1(b) of this provision herein. An event that materially affects the accuracy of the information reported includes:
- iv Each person (or recipient) who requests or receives from a person referred to in Paragraph 1(a) of this provision a contract, subcontract, grant or sub grantssubgrant exceeding \$100,000 at any tier under a contract or grant shall file a certification, and a disclosure form, if required, to the next tier above; and,
 - v All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph 1(a) of this provision. That person shall forward all disclosure forms to the DHCSADP program contract manager.

P. Primary Prevention

This contract and any subcontract shall meet data reporting requirements for capacity, process and outcome as required by federal grant requirements. In addition to the six ~~Center~~Center for Substance Abuse Prevention's (CSAP's) six strategies of Information Dissemination, Education, Alternative, Problem Identification and Referral, Community-Based Process, and Environmental, the data for the Institute of Medicine prevention categories of Universal, Selective and Indicated must be reported.

No later than January 31 of each year, contractor shall submit a Prevention Mid-Year Budget to DHCS indicating how the SAPT Block Grant 20% Primary Prevention Set-Aside shall be spent. Examples of a Prevention Mid-Year Budget and supporting documentation can be viewed at. <https://caprev.kithost.net/caprevent2013/pLandKB.aspx> (select Library, Fiscal - Prevention Mid-Year Budget Example for FY XX-XX).

Q. Confidentiality and Security of Information

4. Contractor shall notify the Information Security Officer, Executive Branch, of the State within twenty-four (24) hours during a work week of any suspected or actual breach of computer system security impacting persons served by the contract, if the security breach would require notification under Civil Code Section 1798.82. Contractor agrees to materially assist the State in any action pertaining to such unauthorized disclosure required by applicable Federal or state laws (Reference Document ~~3K~~ **Exhibit G**).

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2013-14 ~~2012-13~~

W. Noncompliance with Reporting Requirements

Contractor agrees that the State has the right to withhold payments until Contractor has submitted any required data and reports to the State, as identified in Exhibit C, Document ~~4F~~(1F(a), "Reporting Requirement Matrix - County Submission Requirements for the ~~Department of Alcohol and Drug Programs and the Department of Health Care Services.~~"

AA. Indemnification

Contractor agrees to indemnify, defend and save harmless the ~~Department of Alcohol and Drug Programs and the Department of Health Care Services~~, the State of California, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Contract and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Contract.

FF. Health Insurance Portability and Accountability Act (HIPAA) of 1996

If any of the work performed under this Contract is subject to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), then Contractor shall perform the work in compliance with all applicable provisions of HIPAA. As identified in ~~Document 3K~~ **Exhibit G** which is referenced in Exhibit C, the State and County shall cooperate to assure mutual agreement as to those transactions between them, to which this Provision applies. Refer to ~~Document 3K~~ **Exhibit G** for additional information.

GG. Procurement Rules

This section is applicable to all Contracts in which equipment, miscellaneous property, commodities and/or supplies are furnished by the State or expenses for said items are reimbursed with state or federal funds.

1. Equipment definitions

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

4. Unless waived or otherwise stipulated in writing by the State, prior written authorization from the appropriate **DHCSADP** program contract manager will be required before the Contractor or Subcontractor may make a purchase of

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2013-14 ~~2012-13~~

\$5,000 or more for commodities, supplies, equipment, and services related to such purchases. Contractor shall provide in its request for authorization all particulars necessary, as specified by the State, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from its Subcontractors and public utility services at rates established for uniform applicability to the general public.

HH. Equipment Ownership / Inventory / Disposition

1. Wherever the term equipment and/or miscellaneous property **are** is used in this provision, the definitions in the provision for Procurement Rules, Paragraph 1 shall apply.
 - (a) Upon receipt of equipment and/or miscellaneous property, Contractor shall report the receipt to the **DHCSADP** program contract manager and receive State property tags.
 - (b) If the Contractor enters into an agreement with a term of more than twelve months, Contractor shall submit an annual inventory of State equipment and/or miscellaneous property to the **DHCSADP** program contract manager. Contractor shall:
 - ii Contact the **DHCSADP** program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy.
4. In administering this provision, the State may require the Contractor and/or its Subcontractors to repair or replace, to the State's satisfaction, any damaged, lost or stolen state equipment and/or miscellaneous property. Should a theft occur, Contractor and/or its Subcontractors shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and the Contractor shall promptly submit one copy of the theft report to the **DHCSADP** program contract manager.
6. Within sixty (60) calendar days prior to the termination or end of this agreement, Contractor shall provide a final inventory report of equipment and/or miscellaneous property to the **DHCSADP** program contract manager and shall, at that time, query the State as to the requirements, including the manner and method, of returning State equipment and/or miscellaneous property to the State. Final disposition of equipment and/or miscellaneous property shall be at the State expense and according to the State instructions. Equipment and/or miscellaneous property disposition instructions shall be issued by the State immediately after receipt of the final

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year 2013-14 2012-13

inventory report. At the termination or conclusion of this agreement, the State may at its discretion, authorize the continued use of state equipment and/or miscellaneous property for performance of work under a different State agreement.

8. Automobile Liability Insurance

(e) Contractor and/or its Subcontractors, if not a self-insured government and/or public entity, shall provide evidence, that any required certificates of insurance contain the following provisions:

iii The insurance carrier shall notify the State of California Department of **Health Care Services** Alcohol and Drug Programs, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to the Contract number for which the insurance was obtained.

JJ. California Outcomes Measurement System (CalOMS) for Treatment (CalOMS Tx) and for Prevention (CalOMS Pv).

1. The Contractor shall:

- (a) Conduct information technology (IT) systems testing and pass State certification testing before commencing submission of CalOMS Tx data. If the Contractor subcontracts with vendor for IT services, Contractor is responsible for ensuring that the subcontracted IT system is tested and certified by the State prior to submitting CalOMS Tx data. If contractor changes or modifies the CalOMS Tx IT system, then contractor shall re-test and pass state certification prior to submitting data from new or modified system. Contractor must comply with **DHCSADP** compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and report method.
- (d) Meet the requirements in the Privacy, Confidentiality and Information Security Provisions as outlined in Document ~~3K~~ **Exhibit G** (as identified in Exhibit C).

Standard Agreement Attachment for Counties

Contract Changes for Fiscal Year ~~2013-14~~ 2012-13

2. The following business rules for the electronic submission of CalOMS Tx and CalOMS Pv data are:
 - (a) Prevention service/activity data is to be reported via CalOMS Pv by all funded primary prevention providers. Services are to be reported by the date of occurrence on a ~~monthly~~ weekly basis. No more than one week's data shall be aggregated into one reported service.
 - (c) Reporting progress on prevention goals and objectives via the Evaluation Module within CalOMS Pv shall be done on an annual basis. This information is due no later than ~~August 31~~ **September 30** of each fiscal year.

KK. Drug and Treatment Access Report (DATAR)

1. The Contractor shall:

- (c) Ensure that all applicable providers are enrolled in the State's web-based DATARWeb program for submission of data, accessible on the **DHCSADP** website.

OO. Counselor Certification

Any individual providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in an **DHCSADP** licensed or certified program is required to be certified as defined in Title 9, CCR, Division 4, Chapter 8. (Document 3H)

VV. Participation of County Alcohol and Drug Program Administrators Association of California (CADPAAC) Members

Pursuant to HSC Section 11801(g), the alcohol and drug program administrator shall participate and represent the county in meetings of the CADPAAC for the purposes of representing the counties in their relationship with the state with respect to policies, standards, and administration for alcohol and other drug abuse services.

Pursuant to HSC Section 11811.5(c), the county alcohol and drug program administrator shall attend any special meetings called by the Director of **DHCSADP**.

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EXHIBIT C - NON DRUG MEDICAL SUBSTANCE ABUSE TREATMENT SERVICES AND FUNDING CONDITIONS

EXHIBIT C - ARTICLE I. FORMATION AND PURPOSE

B. Control Requirements

4. This Contract is subject to any additional restrictions, limitations, or conditions enacted by the federal or state government that affect **governments that affect** the provisions, terms, or funding of this Contract in any manner.
5. Documents 1C, 1D(a), and 1D(b), incorporated by this reference, contain additional requirements that shall be adhered to by those Contractors that receive the types of funds specified by each document. These exhibits and documents are:
 - (a) ~~Exhibit A1;~~
 - (ab)** Document 1C, Driving-Under-the-Influence Program Requirements;
 - (be)** Document 1D(a), Services to California Department of Corrections and Rehabilitation (CDCR) - Parolee Services Network (PSN); and,
 - (cd)** Document 1D(b), SAPT Female Offender Treatment Project (FOTP).
6. Contractor shall comply with the requirements contained in Document 1F(a), incorporated by this reference, "Reporting Requirement Matrix" – County Submission Requirements for the ~~Department of Alcohol and Drug Programs and the Department of Health Care Services.~~
7. Contractor shall comply with the requirements for perinatal programs funded under Exhibit C contained in Document 1G, incorporated by this reference, "Perinatal Services Network Guidelines ~~201409~~" until such time new Perinatal Services Network Guidelines are established and adopted. No formal amendment of this contract is required for new guidelines to apply.

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C. Contract Negotiation

Contract negotiations may be conducted between the Contractor and the State through their authorized representative(s) each year of the multi-year contract period. Negotiations may be conducted at **DHCS** ADP, 1700 K Street, Sacramento, California, 95811 once during the multi-year contract period. In the alternative, negotiations may be conducted by correspondence.

EXHIBIT C - ARTICLE II. DEFINITIONS

A. The words and terms of this Contract are intended to have their usual meanings unless a particular or more limited meaning is associated with their usage pursuant to Division 10.5 of HSC, Section 11750 et seq., and Title 9, CCR, Section 9000 et seq.

3. **"County Realignment Funds"** means the Behavioral Health Subaccount funds received by the county as per the California Code Section 30025. ~~funds received by the county based on FY 2012-13 State Budget and accompanying law (Chapter 40, Statutes of 2012). In FY 2012-13, the Local Revenue Fund for county realignment funding was modified. Senate Bill 1020, Chapter 40, Statutes of 2012 amended the California Government Code Section 30025 to redefine Local Revenue Fund accounts and the placement of substance use disorder services funding. The Health and Human Services Account as established in FY 2011-12 was abolished September 30, 2012. The Behavioral Health Subaccount, which contains funding for substance use disorder services, was created within the Support Services Account.~~

4. ~~"Fiscal Year 2011-12 Unexpended County Realignment Funds" means funds issued as part of the FY 2011-12 State Budget and accompanying law (Chapter 40, Statutes of 2011 [Assembly Bill (AB) 118] and Chapter 13, Statutes of 2011, First Extraordinary Session [ABX1-16], that were not expended for Fiscal Year 2011-12 services. These funds shall be transferred into the Behavioral Health Subaccount for the use on the following mental health and substance use disorder services: Drug Medi-Cal, Drug Courts, Women and Children's Residential Treatment Services; non Drug Medi-Cal; Medi-Cal Mental Health Managed Care; and Early Periodic Screening, Diagnosis and Treatment.~~

45. "Dedicated Capacity" means the historically calculated service capacity, by modality, adjusted for the projected expansion or reduction in services, which the Contractor agrees to make available to provide non-Drug Medi-Cal substance use disorder services to persons eligible for Contractor services.

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56. **"Encumbered Amount"** means the amount reflected on the Standard Agreement of this Contract and supported by the Exhibit A1.
67. **"Final Allocation"** means the amount of funds identified in the last allocation letter issued by State for the current fiscal year.
78. **"Final Settlement"** means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for interim settlement by the State. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.
89. **"Interim Settlement"** means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.
940. **"Modality"** means those necessary overall general service activities to provide alcohol and/or drug prevention or treatment that conform to the services described in Division 10.5 of the HSC.
1044. **"Non-Drug Medi-Cal" amount** means the contracted amount of SAPT Block Grant funds and Parolee Services Network funds for services agreed to by the State and the Contractor.
1142. **"Performance"** means providing the dedicated capacity in accordance with Exhibit A1 and abiding by the terms of Exhibits B and C of this Contract, including all applicable state and federal statutes, regulations, and standards, including Alcohol and/or Other Drug Certification Standards (Document 1P), in expending funds for the provision of alcohol and drug services hereunder.
1243. **"Preliminary Settlement"** means the settlement of only SAPT funding for counties that do include Drug Medi-Cal funding.
1344. **"Revenue"** means Contractor's income from sources other than the State allocation ~~and the required county match.~~
1445. **"Service Element"** is the specific type of service performed within the more general service modalities. A list of the service modalities and service elements and service elements codes is incorporated into this Contract as Document 1H(a) "Service Code Descriptions," and Document 1H(b), "Program Code Listing."
1546. **"State"** means the California Department of Health Care Services ~~Alcohol and Drug Programs.~~

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1617. "Unit of Service" means the type of unit used to quantify the service modalities/elements in the dedicated capacity reports. The units of services are listed below:

Support Services	staff hours
Primary Prevention Services	N/A
Secondary Prevention Services	staff hours
Nonresidential Services (Outpatient and Aftercare)	staff hours
Intensive Outpatient Services (Day Care Rehabilitative)	visit days
Residential Treatment Services	bed days
Narcotic Treatment Program	
Inpatient Detoxification	bed days
Outpatient Detoxification	slot days
Narcotic Replacement Therapy Methadone	slot days
Ancillary Services	staff hours
Driving Under-the-Influence	persons served

1748. "Utilization" means the total actual units of service used by clients and participants.

EXHIBIT C - ARTICLE III. FISCAL PROVISIONS

E. Contractor Monitoring Requirements

3. Contractor shall be responsible for any disallowance taken by the Federal Government, the State, or the **California State Auditor** Bureau of State Audits, as a result of any audit exception that is related to the Contractor's responsibilities herein. Contractor shall not use funds administered by the State to repay one federal funding source with funds provided by another federal funding source, to repay federal funds with state funds, or to repay state funds with federal funds. State shall invoice Contractor 60 days after issuing the final audit report or upon resolution of an audit appeal. Contractor agrees to develop and implement any corrective action plans in a manner acceptable to State in order to comply with recommendations contained in any audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by the State within one year from the date of the plan.

If differences cannot be resolved between the State and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit C, Contractor may request an appeal in accordance with the

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appeal process described in Document ~~1J~~(1J)(a), "Non-DMC Audit Appeal Process," incorporated by this reference. When a financial audit is conducted by the Federal Government, the State, or the California State Auditor ~~Bureau of State Audits~~ directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which its Subcontractors may file an audit appeal via the Contractor.

EXHIBIT C - ARTICLE V. REPORTING REQUIREMENTS

A. Financial Reports

2. Contractor shall submit timely the Quarterly Federal Financial Management Report (QFFMR) and end-of-year cost data in the form of year-end cost settlement reports, including Document 2P, "County Certification Cost Report Year-End Claim for Reimbursement" with the original signature of the Contractor's authorized designee in accordance with Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the ~~Department of Alcohol and Drug Programs and the Department of Health Care Services.~~"

B. Additional Reports

Document 1K: Drug and Alcohol Treatment Access Report (DATAR) records in an electronic format as provided and/or approved by the State, and which complies with DHCS ~~ADP~~ compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method. The format for submission shall be limited to electronic format only.

Document 3J: CalOMS Treatment Data Collection Guide – Submit CalOMS Treatment admission, discharge, annual update, resubmission and "provider no activity report" records in an electronic format approved by the State, which complies with DHCS ~~ADP~~ compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and report method. When contractor obtains a new software vendor or when there are changes to the Contractor's CalOMS Treatment software, or changes to Contractors vendors CalOMS Treatment software,

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~~DHCS's~~ADP's Information **Technology Services** Management Services Division must be contacted and re-certification and testing of the new or changed software must be completed before Contractor can submit data.

2. Contractor agrees that it shall submit all data requested pursuant to Article V in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."

3. Charitable Choice

Contractor shall submit annually the total number of referrals necessitated by religious objection to other alternative substance abuse providers. This information must be submitted to ~~DHCS~~ADP in a format prescribed by ~~DHCS~~ADP and at time required by ~~DHCS~~ADP.

EXHIBIT C - ARTICLE VI. GENERAL PROVISIONS

A. Records

3. Accounting records and supporting documents shall be retained for a three-year period from the date the year-end cost settlement report was approved by the State for interim settlement. When an audit by the Federal Government, the State, or the ~~California State Auditor~~Bureau of State Audits has been started before the expiration of the three-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 three years, the interim settlement shall be considered as the final settlement.
8. In the event this Contract is terminated, Contractor shall deliver ~~all of its~~ **its entire** fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.

B. Dispute Resolution Process

2. In the event of a dispute over financial audit findings between the State and the Contractor, Contractor may appeal the audit in accordance with the "non-

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DMC Audit Appeal Process” (Document 1J(a)). When a financial audit by the Federal Government, the State, or the **California State Auditor** ~~Bureau of State Audits~~ is conducted directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor’s request, request an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.

C. Funding Limitations

Pursuant to HSC Section 11818(2)(A), Contractor shall reimburse its Subcontractors that receive a combination of Medi-Cal funding and other federal, **state**, or county realignment funding for the same service element and location based on the Subcontractor’s actual costs in accordance with Medicaid reimbursement requirements as specified in Title XIX or **Title XXI** of the Social Security Act; Title 22, and the State’s Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.

LIST OF EXHIBIT C DOCUMENTS INCORPORATED BY REFERENCE FISCAL YEAR 2013-14 ~~2012-13~~

The following documents are hereby incorporated by reference into Exhibit C and, as applicable, into Exhibit D regardless of whether or not they are actually attached to the Contract.

- Document 1F(a): Reporting Requirement Matrix – County Submission Requirements for the ~~Department of Alcohol and Drug Programs and the Department of Health Care Services~~
- Document 1G: Perinatal Services Network Guidelines ~~2014~~⁰⁹ (for Non-DMC Perinatal Programs)
<http://www.dhcs.ca.gov/individuals/Documents/PSNG2014Final21214.pdf>
- Document 1S: ~~Primary Prevention Mid Year Budget Example~~
- Document 3J: CalOMS Treatment Data Collection Guide
http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Tx_Data_Collection_Guide.pdf

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Document 3K: ~~Privacy, Confidentiality and Information Security Provisions~~

Document 3O: Quarterly Federal Financial Management Report (QFFMR) 2013-14~~2012-12~~

Document 3T ADP/DHCS Local Assistance Funding Matrix – FY 2013-14~~2012-13~~

Exhibit G: Privacy and Information Security Provisions

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EXHIBIT D - DRUG MEDI-CAL TREATMENT PROGRAM SERVICES AND FUNDING CONDITIONS

EXHIBIT D - ARTICLE I. FORMATION AND PURPOSE

- D. The objective of Exhibit D is to make substance use treatment services available to Medi-Cal beneficiaries through utilization of federal **and state** funds available pursuant to Title XIX **or Title XXI** of the Social Security Act for reimbursable covered services rendered by certified DMC providers.

EXHIBIT D - ARTICLE II. DEFINITIONS

- A. **"Administrative Costs"** means the Contractor's actual direct costs, as recorded in the Contractor's financial records and supported by source documentation, to administer the program or an activity to provide service to the DMC program. Administrative costs do not include the cost of treatment or other direct services to the beneficiary. Administrative costs may include, but are not limited to, the cost of training, program review, and activities related to billing. Administrative costs may include Contractor's overhead per the approved indirect cost rate proposal pursuant to OMB Circular A-87 **and the State Controller's Office Handbook of Cost Plan Procedures**. ~~Contractor's indirect costs shall not be distributed to Subcontractors.~~
- B. **"Authorization" is the approval process for DMC Services prior to the submission of a DMC claim.**
- C.B. **"Beneficiary"** means a person who: (a) has been determined eligible for Medi-Cal; (b) is not institutionalized; (c) has a substance-related disorder per the "Diagnostic and Statistical Manual of Mental Disorders III Revised (DSM)," and/or DSM IV criteria; and (d) meets the admission criteria to receive DMC covered services.
- D. **"Certified Provider" means a substance abuse clinic and/or satellite clinic location that has received certification to be reimbursed as a Drug Medi-Cal (DMC) clinic by the Department of Health Care Services to provide services as described in Title 22, California Code of Regulations, Section 51341.1.**
- E.G. **"Contractor"** means the county identified in the Standard Agreement or the department authorized by that county's Board of Supervisors to administer alcohol and drug programs.

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- F.D.** "Covered Services" means those DMC services authorized by Title XIX **or Title XXI** of the Social Security Act; Title 22 Section 51341.1; W&IC Section 14124.24; and California's Medicaid State Plan. ~~Covered services are Naltrexone treatment, outpatient drug-free treatment, narcotic replacement therapy, day care rehabilitative (for pregnant, postpartum, and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) beneficiaries only), and perinatal residential substance use treatment (excluding room and board).~~
- G.E.** "County" means the county in which the Contractor physically provides covered substance use treatment services.
- H.F.** "**County Realignment Funds**" means the **Behavioral Health Subaccount** funds received by the county **as per the California Government Code Section 30025**, based on ~~FY 2012-13 State Budget and accompanying law (Chapter 40, Statutes of 2012). In FY 2012-13, the Local Revenue Fund for county realignment funding was modified. Senate Bill 1020, Chapter 40, Statutes of 2012 amended the California Government Code Section 30025 to redefine Local Revenue Fund accounts and the placement of substance use disorder services funding. The Health and Human Services Account as established in FY 2011-12 was abolished on September 30, 2012. The Behavioral Health Subaccount, which contains funding for substance use disorder services was created within the Support Services Account.~~
- G.** "**Unexpended County Realignment Funding**" means funds issued as part of the ~~FY 2011-12 State Budget and accompanying law (Chapter 40, Statutes of 2011 [Assembly Bill (AB) 118] and Chapter 13, Statutes of 2011, First Extraordinary Session ABX1_16]) that were not expended for FY 2011-12 services. These funds shall be transferred into the Behavioral Health Subaccount for the use on the following mental health and substance use disorder services: Drug Medi-Cal, Drug Courts, Women and Children's Residential Treatment Services; non-Drug Medi-Cal; Medi-Cal Mental Health Managed Care; and Early and Periodic Screening, Diagnosis and Treatment.~~
- L.H.** "**Direct Provider Contract**" means a contract established between the State and a Drug Medi-Cal certified provider entered into pursuant to this Agreement for the provision of Drug Medi-Cal services.
- J.I.** "**Drug Medi-Cal Program**" means the state system wherein beneficiaries receive covered services from DMC-certified substance use treatment providers.
- K.** "**Drug Medi-Cal Certification Termination/Decertification**" means the program **is no longer certified to participate in the Drug Medi-Cal program upon the Department's issuance of a Drug Medi-Cal Certification Termination notice.**

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- L.J.** "Early and Periodic Screening, Diagnosis, and Treatment Program" means the federally mandated Medicaid benefit that entitles full-scope Medi-Cal-covered beneficiaries under 21 years of age to receive any Medicaid service necessary to correct or ameliorate a defect, mental illness, or other condition, such as a substance-related disorder, that is discovered during a health screening.
- M.K.** "Early and Periodic Screening, Diagnosis, and Treatment Program (Supplemental Service)" means the supplemental individual outpatient drug-free (ODF) counseling services provided to beneficiaries eligible for the EPSDT program. Supplemental individual ODF counseling consists of any necessary individual AOD counseling not otherwise included in the ODF counseling modality under the DMC program.
- N.L.** "Federal Financial Participation (FFP)" means the share of federal Medicaid funds for reimbursement of DMC services.
- O.M.** "Final Settlement" means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for interim settlement by the State. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.
- P.N.** "Interim Settlement" means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.
- Q.O.** "Medical Necessity" means those substance use treatment services that are reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain through the diagnosis and treatment of a disease, illness, or injury or, in the case of EPSDT, services that meet the criteria specified in Title 22, Sections 51303 and 51340.1.
- R.P.** "Minor Consent DMC Services" are those covered services that, pursuant to Family Code Section 6929, may be provided to persons 12-20 years old without parental consent.
- S.Q.** "Narcotic Treatment Program (NTP)" means an outpatient clinic licensed by the State to provide narcotic replacement therapy using methadone directed at stabilization and rehabilitation of persons who are opiate-addicted and have a substance use diagnosis.
- T.** "Payment Suspension" means the Drug Medi-Cal certified provider has been issued a notice pursuant to W&IC 14107.11 and is not authorized to receive payments for DMC services, regardless of when the service was provided.

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- U.R. **"Perinatal DMC Services"** means covered services as well as mother/child habilitative and rehabilitative services; services access (i.e., provision or arrangement of transportation to and from medically necessary treatment); education to reduce harmful effects of alcohol and drugs on the mother and fetus or infant; and coordination of ancillary services (Title 22, Section 51341.1(c) 4).
- V.S. **"Postpartum"**, as defined for DMC purposes, means the 60-day period beginning on the last day of pregnancy, regardless of whether other conditions of eligibility are met. Eligibility shall end on the last day of the calendar month in which the 60th day occurs.
- W.T. **"Postservice Postpayment (PSPP) Utilization Review"** means the review for program compliance and medical necessity conducted by the State after service was rendered and paid. State may recover prior payments of Federal funds if such review determines that the services did not comply with the applicable statutes, regulations, or standards.
- X.U. **"Projected Units of Service"** means the number of reimbursable DMC units of service, based on historical data and current capacity, the Contractor expects to provide on an annual basis.
- V. ~~**"Protected Population"** means: (1) EPSDT-eligible Medi-Cal beneficiaries under age 21; and (2) Medi-Cal-eligible pregnant and postpartum women.~~
- Y.W. **"Provider of DMC Services"** means any person or entity that provides direct substance use treatment services and has been certified by State as meeting the standards for participation in the DMC program set forth in the "DMC Certification Standards for Substance Abuse Clinics", Document 2E and "Standards for Drug Treatment Programs (October 21, 1981)", Document 2F.
- Z. **"Re-Certification" means the process by which the certified clinic and/or satellite program is required to submit an application and specified documentation, as determined by DHCS, to remain eligible to participate in the and be reimbursed in through the Drug Medi-Cal program. Recertification shall occur no less than every five years from date of previous Drug Medi-Cal certification or re-certification.**
- AA.X. **"Satellite Site"** has the same meaning as defined in the Drug Medi-Cal Certification Standards for Substance Abuse Clinics.
- BB.Y. **"Service Area"** means the geographical area under Contractor's jurisdiction.
- CC.Z. ~~**"State"** means the Department of Alcohol and Drug Programs and/or the Department of Health Care Services.~~

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DD.AA “**Statewide Maximum Allowances (SMA)**” means the maximum amount authorized to be paid by DMC for each covered unit of service for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. While the rate are approved by the State, they are subject to change through the regulation process. The SMA for FY ~~2013-14~~ 2012-13 is listed in the “Unit of Service” table in this Article II, Section **HH**Y.

EE.BB “**Subcontract**” means an agreement between the Contractor and its Subcontractors. A Subcontractor shall not delegate its obligation to provide covered services or otherwise subcontract for the provision of direct patient/client services.

FF.CC “**Subcontractor**” means an individual or entity that is DMC certified and has entered into an agreement with the Contractor to be a provider of covered services. It may also mean a vendor who has entered into a procurement agreement with the Contractor to provide any of the administrative functions related to fulfilling the Contractor’s obligations under the terms of this Exhibit D.

GG.DD “**Uniform Statewide Daily Reimbursement (USDR) Rate**” means the rate for NTP services based on a unit of service that is a daily treatment service provided pursuant to Title 22, Sections 51341.1 and 51516.1 and Title 9, commencing with Section 10000 (Document 3G), or the rate for individual or group counseling. The following table shows the Fiscal Year (FY) ~~2013-14~~ 2012-13 USDR rates.

Service	Type of Unit of Service (UOS)	Non-perinatal (Regular) Rate Per UOS (*)	Perinatal Rate Per UOS (*)
NTP-Methadone Dosing	Daily	\$11. 49 97 \$1.0 49 (*)	\$ 12.57 13.05 \$1.1 49 (*)
NTP-Individual Counseling (**)	One 10-minute increment	\$14. 46 24 \$1. 33 34 (*)	\$20. 70 39 \$1.86 (*)
NTP Group Counseling (**)	One 10-minute increment	\$3. 27 36 \$0.3 04 (*)	\$6. 91 84 \$0. 63 62 (*)

(**) The NTP Subcontractors may be reimbursed for up to 200 minutes (20 10-minute increments) of individual and/or group counseling per calendar month per beneficiary. **Effective January 1, 2014, if medical necessity is met that requires additional NTP counseling beyond 200 minutes per calendar month, NTP subcontractors may bill and be reimbursed for additional counseling (in 10 minute increments). Medical justification for the additional counseling must be clearly documented in the patient record.**

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HH.EE"Unit of Service" means a face-to-face contact on a calendar day for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. Only one face-to-face service contact per day is covered by DMC except in the case of emergencies when an additional face-to-face contact may be covered for intake crisis intervention or collateral service. To count as a unit of service, the second contact shall not duplicate the services provided on the first contact, and each contact shall be clearly documented in the beneficiary's record. While the rates are approved by the State, they are subject to change through the regulation process. Units of service and SMA for FY 2013-14~~12-13~~ are identified in the following table.

Service	Type of Unit of Service (UOS)	Non-Perinatal (Regular) Rate Per UOS	Perinatal Rate Per UOS
<u>Intensive Outpatient Treatment</u> Day Care Rehabilitative <u>Effective January 1, 2014. Intensive Outpatient Treatment (see Article III.A.2)</u>	Face-to-Face Visit	\$62.15 (*) 65.38 (for EPSDT only or pregnant/postpartum)	\$79.39 78.23
Naltrexone Treatment	Face-to-Face Visit	\$19.07	NA
Outpatient Drug Free	Face-to Face Visit – Individual (per person)	\$72.32 71.25	\$103.52 101.99
	Face-to-Face Visit – Group (per person)	\$29.39 30.28	\$62.24 61.33
<u>Perinatal Residential Effective January 1, 2014, Residential Treatment</u>	Daily – Residential Day	N/A \$97.72	\$97.72 96.28

(*) Services provided December 31, 2013 and prior are only reimbursable for EPSDT only and pregnant/postpartum women.

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EXHIBIT D - ARTICLE III. PROVISION OF SERVICE

A. Covered Services

1. Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area. Covered services include:
 - (d) Day care rehabilitative (pregnant or postpartum, and EPSDT only for service dates of December 31, 2013 and prior); and,
- 2. Effective January 1, 2014, Day Care Rehabilitative services is renamed to Intensive Outpatient Treatment, consistent with California's Medicaid State Plan Amendment #13-038. Effective January 1, 2014, these services are available to the general population and is not restricted to just the EPSDT only or pregnant / postpartum population.**
- 3.2.** In the event of a conflict between the definition of services contained in this Exhibit D and the definition of services in Title 22, Sections 51341.1, 51490.1, and 51516.1, the provisions of Title 22 shall govern.

B. Federal and State Mandates

- 1. Effective the date of execution of the amended 2013-2014 State-County DMC Contract, nothing in this Contract waives the protections provided to Contractor under section 36 of article XIII of the California Constitution ("Proposition 30"). Except where specifically stated in the terms of this contract. Contractor's performance of any additional legal requirements, including, but not limited to, court-ordered requirements and statutory or regulatory amendments, is subject to Proposition 30's funding requirements.**
- 2.4.** Contractor, to the extent applicable, shall comply with "Sobky v. Smoley" (Document 2A), 855 F. Supp. 1123 (E.D. Cal 1994), incorporated by this reference.
- ~~2. Contractor shall comply with any additional legal requirements including, but not limited to, any court-ordered requirements and statutory or regulatory amendments to existing law (including changes in covered services) that are imposed or are effective subsequent to the execution of this Contract. Contractor agrees that this Contract shall be amended to reflect such requirements, amendments, or changes.~~

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

(b) The contractor shall authorize residential services in accordance with the medical necessity criteria specified in Title 22, Section 51303 and the coverage provisions of the approved state Medi-Cal Plan. Room and board are not reimbursable DMC service. If services are denied, the provider shall inform the beneficiary in accordance with Title 22, Section 51341.1 (p).

- (c)(b)** Contractor shall submit, and shall require its Subcontractors to submit, client data required by the State. The information shall include, but is not limited to, data as required pursuant to the following:

Document 1K: Drug and Alcohol Treatment Access Report (DATAR) in an electronic format as provided and/or approved by the State, which complies with the Department of **Health Care Services (DHCS)** Alcohol and Drug Programs (ADP) compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method. The format for submission shall be limited to electronic format only.

Document 3J: California Outcomes Measurement System (CalOMS) Treatment records – Submit CalOMS Treatment admission, discharge, annual update, or “provider no activity report” records in an electronic format provided and/or approved by the State, which complies with **DHCS ADP** compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and report method.

When contractor obtains a new software vendor or when there are changes to the Contractor’s CalOMS Treatment software, or changes to Contractors vendors CalOMS Treatment software, **DHCS’s ADP’s Information Management Technology** Services Division must

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be contacted and re-certification and testing of the new or changed software must be completed before Contractor can submit data.

- (c) Contractor agrees that it shall submit all data requested in (a) and (b) in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F(a), "Reporting Requirement Matrix – County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services."
11. In the event that the Contractor fails to provide covered services in accordance with the provisions of this Contract, at the discretion of the State, Contractor may be required to forfeit its county realignment funds **pursuant to Government Code section 30027.10 (a) through (d)**, from the Behavioral Health Subaccount that is set aside for Drug Medi-Cal services and surrender its authority to function as the administrator of covered services in its service area.
12. The failure of the Contractor or its Subcontractors to comply with Section B of this Article will be deemed a breach of this Contract sufficient to terminate this Contract for cause. In the event the Contract is terminated, the provision of Exhibit B, Paragraph G, subsections ~~2, 3, and 4~~ shall apply.
- 13. The Contractor shall provide assurance to the State that all deficiencies findings from the monitoring and utilization visits have been resolved. If stated in the contract between the Contractor and the Subcontractor, the Contractor had the authority to withhold Drug Medi-Cal payment as a result of (1) noncompliance actions, (2) failure to timely submit Corrective Action Plan, (3) or failure to correct deficiencies.**
- 14. Contractor is responsible to conduct oversight through a system of monitoring, utilization review and fiscal and programmatic controls of their contracted DMC network of providers and services. The contractor system of oversight shall ensure:**
- a. **Compliance with state and federal law and requirements;**
 - b. **All county DMC audit /monitoring reports are shared with the state; and**
 - c. **DMC claims submitted to the state have been subject to review and verification process for accuracy and legitimacy. (42.CFR 430.30, 433.32, 433.51)**

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C. Provider Participation, Certification, Recertification, and Appeals

1. State will review and certify eligible providers to participate in the DMC program. ~~Certification agreements will not be time-limited.~~ **Certified providers are limited to five years and subject to re-certification process.** State will conduct recertification on-site visits at clinics for circumstances identified in the "Drug Medi-Cal Certification Standards for Substance Abuse Clinics", (Document 2E). Document 2E contains the appeal process in the event the State disapproves a provider's request for certification or recertification and shall be included in the Contractor's subcontracts.

EXHIBIT D - ARTICLE IV. FISCAL PROVISIONS

B. Return of Unexpended Funds

Contractor assumes the total cost of providing covered services on the basis of the payments delineated in this Exhibit D. Any federal Medicaid funds **and State General Funds** paid to the Contractor, but not expended for DMC services shall be returned to the State.

G. Payment for Covered Services

Any payment for covered services rendered pursuant to this Exhibit D shall only be made pursuant to applicable provisions of Title XIX **or Title XXI** of the Social Security Act; the W&IC; the HSC; California's Medicaid State Plan; and Sections 51341.1, 51490.1, 51516.1, and 51532 of Title 22.

2. Pursuant to HSC Section 11818(2)(A), Contractor shall reimburse providers that receive a combination of Medi-Cal funding and other federal funding for the same service element and location based on the provider's actual costs in accordance with Medi-Cal reimbursement requirements as specified in Title XIX **or Title XXI** of the Social Security Act; Title 22, and the state's Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.
3. **Claims submitted to the contractor by a sub-contracted provider that is not certified or whose certification has been suspended pursuant to the Welfare and Institutions Code section 14107.11, Code of Federal Regulations, Title 42, section 455.23 shall not be certified or processed for federal or state reimbursement by the contractor. Payments for any DMC services shall be held by the Contractor until the payment suspension is resolved.**

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I. Records and Additional Audit Requirements

3. Accounting records and supporting documents shall be retained for a three-year period from the date the year-end cost settlement report was approved by the State for interim settlement. When an audit by the Federal Government, the State, or the **California State Auditor** ~~Bureau of State Audits~~ has been started before the expiration of the three-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 three years, the interim settlement shall be considered as the final settlement.
7. Contractor shall be responsible for any disallowances taken by the Federal Government, the State, or the **California State Auditor** ~~Bureau of State Audits~~ as a result of any audit exception that is related to its responsibilities. Contractor shall not use funds administered by the State to repay one federal funding source with funds provided by another federal funding source, or to repay federal funds with state funds, or to repay state funds with federal funds
10. If differences cannot be resolved between the State and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit D, Contractor may request an appeal in accordance with the appeal process described in the "DMC Audit Appeal Process," Document 1J(b), incorporated by this reference. When a financial audit is conducted by the Federal Government, the State, or the **California State Auditor** ~~Bureau of State Audits~~ directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(b). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.
- 14. If an audit or review of "Administrative Costs" results in a disallowance, any recoupment and/or appeal of any such disallowances will be subject to that of the Department of Health Care Services W&IC Section 14124.21, 14170, and 14171 appeals and recoupment process and not that of the Stae Controller's Office.**

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J. Direct Provider Contracts

The State will invoice the Contractor for the county realignment share of approved DMC claims received by the State from the State's subcontractor. Contractor shall reimburse the State for the county realignment share of the approved DMC claims within 30 days of receipt of the invoice. If Contractor does not reimburse the State within 30 days of receipt of the invoice, the State may offset the amount owed from any other funding owed to Contractor by the State ~~or any other State agency~~. The parties acknowledge that the State's subcontractor shall be responsible for repayment of any disallowed claims. However, in no event shall the State be liable for Medicaid reimbursement for any disallowed claims

EXHIBIT D - ARTICLE V. INVOICE/CLAIM AND PAYMENT PROCEDURES

A. Payments

1. State shall reimburse the Contractor:

(a) **State General Funds and** the federal Medicaid amount of the approved DMC claims and documents submitted in accordance with Article V of Section B, below:

(b) **State General Funds and** the federal Medicaid share:

1. At either the USDR or the provider's usual or customary charge to the general public for NTP's; or,
2. At a rate that is lesser of the projected cost or the maximum rate allowance for other DMC modalities.

B. Drug Medi-Cal Claims and Reports

1. Contractors or providers that bill the State or the County for services identified in Section 51516.1 of Title 22 shall submit claims in accordance with the DMC Provider Billing manual. **Contractor shall certify the public expenditure was made prior to submitting a claim for reimbursement.** ~~Contractor shall submit the "Certified Public Expenditure" form at the time of submitting the electronic Drug Medi-Cal claim, 42 CFR Section 433.51.~~

(b) Contractor shall submit to the state ~~the~~ **a Drug Medi-Cal Certification Form for Federal Reimbursement** (ADP 100224)-(Document 4D) developed by ADP **certifying the public expenditure** for each claim file submitted for reimbursement of the Medicaid funds, **42 CFR Section 433.51.**

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EXHIBIT D - ARTICLE VI. POSTSERVICE POSTPAYMENT UTILIZATION REVIEW

- B. State shall take appropriate steps in accordance with Title 22, CCR, 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, and/or shall take the corrective action as appropriate.

Contractor and/or Subcontractor may appeal DMC dispositions concerning demands for recovery of payment and/or programmatic deficiencies of specific claims. Such appeals shall be handled pursuant to Title 22, CCR, Section 51015. This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of the State pursuant to Article IV, **Section** ~~Division~~ I, of this Contract.

LIST OF EXHIBIT D DOCUMENTS INCORPORATED BY REFERENCE*
FISCAL YEAR 13-14 ~~12-13~~

Document 3J: CalOMS Treatment Data Collection Guide

[http://www.adp.ca.gov/CalOMS/pdf/CalOMS Tx Data Collection Guide.pdf](http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Tx_Data_Collection_Guide.pdf)

Document 3K: ~~Privacy, Confidentiality and Information Security Provisions~~

Exhibit G: Privacy and Information Security Provisions

GENERAL TERMS AND CONDITIONS

A. Contract Exhibits

This Contract between the Department of Health Care Services (DHCS) and the county named in the Standard Agreement attached hereto (Contractor) consists of the Standard Agreement; Exhibit A1 listing DHCS's allocated funding sources; Exhibit B, entitled "General Terms and Conditions," which contains Contract provisions applicable to all of the Contractors; Exhibit C, entitled "Non-Drug Medi-Cal Substance Abuse Treatment Services and Funding Conditions" which defines the rights and obligations of the parties regarding non-Drug Medi-Cal; and Exhibit D, entitled "Drug Medi-Cal Treatment Program and Funding Conditions" which defines the rights and obligations of the parties regarding Medicaid/Medi-Cal funds, as expended through the Drug Medi-Cal (DMC) Treatment Program.

B. Contract Term

The term of this Contract shall be from July 1, 2010, through June 30, 2014. Except as provided in Exhibit C, Article III, Sections G and H, the expenditure period for the funds available hereunder shall be as stated on the Exhibit A1. The State is under no obligation to extend or renew this Contract.

C. Nullification of Exhibit D (if applicable)

The parties agree that if the Contractor fails to comply with the provisions of Welfare and Institutions Code (W&I) Section 14124.24, Exhibit D shall be null and void and severed from the remainder of this Contract.

In the event Exhibit D becomes null and void, an updated Exhibit A1 will take effect reflecting the removal of federal Medicaid funds from this Contract. Exhibit C of this Contract will remain in effect until amended or terminated.

D. Unenforceable Provisions

In the event any provision of this Contract is held invalid or unenforceable by any court of competent jurisdiction, the holding will not invalidate or render unenforceable any other provision hereof.

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E. Use of State Funds

1. Contractor may not use SGF DMC funds allocated pursuant to Exhibit D to pay for any non-DMC services.
2. State General Fund (SGF) provided by the State California Department of Corrections and Rehabilitation (CDCR) through an interagency agreement with DHCS shall be subject to specific expenditure requirements as stated in the "Services to California Department of Corrections and Rehabilitation Parolee Services Network," as identified in Document 1D(a) of Exhibit C, which is incorporated by this reference.

F. Contract Amendments

1. Both the Contractor and the State may agree to amend or renegotiate the Contract.
2. Contract amendments will be required to change encumbered amounts for each year of a multi-year contract period, of which the first amendment will be based on the Governor's Budget Act allocation of that specific fiscal year. The signed contract from the Contractor will be due to the Department of Health Care Services within 90 days from the issuance to the County. If the signed Contract from the Contractor is not received within 90 days from the issuance to the County, DHCS may withhold all non-DMC payments under Exhibit C of this Contract until the required amendment is received by the State.
3. Contract amendments may be requested by the Contractor until May 1 of each of the contract's fiscal years. An amendment proposed by either the Contractor or the State shall be forwarded in writing to the other party.
 - (a) The proposed amendment submitted by Contractor shall include the proposed changes, and a statement of the reason and basis for the proposed change.
 - (b) Amendments shall be duly approved by the County Board of Supervisors or its authorized designee, and signed by a duly authorized representative.
4. No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.

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5. Contractor acknowledges that any newly allocated funds that are in excess of the initial amount for each fiscal year may be forfeited if DHCS does not receive a fully executable contract amendment on or before June 30, 2014.

G. Termination

1. This Contract may be terminated by either party by delivering written notice of termination to the other party at least 30 days prior to the effective date of termination. The notice shall state the effective date of and reason for the termination. In the event of changes in law that affect provisions of this Contract, the parties agree to amend the affected provisions to conform to the changes in law retroactive to the effective date of such changes in law. The parties further agree that the terms of this Contract are severable and in the event that changes in law render provisions of the Contract void, the unaffected provisions and obligations of this Contract will remain in full force and effect.
2. State may terminate this Contract immediately for cause. The term “for cause” means that the Contractor failed to meet the terms, conditions, and/or responsibilities of the Contract. State shall provide the Contractor with written notice of the termination, including the effective date and reason for the termination. The termination of the Contract shall be effective as of the date indicated in the written notice.
3. The following additional provisions regarding termination apply only to Exhibit D of this Contract:
 - (a) In the event the federal Department of Health and Human Services (hereinafter referred to as DHHS), or State determines Contractor does not meet the requirements for participation in the DMC Treatment Program, State will terminate payments for services provided pursuant to Exhibit D of this Contract for cause.
 - (b) All obligations to provide covered services under this Contract will automatically terminate on the effective date of any termination of this Contract. Contractor will be responsible for providing or arranging for covered services to beneficiaries until the effective date of termination or expiration of the Contract.

Contractor will remain liable for processing and paying invoices and statements for covered services and utilization review requirements prior to the expiration or termination until all obligations have been met.

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(c) In the event Exhibit D of this Contract is nullified, Contractor shall refer DMC clients to providers who are certified to provide the type(s) of services the client has been receiving.

4. In the event this Contract is terminated, Contractor shall deliver its entire fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.

H. Audit

1. In addition to the audit requirements in Exhibits C and D, this Contract, and any Subcontracts, shall be subject to the examination and audit by the California State Auditor for a period of three years from the date that final payment is made pursuant to the Contract (Government Code, Section 8546.7).

2. Contractor agrees that the State, the Comptroller General of the United States, and any authorized representatives have the right to review, obtain, and copy all records pertaining to the performance of this Contract. Contractor agrees to provide the State with any and all relevant information requested.

3. All expenditures of county realignment funds, state and federal funds furnished to the Contractor and its Subcontractors pursuant to this Contract are subject to audit by the State. Such audits shall consider and build upon external independent audits performed pursuant to audit requirements of the Office of Management and Budget (OMB) Circular A-133 (Revised June 27, 2003). Objectives of such audits may include, but not be limited to, the following:

(a) To determine whether units of service claimed/reported are properly documented by service records and accurately accumulated for claiming/reporting;

(b) To validate data reported by the Contractor for prospective contract negotiations;

(c) To provide technical assistance in addressing current year activities and providing recommendations on internal controls, accounting procedures, financial records, and compliance with laws and regulations;

(d) To determine the cost of services, net of related patient and participant fees, third-party payments, and other related revenues and funds;

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- (e) To determine that expenditures are made in accordance with applicable state and federal laws and regulations and contract requirements; and/or,
 - (f) To determine the facts in relation to analysis of data, complaints, or allegations, which may be indicative of fraud, abuse, willful misrepresentation, or failure to achieve the Contract objectives of Exhibit C or Exhibit D.
4. Contractor shall comply, and shall require that its Subcontractors comply, with all terms and conditions of this Contract and all pertinent state and federal statutes and regulations. Contractor and its Subcontractors shall permit the State, DHHS, Comptroller General of the United States, or other authorized state or federal agencies and representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract. Contractor shall allow the State, DHHS, the Comptroller General of the United States, and other authorized state or federal agencies and representatives to review and copy any and all books and records maintained by the Contractor and its Subcontractors related to these services at any time during normal business hours. Unannounced visits may be made at the discretion of the State. Employees who might reasonably have information related to such records may be interviewed.
5. The refusal of the Contractor or its Subcontractors to permit access to and inspection of electronic or print books and records, physical facilities, and/or refusal to permit interviews with employees, as described in this part constitutes an express and immediate material breach of this Contract and will be sufficient basis to terminate the Contract for cause or default.
- I. **Debarment and Suspension Certification**
- 1. By signing this agreement, Contractor agrees to comply with federal suspension and debarment regulations found in 45 CFR Part 76. "Debarred" means excluded or disqualified from contracting with the federal, State or local government.
 - 2. By signing this agreement, Contractor certifies to the best of his or her knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - (b) Will include a clause entitled, "Debarment and Suspension

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Certification" that essentially sets forth the provisions herein, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

3. If the Contractor is unable to certify to any statements in this certification, Contractor shall submit an explanation to the State.
4. If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal Government, State may terminate this contract for cause or default.

J. Lobbying and Restrictions and Disclosure Certification

Applicable to any federally funded grant or contract in excess of \$100,000 per Title 31, USC, Section 1352 and 45 CFR Part 93:

1. Certification and Disclosure Requirements
 - (a) Each person (or recipient) who requests or receives a contract, subcontract, grant, or sub grant, which is subject to Title 31, USC, Section 1352, and which exceeds \$100,000 at any tier, shall file a certification (in the form set forth in Exhibit C, Document 1W, consisting of one page, entitled "Certification Regarding Lobbying") that the recipient has not made, and will not make, any payment prohibited by Paragraph 2 of this provision.
 - (b) Each recipient shall file a disclosure (in the form set forth in Exhibit C, Document 1X, entitled "Disclosure of Lobbying Activities - Standard Form – LLL") if any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence any officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant.
 - (c) Each recipient shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.
 - (d) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph 1(b) of this provision herein. An event that materially affects the accuracy

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of the information reported includes:

- i A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
- ii A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action;
- iii A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action;
- iv Each person (or recipient) who requests or receives from a person referred to in Paragraph 1(a) of this provision a contract, subcontract, grant or sub grant exceeding \$100,000 at any tier under a contract or grant shall file a certification, and a disclosure form, if required, to the next tier above; and,
- v All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph 1(a) of this provision. That person shall forward all disclosure forms to the DHCS program contract manager.

2. Prohibition

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

K. Restrictions on Grantee Lobbying – Appropriations Act Section 503

- 1. No part of any appropriation contained in this Act shall be used, other than for formal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself or any State legislature, except

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in presentation to the Congress or any State legislative body itself.

2. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

L. Hatch Act

Contractor agrees to comply with the provisions of the Hatch Act (Title 5 USC, Sections 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

M. Restrictions on Salaries

Contractor agrees that no part of any federal funds provided under this Contract shall be used by the Contractor or its Subcontractors to pay the salary and wages of an individual at a rate in excess of Level I of the Executive Schedule. Salary and wages schedules may be found at <http://www.opm.gov/oca>. SAPT Block Grant funds used to pay a salary in excess of the rate of basic pay for Level I of the Executive Schedule shall be subject to disallowance. The amount disallowed shall be determined by subtracting the individual's actual salary from the Level I rate of basic pay and multiplying the result by the percentage of the individual's salary that was paid with SAPT Block Grant funds (Reference: Terms and Conditions of the SAPT Block Grant award.)

N. Child Support Compliance Act

Contractor acknowledges that it:

1. Recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the California Family Code; and,
2. To the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

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O. Union Organizing

Contractor, by signing this Agreement, hereby acknowledges the applicability of California Government Code Sections 16645 through 16649 to this Contract.

1. Contractor will not assist, promote, or deter union organizing by employees performing work on a state service contract, including a public works contract.
2. No state funds received under this Contract will be used to assist, promote, or deter union organizing.
3. Contractor will not, for any business conducted under this Contract, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing unless the state property is equally available to the general public for holding meetings.
4. If the Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and the Contractor shall provide those records to the Attorney General upon request.

P. Primary Prevention

The SAPT Block Grant regulation defines "Primary Prevention Programs" as those programs directed at "individuals who have not been determined to require treatment for substance abuse" (45 CFR 96.121). Primary Prevention includes strategies, programs and initiatives which reduce both direct and indirect adverse personal, social, health, and economic consequences resulting from problematic alcohol and other drug (AOD) availability, manufacture, distribution, promotion, sales, and use. The desired result of primary prevention is to promote safe and healthy behaviors and environments for individuals, families and communities. The Contractor shall expend not less than its allocated amount of the Substance Abuse Prevention and Treatment (SAPT) Block Grant on primary prevention as described in the SAPT Block Grant requirements (45 CFR 96.125). Inappropriate use of these funds for non-primary prevention services will require repayment of SAPT Block Grant funds.

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This contract and any subcontract shall meet data reporting requirements for capacity, process and outcome as required by federal grant requirements. In addition to the Center for Substance Abuse Prevention's (CSAP's) six strategies of Information Dissemination, Education, Alternative, Problem Identification and Referral, Community-Based Process, and Environmental, the data for the Institute of Medicine prevention categories of Universal, Selective and Indicated must be reported.

Use of the Strategic Prevention Framework (SPF) is mandatory for all counties and SPF-required data must be submitted via CalOMS Prevention as evidence of engagement and use of the practices. Adherence to the SPF by subcontractors is at the discretion of the subcontracting county.

No later than January 31 of each year, contractor shall submit a Prevention Mid-Year Budget to DHCS indicating how the SAPT Block Grant 20% Primary Prevention Set-Aside shall be spent. Examples of a Prevention Mid-Year Budget and supporting documentation can be viewed at.

<https://caprev.kithost.net/caprevent2013/pLandKB.aspx> (select Library, Fiscal - Prevention Mid-Year Budget Example for FY XX-XX).

Q. Confidentiality and Security of Information

1. Contractor agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of all confidential information that it creates, receives, maintains or transmits. Contractor will provide the State with information concerning such safeguards upon request.
2. Contractor and its Subcontractors that provide services covered by this Contract shall comply with all applicable state and federal statutes and regulations regarding confidentiality, including, but not limited to, the confidentiality and security of information requirements in the following:
 - Title 42 USC Section 290 dd-2
 - Title 42, CFR Part 2
 - Title 42, CFR Part 96, Sec. 96.132(e)
 - Title 42, USC 1320d through 1320d-8
 - Title 45, CFR Parts 160, 162, and 164 - the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules
 - W&IC, Section 14100.2, which is specific to Medi-Cal
 - Health and Safety Code (hereinafter referred to HSC), Sections 11812 and 11845.5
 - HSC Sections 123100 through 123149.5 – Patient Access to Health Records

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- Title 22, California Code of Regulations (hereinafter referred to as Title 22), Section 51009, which is specific to Medi-Cal
 - Civil Code Sections 56 through 56.37 – Confidentiality of Medical Information Act
 - Civil Code Section 1798.80 through 1798.84 – Customer Records (breach of security)
 - Civil Code Section 1798.85 – Confidentiality of Social Security Numbers
 - State Administrative Manual, Section 1600 to 1695 – Destruction of Confidential Records
3. Contractor shall monitor compliance with the above provisions on confidentiality and security and shall include them in all subcontracts.
4. Contractor shall notify the Information Security Officer, Executive Branch, of the State within twenty-four (24) hours during a work week of any suspected or actual breach of computer system security impacting persons served by the contract, if the security breach would require notification under Civil Code Section 1798.82. Contractor agrees to materially assist the State in any action pertaining to such unauthorized disclosure required by applicable Federal or state laws (Reference Exhibit G).

R. Nondiscrimination in Employment and Services

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

Federal Law Requirements:

- Titles 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.
- 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.
- Age Discrimination Act of 1975 (45 CFR Part 90), as amended (42 USC Sections 6101 - 6107), which prohibits discrimination on the basis of age.
- Age Discrimination in Employment Act (29 CFR Part 1625).
- Title I of the Americans with Disabilities Act (29 CFR Part 1630) prohibiting discrimination against the disabled in employment.
- Title II of the Americans with Disabilities Act (28 CFR Part 35) prohibiting discrimination against the disabled by public entities
- Title III of the Americans with Disabilities Act (28 CFR Part 36) regarding

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include any message on the responsible use, if the use is unlawful, of drugs or alcohol (HSC Section 11999-11999.3). By signing this Contract, Contractor agrees that it will enforce, and will require its Subcontractors to enforce, these requirements.

U. Smoking Prohibition Requirements

Contractor shall comply, and require that its Subcontractors comply, with Public Law 103-227, also known as the Pro-Children Act of 1994 (20 USC Section 6081, et seq.), and with California Labor Code Section 6404.5, the California Smoke-Free Workplace Law, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education, or library services to children under the age of 18 if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, and Children (WIC) coupons are redeemed.

V. Adherence to Computer Software Copyright Laws

Contractor certifies that it has appropriate systems and controls in place to ensure that state or federal funds available under this Contract will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws. (Reference: Executive Order D-10-99 and Department of General Services Management Memo 00-02).

W. Noncompliance with Reporting Requirements

Contractor agrees that the State has the right to withhold payments until Contractor has submitted any required data and reports to the State, as identified in Exhibit C, Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the Department of Health Care Services."

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X. Conflict of Interest

Contractor acknowledges that state laws on conflict of interest, found in the Political Reform Act, Public Contract Code Section 10365.5, and Government Code Section 1090, apply to this Contract.

Y. Disputes

Contractor shall continue to carry out its responsibilities under this Contract during any disputes.

Z. Assignment

This Contract is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written agreement.

AA. Indemnification

Contractor agrees to indemnify, defend and save harmless the Department of Health Care Services, the State of California, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Contract and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Contract.

BB. Independent Contractor

Contractor, and the agents and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers, employees, or agents of State.

CC. Timeliness

Time is of the essence in this Contract.

DD. 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).

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EE. Restriction on Distribution of Sterile Needles

No funds made available through this Contract shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

FF. Health Insurance Portability and Accountability Act (HIPAA) of 1996

All DMC claims shall be submitted in electronic HIPAA compliant format (837P) and shall be submitted through the DHCS's Information Technology Web Service (ITWS) system for adjudication in the Short-Doyle Medi-Cal System. All DMC adjudicated claim information must be retrieved by the Contractor via an 835 format (Health Care Claim Payment/Advice) from ITWS.

If any of the work performed under this Contract is subject to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), then Contractor shall perform the work in compliance with all applicable provisions of HIPAA. As identified in Exhibit G which is referenced in Exhibit C, the State 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.

1. Trading Partner Requirements

- (a) No Changes. Contractor 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 HHS Transaction Standard Regulation. (45 CFR Part 162.915 (a))
- (b) No additions. Contractor 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 Part 162.915 (b))
- (c) No Unauthorized Uses. Contractor 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 Part 162.915 (c))

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- (d) No Changes to Meaning or Intent. Contractor 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 Part 162.915 (d))

- 2. Concurrence for Test Modifications to HHS Transaction Standards. Contractor agrees and understands that there exists the possibility that the State or others may request an extension from the uses of a standard in the HHS Transaction Standards. If this occurs, Contractor agrees that it will participate in such test modifications.

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

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

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

- 6. Data Transmission Log. Both Parties shall establish and maintain a Data Transmission Log, which shall record any and all Data Transmission 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.

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GG. Procurement Rules

This section is applicable to all Contracts in which equipment, miscellaneous property, commodities and/or supplies are furnished by the State or expenses for said items are reimbursed with state or federal funds.

1. Equipment definitions

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

- (a) Major equipment: A tangible or intangible item having a base unit cost of \$5,000 or more and greater than the Contractor's or Subcontractor's capitalization level with a life expectancy of one (1) year or more and is either furnished by the State or the cost is reimbursed through this agreement. Software and videos are examples of intangible items that meet this definition. Major equipment shall be recovered only through straight line depreciation over the class life of the property, as specified in the "Table of Class Lives and Recovery Periods" in federal IRS Publication 946, "How to Depreciate Property," which is available from any office of the IRS.
- (b) Minor equipment: A tangible item having a base unit cost of less than \$5,000 and less than the Contractor's or Subcontractor's capitalization level, with a life expectancy of one (1) year or more, and is either furnished by the State or the cost is reimbursed through this Contract. Minor equipment may be reimbursed as allowable costs in the fiscal year incurred.
- (c) Miscellaneous property: A specific tangible item with a life expectancy of one (1) year or more that is either furnished by the State or the cost is reimbursed through this Contract. Examples include, but are not limited to: furniture (excluding modular furniture), cabinets, typewriters, desktop calculators, portable dictators, non-digital cameras, etc.

2. Government and public entities (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this Contract. Said procurements are subject to Paragraphs 4 through 8 of this provision. Paragraph 3 of this provision shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

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3. Nonprofit organizations and commercial businesses, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this Contract.
 - (a) Equipment purchases shall not exceed \$50,000 annually.
 - (b) All equipment purchases are subject to Paragraphs 4 through 8 of this provision. Paragraph 2 of this provision shall also apply, if equipment purchases are delegated to subcontractors that are either a government or public entity.
 - (c) Nonprofit organizations and commercial businesses shall use a procurement system that meets the following standards:
 - i Maintain a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in awarding procurement contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a procurement contract in which, to the best of their knowledge, they have a financial interest.
 - ii Procurements shall be conducted in a manner that provides, to the maximum extent practical, open, and free competition.
 - iii Procurements shall be conducted in a manner that provides for all of the following:
 - [1a] Avoid purchasing unnecessary or duplicate items.
 - [2a] Equipment solicitations shall be based upon a clear and accurate description of the technical requirements of the goods to be procured.
 - [3a] Take positive steps to utilize small and veteran owned businesses.

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4. Unless waived or otherwise stipulated in writing by the State, prior written authorization from the appropriate DHCS program contract manager will be required before the Contractor or Subcontractor may make a purchase of \$5,000 or more for commodities, supplies, equipment, and services related to such purchases. Contractor shall provide in its request for authorization all particulars necessary, as specified by the State, for evaluating the necessity or desirability of incurring such costs. The term "purchase" excludes the purchase of services from its Subcontractors and public utility services at rates established for uniform applicability to the general public.
5. In special circumstances, determined by the State (e.g., when the State has a need to monitor certain purchases, etc.), the State may require prior written authorization and/or the submission of paid vendor receipts for any purchase, regardless of dollar amount. The State reserves the right to request repayment for any Contractor and/or its Subcontractors purchase that the State determines to be unnecessary in carrying out performance under this agreement.
6. Contractor and/or its Subcontractors shall maintain a copy or narrative description of the procurement system, guidelines, rules, or regulations that will be used to make purchases under this agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Contractor and/or its Subcontractors at any time.
7. For all purchases, Contractor and/or its Subcontractors shall maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit. All records shall be sufficient to determine the reasonableness of costs incurred by the Contractor and/or its Subcontractors and must be capable of verification by qualified auditors. Justifications supporting the absence of bidding (i.e., sole source purchases) shall also be maintained on file by the Contractor and/or its Subcontractors for inspection or audit.
8. The State may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs 2 and/or 3 of this provision by giving the Contractor no less than thirty (30) calendar days written notice.

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HH. Equipment Ownership / Inventory / Disposition

This section is applicable to Contracts in which equipment and/or miscellaneous property is furnished by the State and/or when said items are purchased or reimbursed with state or federal funds. Items shall also include leased equipment, where there is an option to purchase.

1. Wherever the term equipment and/or miscellaneous property are used in this provision, the definitions in the provision for Procurement Rules, Paragraph 1 shall apply.

All equipment and/or miscellaneous property that are purchased / reimbursed with Contract funds or furnished by the State under the terms of this agreement and not fully consumed in performance of this Contract shall be considered State equipment and the property of the State.

- (a) The State requires the reporting, tagging, and annual inventorying of all equipment and/or miscellaneous property that is furnished by the State or purchased / reimbursed with funds provided through this Contract.

Upon receipt of equipment and/or miscellaneous property, Contractor shall report the receipt to the DHCS program contract manager and receive State property tags.

- (b) If the Contractor enters into an agreement with a term of more than twelve months, Contractor shall submit an annual inventory of State equipment and/or miscellaneous property to the DHCS program contract manager. Contractor shall:
 - i Include in the inventory report, equipment and/or miscellaneous property in the Contractor's possession and/or in the possession of its Subcontractor (including independent consultants).
 - ii Contact the DHCS program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy.
 - iii When replacing equipment, the equipment to be replaced shall be used as a trade-in or the equipment shall be sold and the proceeds shall be used to offset the cost of the replacement equipment. "Replacement equipment" means equipment acquired to take the place of other equipment. To qualify as

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replacement equipment, the equipment shall serve the same or similar functions as the equipment replaced and must be of the same or similar nature or character, although not necessarily the same model, grade, or quality.

2. Title to State equipment and/or miscellaneous property shall not be affected by its incorporation or attachment to any property now owned by the State.
3. Unless otherwise stipulated, in writing, the State shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractors and/or its Subcontractors' facility, which may be affected by the removal of any State equipment and/or miscellaneous property.
4. Contractor and/or its Subcontractors shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of State equipment and/or miscellaneous property.

In administering this provision, the State may require the Contractor and/or its Subcontractors to repair or replace, to the State's satisfaction, any damaged, lost or stolen state equipment and/or miscellaneous property. Should a theft occur, Contractor and/or its Subcontractors shall immediately file a theft report with the appropriate police agency or the California Highway Patrol and the Contractor shall promptly submit one copy of the theft report to the DHCS program contract manager.

5. Unless otherwise stipulated by the program funding this Contract, equipment and/or miscellaneous property purchased / reimbursed with Contract funds or furnished by the State under the terms of this Contract, shall only be used for performance of this Contract or another State Contract.
6. Within sixty (60) calendar days prior to the termination or end of this agreement, Contractor shall provide a final inventory report of equipment and/or miscellaneous property to the DHCS program contract manager and shall, at that time, query the State as to the requirements, including the manner and method, of returning State equipment and/or miscellaneous property to the State. Final disposition of equipment and/or miscellaneous property shall be at the State expense and according to the State instructions. Equipment and/or miscellaneous property disposition instructions shall be issued by the State immediately after receipt of the final inventory report. At the termination or conclusion of this agreement, the State may at its discretion, authorize the continued use of state equipment and/or miscellaneous property for performance of work under a different State agreement.

7. Motor Vehicles

This section is applicable only if motor vehicles are purchased / reimbursed with agreement funds or furnished by the State under this agreement.

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

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8. Automobile Liability Insurance

- (a) Contractor, by signing this Contract, hereby certifies that it possesses or will obtain automobile liability insurance in the amount of \$1,000,000 per occurrence for bodily injury and property damage combined or has a program of adequate self-insurance. Said insurance shall be obtained and made effective upon the delivery date of any motor vehicle, purchased / reimbursed with agreement funds or furnished by the State under the terms of this agreement to the Contractor and/or its Subcontractors.
- (b) Contractor shall maintain a copy of the certificate of insurance or a letter of self-insurance which must be made available to the State upon request. Subcontractors shall maintain a copy of the certificate of insurance which shall be made available to the State upon request.
- (c) Contractor agrees that bodily injury and property damage liability insurance or a program of self-insurance, as required herein, shall remain in effect at all times during the term of this agreement or until such time as the motor vehicle is returned to the State. Subcontractors agree that bodily injury and property damage liability insurance as required herein, shall remain in effect at all times during the term of this agreement or until such time as the motor vehicle is returned to the State.
- (d) Contractor and/or its Subcontractors agree to provide, at least thirty (30 days) prior to the expiration date of said insurance coverage, a copy of a new certificate or insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) Contractor and/or its Subcontractors, if not a self-insured government and/or public entity, shall provide evidence, that any required certificates of insurance contain the following provisions:
 - i The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State.
 - ii The State of California, it's officers, agents, employees, and servants are included as additional insured's, but only with respect to work performed for the State under this agreement and any extension or continuation of this agreement.
 - iii The insurance carrier shall notify the State of California

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Department of Health Care Services, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to the Contract number for which the insurance was obtained.

- (f) Contractor and/or its Subcontractors are hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by the State, in writing, if this provision is applicable to this agreement. If DGS approval of the certificate of insurance is required, Contractor agrees that no work or services involving the motor vehicle shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or its Subcontractors fail to keep insurance coverage, as required herein, in effect at all times during vehicle possession, the State may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

II. Site Inspection

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

JJ. California Outcomes Measurement System (CalOMS) for Treatment (CalOMS Tx) and for Prevention (CalOMS Pv).

1. The Contractor shall:

- (a) Conduct information technology (IT) systems testing and pass State certification testing before commencing submission of CalOMS Tx data. If the Contractor subcontracts with vendor for IT services, Contractor is responsible for ensuring that the subcontracted IT system is tested and certified by the State prior to submitting CalOMS Tx data. If contractor changes or modifies the CalOMS Tx IT system,

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then contractor shall re-test and pass state certification prior to submitting data from new or modified system. Contractor must comply with DHCS compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and report method.

- (b) Participate in CalOMS informational meetings, training, and readiness meetings for both CalOMS Tx and CalOMS Pv.
- (c) Implement and maintain a system for collecting and electronically submitting data for CalOMS Tx.
- (d) Meet the requirements in the Privacy and Information Security Provisions as outlined in Exhibit 3G (as identified in Exhibit C).

2. The following business rules for the electronic submission of CalOMS Tx and CalOMS Pv data are:

- (a) Prevention service/activity data is to be reported via CalOMS Pv by all funded primary prevention providers. Services are to be reported by the date of occurrence on a monthly basis. No more than one week's data shall be aggregated into one reported service.
- (b) All CalOMS Pv service/activity data shall be reviewed by each county and released to the State no later than 30 days following the close of each quarter. The reporting quarters are: July through September, October through December, January through March, and April through June.
- (c) Reporting progress on prevention goals and objectives via the Evaluation Module within CalOMS Pv shall be done on an annual basis. This information is due no later than September 30 of each fiscal year.
- (d) Electronic submission of CalOMS Tx data is due 45 days from the end of the last day of the report month.
- (e) If the Contractor cannot submit CalOMS Pv data by the established due dates, the Contractor shall submit a written request for an extension. The written request shall be approved by the State prior to the established due date.

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- (f) If the Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit CalOMS Tx and/or CalOMS Pv data, and/or to meet other CalOMS Tx and CalOMS Pv data compliance requirements, the Contractor shall report the problem in writing before the established data submission deadlines. The written notice shall include a remediation plan that is subject to review and approval by the State. A grace period of up to sixty (60) days may be granted, at the State's sole discretion, for the Contractor to resolve the problem before non-DMC payments are withheld.
- (g) If the State experiences system or service failure, no penalties will be assessed to Contractor for late data submission.
- (h) Contractor shall comply with the treatment and prevention data quality standards established by the State. Failure to meet these standards on an ongoing basis may result in withholding non-DMC funds.
- (i) If the Contractor submits data after the established deadlines, due to a delay or problem, Contractor is still responsible for collecting and reporting data from time of delay or problem.

KK. Drug and Treatment Access Report (DATAR)

- 1. The Contractor shall:
 - (a) Be responsible for ensuring that all treatment providers with whom Contractor makes a contract or otherwise pays for the services, and who are required to report CalOMS Treatment client data, submit a monthly DATAR report in an electronic copy format as provided by the State.
 - (b) Ensure that all DATAR reports are submitted to the State by the 10th of the month following the report activity month.
 - (c) Ensure that all applicable providers are enrolled in the State's web-based DATARWeb program for submission of data, accessible on the DHCS website.
 - (d) In those instances where the Contractor maintains, either directly or indirectly, a central intake unit or equivalent which provides intake services including a waiting list, the Contractor shall identify and begin submitting monthly DATAR reports for the central intake unit by a date to be specified by the State.

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- (e) If the Contractor experiences system or service failure or other extraordinary circumstances that affect its ability to timely submit a monthly DATAR report, and/or to meet data compliance requirements, the Contractor shall report the problem in writing before the established data submission deadlines. The written notice shall include a remediation plan that is subject to review and approval by the State. A grace period of up to sixty (60) days may be granted, at the State's sole discretion, for the Contractor to resolve the problem before non-DMC payments are withheld.
- (f) If the State experiences system or service failure, no penalties will be assessed to Contractor for late data submission.

2. Noncompliance Provision

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

LL. Domestic Partners Act

Pursuant to Public Contract Code 10295.3, no state agency may enter into any contract executed or amended after January 1, 2007, for the acquisition of goods or services in the amount of \$100,000 or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between domestic partners and spouses of those employees.

MM. Nondiscrimination and Institutional Safeguards for Religious Providers

Contractor shall establish such processes and procedures as necessary to comply with the provisions of Title 42, USC, Section 300x-65 and Title 42, CFR, Part 54, (Reference Document 1B).

NN. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight, embargo, public related utility, or governmental statutes or regulations super-imposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its Subcontractor, and if such default of its Subcontractor, arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless

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the supplies or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

OO. Counselor Certification

Any individual providing intake, assessment of need for services, treatment or recovery planning, individual or group counseling to participants, patients, or residents in an DHCS licensed or certified program is required to be certified as defined in Title 9, CCR, Division 4, Chapter 8. (Document 3H)

PP. 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 (OMH) Culturally and Linguistically Appropriate Service (CLAS) national standards. The OMH CLAS standards (referenced as Document 3V) are located at: <http://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=15>

QQ. 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(b) of PHS Act).

RR. Tuberculosis Treatment

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

1. Routinely make available TB services to each individual receiving treatment for alcohol and other drug use and/or abuse;
2. Reduce barriers to patients' accepting TB treatment; and,
3. Develop strategies to improve follow-up monitoring, particularly after patients leave treatment, by disseminating information through educational bulletins and technical assistance.

SS. 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). For full text of the award term, go to: <http://www.samhsa.gov/grants/trafficking.aspx>

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TT. Tribal Communities and Organizations

Contractor shall regularly assess (e.g. review population information available through Census, compare to information obtained in CalOMS Treatment to determine whether population is being reached, survey Tribal representatives for insight in potential barriers) the substance use service needs of it's American Indian/Alaskan Native (AI/AN) population and shall engage in regular and meaningful consultation and collaboration with elected officials of the tribe or their designate for the purpose of identifying issues/barriers to service delivery and improvement of the quality, effectiveness and accessibility of services available to AI/NA communities within the county.

UU. Subcontract Provisions

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

VV. Participation of County Alcohol and Drug Program Administrators Association of California (CADPAAC) Members

Pursuant to HSC Section 11801(g), the alcohol and drug program administrator shall participate and represent the county in meetings of the CADPAAC for the purposes of representing the counties in their relationship with the state with respect to policies, standards, and administration for alcohol and other drug abuse services.

Pursuant to HSC Section 11811.5(c), the county alcohol and drug program administrator shall attend any special meetings called by the Director of DHCS.

**NON DRUG MEDICAL SUBSTANCE ABUSE TREATMENT SERVICES
AND FUNDING CONDITIONS**

ARTICLE I. FORMATION AND PURPOSE

A. Authority

State and the Contractor enter into Exhibit C by authority of Chapter 3 of Part 1, Division 10.5 of the Health and Safety Code (HSC) and with approval of Contractor's County Board of Supervisors (or designee) for the purpose of providing alcohol and drug services, which will be reimbursed pursuant to Exhibit C. State and the Contractor identified in the Standard Agreement are the only parties to this Contract. This Contract is not intended, nor shall it be construed, to confer rights on any third party.

B. Control Requirements

1. Performance under the terms of Exhibit C is subject to all applicable federal and state laws, regulations, and standards. In accepting the State drug and alcohol combined program allocation pursuant to HSC Sections 11814(a) and (b), Contractor shall: (i) establish, and shall require its Subcontractors to establish, written procedures consistent with the following requirements; (ii) monitor for compliance with the written procedures; and (iii) be held accountable for audit exceptions taken by the State against the Contractor and its Subcontractors for any failure to comply with these requirements:

- (a) HSC, Division 10.5, commencing with Section 11760;
- (b) Title 9, California Code of Regulations (CCR) (herein referred to as Title 9), Division 4, commencing with Section 9000;
- (c) Government Code Section 16367.8;
- (d) Government Code, Article 7, Federally Mandated Audits of Block Grant Funds Allocated to Local Agencies, Chapter 1, Part 1, Division 2, Title 5, commencing at Section 53130;
- (e) Title 42 United State Code (USC), Sections 300x-21 through 300x-31, 300x-34, 300x-53, 300x-57, and 330x-65 and 66;
- (f) The Single Audit Act Amendments of 1996 (Title 31, USC Sections 7501-7507) and the Office of Management and Budget (OMB) Circular A-133 revised June 27, 2003;

**Exhibit C – County Contract
FY 2010-11 through FY 2013-14 – Multi-Year
Effective July 1, 2013 for FY 2013-14**

- (g) Title 45, Code of Federal Regulations (CFR), Sections 96.30 through 96.33 and Sections 96.120 through 96.137;
- (h) Title 42, CFR, Sections 8.1 through 8.34;
- (i) Title 21, CFR, Sections 1301.01 through 1301.93, Department of Justice, Controlled Substances; and,
- (j) State Administrative Manual (SAM), Chapter 7200 (General Outline of Procedures).

Contractor shall be familiar with the above laws, regulations, and guidance and shall assure that its Subcontractors are also familiar with such requirements.

- 2. The provisions of Exhibit C are not intended to abrogate any provisions of law or regulation, or any standards existing or enacted during the term of this Contract.
- 3. Contractor shall adhere to the applicable provisions of Title 45, CFR, Part 96, Subparts C and L, as applicable, in the expenditure of the Substance Abuse Prevention and Treatment (SAPT) Block Grant funds. Document 1A, 45 CFR 96, Subparts C and L, is incorporated by reference.
- 4. 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.
- 5. Documents 1C, 1D(a), and 1D(b), incorporated by this reference, contain additional requirements that shall be adhered to by those Contractors that receive the types of funds specified by each document. These exhibits and documents are:
 - (a) Document 1C, Driving-Under-the-Influence Program Requirements;
 - (b) Document 1D(a), Services to California Department of Corrections and Rehabilitation (CDCR) - Parolee Services Network (PSN); and,
 - (c) Document 1D(b), SAPT Female Offender Treatment Project (FOTP).

6. Contractor shall comply with the requirements contained in Document 1F(a), incorporated by this reference, "Reporting Requirement Matrix" – County Submission Requirements for the Department of Health Care Services."
7. Contractor shall comply with the requirements for perinatal programs funded under Exhibit C contained in Document 1G, incorporated by this reference, "Perinatal Services Network Guidelines 2014" until such time new Perinatal Services Network Guidelines are established and adopted. No formal amendment of this contract is required for new guidelines to apply.
8. In accordance with the Fiscal Year 2011-12 State Budget Act and accompanying law (Chapter 40, Statutes of 2011 and Chapter 13, Statutes of 2011, First Extraordinary Session), contractors that provide Women and Children's Residential Treatment Services shall comply with the program requirements (Section 2.5, Required Supplemental/Recovery Support Services) of the Substance Abuse and Mental Health Services Administration's Grant Program for Residential Treatment for Pregnant and Postpartum Women, RFA found at http://www.samhsa.gov/Grants/2008/ti_08_009.doc.
9. Contractor should follow the guidelines in Document 1V, incorporated by this reference, "Youth Treatment Guidelines," in developing and implementing youth treatment programs funded under Exhibit C, until such time new Youth Treatment Guidelines are established and adopted. No formal amendment of this contract is required for new guidelines to apply.

C. Contract Negotiation

Contract negotiations may be conducted between the Contractor and the State through their authorized representative(s) each year of the multi-year contract period. Negotiations may be conducted at DHCS, 1700 K Street, Sacramento, California, 95811 once during the multi-year contract period. In the alternative, negotiations may be conducted by correspondence.

ARTICLE II. DEFINITIONS

- A. The words and terms of this Contract are intended to have their usual meanings unless a particular or more limited meaning is associated with their usage pursuant to Division 10.5 of HSC, Section 11750 et seq., and Title 9, CCR, Section 9000 et seq.
1. **"Available Capacity"** means the total number of units of service (bed days, hours, slots, etc.) that a Contractor actually makes available in the current fiscal year.
 2. **"Contractor"** means the county identified in the Standard Agreement or the department authorized by the County Board of Supervisors to administer alcohol and drug programs.
 3. **"County Realignment Funds"** means the Behavioral Health Subaccount funds received by the county as per the California Code Section 30025.
 4. **"Dedicated Capacity"** means the historically calculated service capacity, by modality, adjusted for the projected expansion or reduction in services, which the Contractor agrees to make available to provide non-Drug Medi-Cal substance use disorder services to persons eligible for Contractor services.
 5. **"Encumbered Amount"** means the amount reflected on the Standard Agreement of this Contract and supported by the Exhibit A1.
 6. **"Final Allocation"** means the amount of funds identified in the last allocation letter issued by State for the current fiscal year.
 7. **"Final Settlement"** means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for interim settlement by the State. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.
 8. **"Interim Settlement"** means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.

9. **"Modality"** means those necessary overall general service activities to provide alcohol and/or drug prevention or treatment that conform to the services described in Division 10.5 of the HSC.
10. **"Non-Drug Medi-Cal" amount** means the contracted amount of SAPT Block Grant funds and Parolee Services Network funds for services agreed to by the State and the Contractor.
11. **"Performance"** means providing the dedicated capacity in accordance with Exhibit A1 and abiding by the terms of Exhibits B and C of this Contract, including all applicable state and federal statutes, regulations, and standards, including Alcohol and/or Other Drug Certification Standards (Document 1P), in expending funds for the provision of alcohol and drug services hereunder.
12. **"Preliminary Settlement"** means the settlement of only SAPT funding for counties that do include Drug Medi-Cal funding.
13. **"Revenue"** means Contractor's income from sources other than the State allocation.
14. **"Service Element"** is the specific type of service performed within the more general service modalities. A list of the service modalities and service elements and service elements codes is incorporated into this Contract as Document 1H(a) "Service Code Descriptions," and Document 1H(b), "Program Code Listing."
15. **"State"** means the California Department of Health Care Services.

16. **"Unit of Service"** means the type of unit used to quantify the service modalities/elements in the dedicated capacity reports. The units of services are listed below:

Support Services	staff hours
Primary Prevention Services	N/A
Secondary Prevention Services	staff hours
Nonresidential Services (Outpatient and Aftercare)	staff hours
Intensive Outpatient Services (Day Care Rehabilitative)	visit days
Residential Treatment Services	bed days
Narcotic Treatment Program	
Inpatient Detoxification	bed days
Outpatient Detoxification	slot days
Narcotic Replacement Therapy Methadone	slot days
Ancillary Services	staff hours
Driving Under-the-Influence	persons served

17. **"Utilization"** means the total actual units of service used by clients and participants.

ARTICLE III. FISCAL PROVISIONS

A. Funding Authorization

1. Exhibit C is valid and enforceable subject to sufficient funds being made available to the State by the United States Government and subject to authorization and appropriation of sufficient funds pursuant to the State's Budget Act.
2. In the event the United States Government and/or the State Government do not authorize and appropriate sufficient funds for the State to allocate amounts pursuant to the Payment Provisions of Exhibit C, it is mutually agreed that the Contract shall be amended to reflect any reduction in the Payment Provisions and the Performance Provisions.
3. Contractor shall bear the financial risk in providing any alcohol and/or drug services covered by this Exhibit C.

B. Payment Provisions

1. For each fiscal year, the total amount payable by the State to the Contractor under Exhibit C shall not exceed the encumbered amount. The funds identified for the fiscal years covered by Exhibit C are subject to change depending on the availability and amount of funds appropriated by the Legislature and the Federal Government. The amount of funds available for expenditure by the Contractor shall be limited to the amount identified in the final allocations issued by the State for that fiscal year or the non-DMC amount, whichever is less. Changes to encumbered funds will require written amendment to the Contract. State may settle costs for non-DMC services based on the year-end cost settlement report as the final amendment to the approved single state/county contract.
2. In the event a contract amendment is required pursuant to the preceding paragraph, Contractor shall submit to the State information as identified in Exhibit B, Section F(3)(a). To the extent the Contractor is notified of the State Budget Act allocation prior to the execution of the Contract, the State and the Contractor may agree to amend the contract after the issuance of the first revised allocation.
3. State shall reimburse the Contractor monthly in arrears an amount equal to one-twelfth of the amount encumbered pursuant to Exhibit C of the contract or the most recent allocation based on the Budget Act Allocation, whichever is less, with the exception of Parolee Services Network (PSN) funding. Payments for PSN services shall be made pursuant to Document 1Da.

However, based on the expenditure information submitted by the counties in the Quarterly Federal Financial Management Report (QFFMR) (Document 3O), State may adjust monthly payments of encumbered federal funds to extend the length of time (not to exceed 21 months) over which payments of federal funds will be made.

4. Monthly disbursements to the Contractor at the beginning of each fiscal year of the Contract shall be based on the preliminary allocation of funds, as detailed in Exhibit A1.

Final allocations will reflect any increases or reductions in the appropriations as reflected in the State Budget Act allocation and any subsequent allocation revisions. To the extent that any amendment encumbers an amount that is less than the State Budget Act allocation, the monthly disbursements will reflect the lesser amount.

5. State may withhold monthly non-DMC payments if the Contractor fails to timely submit reports and data required by the State, including but not limited to, reports required pursuant to Exhibit C, Article V. Upon the State's receipt of the complete and accurate reports, or data, Contractor's monthly payment shall commence with the next scheduled monthly payment, and shall include any funds withheld due to late submission of reports or data.

State may withhold monthly non-DMC payments if the Contractor fails to submit the contract amendment, within 90 days from issuance from the State to the Contractor.

6. Adjustments may be made to the total of the Contract and amounts may be withheld from payments otherwise due to the Contractor hereunder, for nonperformance to the extent that nonperformance involves fraud, abuse, or failure to achieve the objectives of the provisions of Exhibit C.

C. Accrual of Interest

Any interest accrued from State-allocated funds and retained by the Contractor must be used for the same purpose as the State-allocated funds from which the interest was accrued.

D. Additional Audit Requirements

1. Pursuant to OMB Circular A-133, Contractor shall require and ensure that, effective January 1, 2004, its non-profit Subcontractors expending \$500,000 or more in federal funds in a fiscal year, have a single or program-specific audit performed with respect to the funds covered by Exhibit C.
 - (a) The audit shall be performed in accordance with OMB Circular A-133 (Revised June 2003), entitled "Audits of States, Local Governments, and Non-Profit Organizations." OMB Circulars can be obtained from the Office of Management and Budget, Washington, D.C. 20503, or www.whitehouse.gov/omb/circulars/index.html.
 - (b) The audit shall be conducted in accordance with generally accepted auditing standards and Government Auditing Standards, 2007 Revision, issued by the Comptroller General of the United States. The Government Auditing Standards can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or www.gao.gov.
 - (c) A copy of the audit performed in accordance with OMB Circular A-133 (Revised June 2003) shall be submitted to the State within 30 days of completion, but no later than nine months following the end of the Subcontractor's fiscal year.
 - (d) The cost of the audit made in accordance with the provisions of the most recent version of OMB Circular A-133 can be charged to applicable federal awards. Where apportionment of the audit cost is necessary, such apportionment shall be made in accordance with generally accepted accounting principles, but shall not exceed the proportionate amount that the award represents of the Subcontractor's total revenue.
 - (e) The work papers and the audit reports shall be retained for a minimum of three years from the date of the audit reports, and longer if the independent auditor is notified in writing by the State to extend the retention period.
 - (f) Audit work papers shall be made available upon request to the State, and copies shall be made as is reasonable and necessary.

- (g) Contractor, in coordination with the State, shall ensure that its Subcontractor's follow-up and take all necessary corrective action on any audit findings in the single or program-specific audit report.
2. Pursuant to OMB Circular A-133, State may impose sanctions against the Contractor for not submitting required single or program-specific audit reports, or failure to comply with all other audit requirements. The sanctions shall include:
 - (a) Withholding a percentage of federal awards until the audit is completed satisfactorily;
 - (b) Withholding or disallowing overhead costs;
 - (c) Suspending federal awards until the audit is conducted; or,
 - (d) Terminating the federal award.

E. Contractor Monitoring Requirements

1. Pursuant to OMB Circular A-133 §____.400(d)(3), Contractor shall monitor the activities of all its non-profit Subcontractors to ensure that:
 - Subcontractors are complying with program requirements and achieving performance goals.
 - Subcontractors are complying with fiscal requirements, such as having appropriate fiscal controls in place, and are using awards for authorized purposes.

Contractor can use a variety of monitoring mechanisms, including limited scope audits, on-site visits, progress reports, financial reports, and reviews of documentation supporting requests for reimbursement, to meet the Contractor's monitoring objectives. The Contractor may charge federal awards for the cost of these monitoring procedures as outlined in OMB Circular A-133.

The Contractor shall submit to the State a copy of the procedures and any other monitoring mechanism used to monitor non-profit Subcontractors at the time of the County's annual site visit or within 60 days thereafter. Contractor shall state the frequency that non-profit Subcontractors are monitored.

- (a) Limited scope audits, as defined in the OMB Circular A-133, only include agreed-upon engagements that are (1) conducted in accordance with either the American Institute of Certified Public Accountant's generally accepted auditing standards or attestation standards; (2) paid for and arranged by pass-through entities (counties); and (3) address one or more of the following types of compliance requirements: (i) activities allowed or unallowed; (ii) allowable costs/cost principles; (iii) eligibility; (iv) matching, level of effort and earmarking; and (v) reporting.
 - (b) On-site visits focus on compliance and controls over compliance areas. The reviewer must make site visits to the subcontractor location(s), and can use a variety of monitoring mechanisms to document compliance requirements. The findings and the corrective action will require follow-up by the Contractor.
2. Reports of audits conducted by the State shall reflect all findings, recommendations, adjustments, and corrective action as a result of its findings in any areas.
3. Contractor shall be responsible for any disallowance taken by the Federal Government, the State, or the California State Auditor, as a result of any audit exception that is related to the Contractor's responsibilities herein. Contractor shall not use funds administered by the State to repay one federal funding source with funds provided by another federal funding source, to repay federal funds with state funds, or to repay state funds with federal funds. State shall invoice Contractor 60 days after issuing the final audit report or upon resolution of an audit appeal. Contractor agrees to develop and implement any corrective action plans in a manner acceptable to State in order to comply with recommendations contained in any audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by the State within one year from the date of the plan.

If differences cannot be resolved between the State and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit C, Contractor may request an appeal in accordance with the appeal process described in Document 1J(a), "Non-DMC Audit Appeal Process," incorporated by this reference. When a financial audit is conducted by the Federal Government, the State, or the California State Auditor directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request

an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which its Subcontractors may file an audit appeal via the Contractor.

Contractors that conduct financial audits of Subcontractors, other than a Subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify Subcontractors of their appeal rights pursuant to that process. This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of the State pursuant to Article IV of this Contract.

F. Revenue Collection

Contractor shall conform to revenue collection requirements in Division 10.5 of the HSC, Sections 11841, by raising revenues in addition to the funds allocated by the State. These revenues include, but are not limited to, fees for services, private contributions, grants, or other governmental funds. These revenues shall be used in support of additional alcohol and other drug services or facilities. Each alcohol and drug program shall set and collect client fees based on the client's ability to pay. The fee requirement shall not apply to prevention and early intervention services. Contractor shall identify in its annual cost report the types and amounts of revenues collected.

G. Cost Efficiencies

1. It is intended that the cost to the Contractor in maintaining the dedicated capacity and units of service shall be met by the non-DMC funds allocated to the Contractor and other Contractor or Subcontractor revenues. Amounts awarded pursuant to Exhibit C shall not be used for services where payment has been made, or can reasonably be expected to be made under any other state or federal compensation or benefits program, or where services can be paid for from revenues.
2. Funds payable to the County from the CDCR pursuant to Document 1D(a) that are not spent cannot be retained by the Contractor.

H. Expenditure of SAPT Block Grant Funds

1. SAPT Block Grant funds are allocated based upon the Federal Grant award period. These funds must be expended for activities authorized pursuant to 42 USC Sections 300x-21(b) through 300x-66; and Title 45, CFR, Subpart L, within the availability period of the grant award. Any SAPT Block Grant funds that have not been expended by a Contractor at the end of the expenditure period identified below shall be returned to the State for subsequent return to the Federal government.
 - (a) The expenditure period of the FFY 2010 award is October 1, 2009, through June 30, 2011.
 - (b) The expenditure period of the FFY 2011 award is October 1, 2010 through June 30, 2012.
 - (c) The expenditure period of the FFY 2012 award is October 1, 2011 through June 30, 2013.
 - (d) The expenditure period of the FFY 2013 award is October 1, 2012 through June 30, 2014.
 - (e) The expenditure period of the FFY 2014 award is October 1, 2013 through June 30, 2015.
2. Contractors receiving SAPT Block Grant funds shall comply with the financial management standards contained in Title 45, CFR, Part 92, Sections 92.20(b)(1) through (6), and Title 45, CFR, Part 96, Section 96.30.
3. Non-profit Subcontractors receiving SAPT Block Grant funds shall comply with the financial management standards contained in Title 45, CFR, Part 74, Sections 74.21(b)(1) through (4) and (b)(7), and Part 96, Section 96.30.
4. Contractors receiving SAPT Block Grant funds shall track obligations and expenditures by individual SAPT Block Grant award, including, but not limited to, obligations and expenditures for primary prevention, services to pregnant women and women with dependent children. "Obligation" shall have the same meaning as used in Title 45, CFR, Part 92, Section 92.3."
5. Additionally, Contractors expending SAPT Block Grant HIV Set Aside funds for HIV Early Intervention Services are required to collect data regarding their use of HIV Set-Aside funds and to report this data to the State.

ARTICLE IV. PERFORMANCE PROVISIONS

A. Monitoring

1. Contractor's performance under Exhibit C shall be monitored by the State during the term of this Contract. Monitoring criteria shall include, but not be limited to:
 - (a) Whether the quantity of work or services being performed conforms to Exhibit A1;
 - (b) Whether the Contractor has established and is monitoring appropriate quality standards;
 - (c) Whether the Contractor is abiding by all the terms and requirements of this Contract; and,
 - (d) Whether the Contractor is abiding by the terms of the Perinatal Services Network Guidelines (Document 1G), until such time new Perinatal Services Network Guidelines are established and adopted.
2. Failure to comply with the above provisions shall constitute grounds for the State to suspend or recover payments, subject to the Contractor's right of appeal, or may result in termination of the Contract or both.

B. Performance Requirements

1. Contractor shall provide services based on funding set forth in Exhibit A1 and under the terms of this Contract.
2. Contractor shall provide services to all eligible persons in accordance with federal and state statutes and regulations. Contractor shall assure that in planning for the provision of services, the following barriers to services are considered and addressed:
 - (a) Lack of educational materials or other resources for the provision of services;
 - (b) Geographic isolation and transportation needs of persons seeking services or remoteness of services;
 - (c) Institutional, cultural, and/or ethnicity barriers;
 - (d) Language differences;

- (e) Lack of service advocates; and,
 - (f) Failure to survey or otherwise identify the barriers to service accessibility.
 - (g) Needs of persons with a disability.
3. Contractor shall comply with any additional requirements of the documents that have been incorporated herein by reference, including, but not limited to, those on the “List of Exhibit C Documents” which is attached to Exhibit C.
 4. Amounts awarded pursuant to Exhibit C shall be used exclusively for providing alcohol and/or drug program services consistent with the purpose of the funding.

ARTICLE V. REPORTING REQUIREMENTS

A. Financial Reports

1. Contractor agrees to submit the Exhibit A1 with the original contract and with each contract amendment.
2. Contractor shall submit timely the Quarterly Federal Financial Management Report (QFFMR) and end-of-year cost data in the form of year-end cost settlement reports, including Document 2P, "County Certification Cost Report Year-End Claim for Reimbursement" with the original signature of the Contractor's authorized designee in accordance with Document 1F(a), "Reporting Requirement Matrix - County Submission Requirements for the Department of Health Care Services."

B. Additional Reports

1. Contractor shall submit, and shall require its Subcontractors to submit, information required by the State. The information shall include, but is not limited to, utilization reports, compliance reports, financial reports, treatment and prevention services reports, demographic characteristics of service recipients, and data as required pursuant to the following:

Document 1K: Drug and Alcohol Treatment Access Report (DATAR) records in an electronic format as provided and/or approved by the State, and which complies with DHCS compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method. The format for submission shall be limited to electronic format only.

Document 1T: CalOMS Prevention User Manual – Submit CalOMS Prevention data in the format prescribed in the CalOMS Prevention User Manual.

Contractor shall comply with the requirements which address the collection of information required in the SAPT Block Grant contained in Document 1T, incorporated by this reference ("CalOMS Prevention User Manual"). Refer to the List of Exhibits for the web site location of the manual, in which the manual is updated on a quarterly basis. Prevention service/activity data is to be reported via CalOMS Pv by all funded

primary prevention providers. Services are to be reported by the date of occurrence on a weekly basis. No more than one week's data shall be aggregated into one reported service. All CalOMS Pv data shall be reviewed by each county and released to the State no later than 30 days following the close of each quarter. The reporting quarters are: July through September, October through December, January through March, and April through June.

Document 3J: CalOMS Treatment Data Collection Guide – Submit CalOMS Treatment admission, discharge, annual update, resubmission and “provider no activity report” records in an electronic format approved by the State, which complies with DHCS compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and report method. When contractor obtains a new software vendor or when there are changes to the Contractor's CalOMS Treatment software, or changes to Contractors vendors CalOMS Treatment software, DHCS's Information Technology Services Division must be contacted and re-certification and testing of the new or changed software must be completed before Contractor can submit data.

Contractor shall follow the CalOMS Treatment Data Compliance Standards for submission of CalOMS treatment data (reference Document 3S).

2. Contractor agrees that it shall submit all data requested pursuant to Article V in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F(a), “Reporting Requirement Matrix - County Submission Requirements for the Department of Health Care Services.”

3. Charitable Choice

Contractor shall submit annually the total number of referrals necessitated by religious objection to other alternative substance abuse providers. This information must be submitted to DHCS in a format prescribed by DHCS and at time required by DHCS. (Reference is ADP Bulletin 04-5).

C. Subcontractor Documentation

Contractor shall require it's Subcontractors that are not licensed or certified by the State to submit organizational documents to the State within thirty (30) days of its execution of an initial subcontract, within ninety (90) days of the renewal or continuation of an existing subcontract or when there has been a change in Subcontractor name or ownership. Organizational documents shall include the Subcontractor's Articles of Incorporation or Partnership Agreements (as applicable), and business licenses, fictitious name permits, and such other information and documentation as may be requested by the State.

ARTICLE VI. GENERAL PROVISIONS

A. Records

Contractor shall maintain sufficient books, records, documents, and other evidence necessary for the State to audit contract performance and contract compliance. Contractor shall make these records available to the State, upon request, to evaluate the quality and quantity of services, accessibility and appropriateness of services, and to ensure fiscal accountability. Regardless of the location or ownership of such records, they shall be sufficient to determine if costs incurred by contractor are reasonable, allowable and allocated appropriately. All records must be capable of verification by qualified auditors.

1. Contractor shall include in any contract with an audit firm a clause to permit access by the State to the working papers of the external independent auditor, and require that copies of the working papers shall be made for the State at its request.
2. Contractor shall keep adequate and sufficient financial records and statistical data to support the year-end documents filed with the State. All records must be capable of verification by qualified auditors.
3. Accounting records and supporting documents shall be retained for a three-year period from the date the year-end cost settlement report was approved by the State for interim settlement. When an audit by the Federal Government, the State, or the California State Auditor has been started before the expiration of the three-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 three years, the interim settlement shall be considered as the final settlement.
4. Financial records shall be kept so that they clearly reflect the source of funding for each type of service for which reimbursement is claimed. These documents include, but are not limited to, all ledgers, books, vouchers, time sheets, payrolls, appointment schedules, client data cards, and schedules for allocating costs. All records must be capable of verification by qualified auditors.
5. Contractor's subcontracts shall require that all Subcontractors comply with the requirements of Article III, Section A.

6. Should a Subcontractor discontinue its contractual agreement with the Contractor, or cease to conduct business in its entirety, Contractor shall be responsible for retaining the Subcontractor's fiscal and program records for the required retention period. The SAM contains statutory requirements governing the retention, storage, and disposal of records pertaining to state funds. Contractor shall follow SAM requirements.

If the Contractor cannot physically maintain the fiscal and program records of the Subcontractor, then arrangements shall be made with the State to take possession and maintain all records.

7. In the expenditure of funds hereunder, and as required by 45 CFR Part 96, Contractor shall comply with the requirements of SAM and the laws and procedures applicable to the obligation and expenditure of federal and state funds.
8. In the event this Contract is terminated, Contractor shall deliver its entire fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.

B. Dispute Resolution Process

1. In the event of a dispute under this Exhibit C, other than an audit dispute, Contractor shall provide written notice of the particulars of the dispute to the State before exercising any other available remedy. Written notice shall include the contract number. The Director (or designee) of the State and the County Drug or Alcohol Program Administrator (or designee) shall meet to discuss the means by which they can effect an equitable resolution to the dispute. Contractor shall receive a written response from the State within sixty (60) days of the notice of dispute. The written response shall reflect the issues discussed at the meeting and state how the dispute will be resolved.
2. In the event of a dispute over financial audit findings between the State and the Contractor, Contractor may appeal the audit in accordance with the "non-DMC Audit Appeal Process" (Document 1J(a)). When a financial audit by the Federal Government, the State, or the California State Auditor is conducted directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(a). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.

Contractors that conduct financial audits of Subcontractors, other than a Subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify Subcontractors of their appeal rights pursuant to that process. This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of the State pursuant to Article IV of this Contract.

3. To ensure that necessary corrective actions are taken, financial audit findings are either uncontested or upheld after appeal may be used by the State during prospective contract negotiations.

C. Funding Limitations

Pursuant to HSC Section 11818(2)(A), Contractor shall reimburse its Subcontractors that receive a combination of Medi-Cal funding and other federal, state, or county realignment funding for the same service element and location based on the Subcontractor's actual costs in accordance with Medicaid reimbursement requirements as specified in Title XIX or Title XXI of the Social Security Act; Title 22, and the State's Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.

**LIST OF EXHIBIT C DOCUMENTS INCORPORATED BY REFERENCE
FISCAL YEAR 2013-14**

The following documents are hereby incorporated by reference into Exhibit C and, as applicable, into Exhibit D regardless of whether or not they are actually attached to the Contract.

- Document 1A: Title 45, Code of Federal Regulations 96, Subparts C and L, Substance Abuse Prevention and Treatment Block Grant Requirements
http://www.access.gpo.gov/nara/cfr/waisidx_04/45cfr96_04.html
- Document 1B: Title 42, Code of Federal Regulations, Charitable Choice Regulations
http://www.access.gpo.gov/nara/cfr/waisidx_04/42cfr54_04.html
- Document 1C: Driving-Under-the-Influence Program Requirements
- Document 1D(a): Services to California Department of Corrections and Rehabilitation (CDCR) – Parolee Services Network (PSN)
- Document 1D(b): SAPT Female Offender Treatment Project (FOTP)
- Document 1F(a): Reporting Requirement Matrix – County Submission Requirements for the Department of Health Care Services
- Document 1G: Perinatal Services Network Guidelines 2014 (for Non-DMC Perinatal Programs)
<http://www.dhcs.ca.gov/individuals/Documents/PSNG2014Final21214.pdf>
- Document 1H(a): Service Code Descriptions
- Document 1H(b): Program Code Listing
- Document 1H(c) : Funding Line Descriptions
- Document 1J(a): Non-Drug Medi-Cal Audit Appeals Process

- Document 1K: Drug and Alcohol Treatment Access Report (DATAR)
http://www.adp.ca.gov/datar/manuals/DATARWeb_manual.pdf
- Document 1P: Alcohol and/or Other Drug Program Certification Standards
(March 15, 2004)
http://www.adp.ca.gov/Licensing/doc/Alcohol_andor_Other_Drug_Program_Certification_Standards.doc
- Document 1T: CalOMS Prevention User Manual
http://www.kitsco.com/casupport/WebHelp/CalOMS_Manual.htm
- Document 1V: Youth Treatment Guidelines
http://www.adp.ca.gov/youth/pdf/Youth_Treatment_Guidelines.pdf
- Document 1W: Certification Regarding Lobbying
- Document 1X: Disclosure of Lobbying Activities – Standard Form LLL
<http://www.whitehouse.gov/omb/grants/sflllin.pdf>
- Document 2F: Standards for Drug Treatment Programs (October 21, 1981)
http://www.adp.ca.gov/dmc/pdf/DMCA_Standards_for_Drug_Treatment_Programs.pdf
- Document 2P: County Certification - Cost Report Year-End Claim For Reimbursement
- Document 3G: California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 4 – Narcotic Treatment Programs
<http://www.calregs.com>

Exhibit C – County Contract
FY 2010-11 through FY 2013-14 – Multi-Year
Effective July 1, 2013 for FY 2013-14

- Document 3H: California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 8 – Certification of Alcohol and Other Drug Counselors
<http://www.calregs.com>
- Document 3J: CalOMS Treatment Data Collection Guide
[http://www.adp.ca.gov/CalOMS/pdf/CalOMS Tx Data Collection Guide.pdf](http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Tx_Data_Collection_Guide.pdf)
- Document 3O: Quarterly Federal Financial Management Report (QFFMR) 2013-14
http://www.adp.ca.gov/NNA/support_files.shtml
- Document 3S CalOMS Treatment Data Compliance Standards
[http://www.adp.ca.gov/CalOMS/pdf/CalOMS Data Compliance.pdf](http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Data_Compliance.pdf)
- Document 3T DHCS Local Assistance Funding Matrix – FY 2013-14
- Document 3T(a) SAPT Authorized and Restricted Expenditures Information (November 2012)
- Document 3V Culturally and Linguistically Appropriate Services (CLAS) National Standards
<http://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=15>
- Document 4E : Treatment Standards for Substance Use Diagnosis : A Guide for Services (Spring 2010)
http://www.adp.ca.gov/treatment/standards/pdf/treatment_standards_spring_2010.pdf
- Exhibit G Privacy and Information Security Provisions

**DRUG MEDI-CAL TREATMENT PROGRAM SERVICES
AND FUNDING CONDITIONS**

ARTICLE I. FORMATION AND PURPOSE

- A. Exhibit D of this Contract is entered into by and between the State and the Contractor for the purpose of identifying and providing for covered Drug Medi-Cal (DMC) services for substance use treatment in the Contractor's service area pursuant to Sections 11848.5(a) and (b) of the Health and Safety Code (hereinafter referred to as HSC), Sections 14124.20, 14021.51 – 14021.53, and 14124.20 – 14124.25 of the Welfare and Institutions Code (hereinafter referred to as W&IC), and Title 22 of the California Code of Regulations (hereinafter referred to as Title 22), Sections 51341.1, 51490.1, and 51516.1.
- B. It is further agreed that Exhibit D of this Contract is controlled by applicable provisions of: (a) the W&IC, Chapter 7, Sections 14000, et seq., in particular, but not limited to, Sections 14021, 14021.5, 14021.6, 14043, et seq., (b) Title 22, including but not limited to Sections 51490.1, 51341.1 and 51516.1; and (c) Division 4 of Title 9 of the California Code of Regulations (hereinafter referred to as Title 9).
- C. It is understood and agreed that nothing contained in Exhibit D shall be construed to impair the single state agency authority of DHCS.
- D. The objective of Exhibit D is to make substance use treatment services available to Medi-Cal beneficiaries through utilization of federal and state funds available pursuant to Title XIX or Title XXI of the Social Security Act for reimbursable covered services rendered by certified DMC providers.
- E. Awards under the Medical Assistance Program (CFDA 93.778) are no longer excluded from coverage under the HHS implementation of the A-102 Common Rule, 45 CFR part 92 (*Federal Register*, September 8, 2003, 68 FR 52843-52844). This change is effective for any grant award under this program made after issuance of the initial awards for the second quarter of Federal Fiscal Year (FFY) 2004. This program also is subject to the requirements of 45 CFR part 95 and the cost principles under Office of Management and Budget Circular A-87 (as provided in *Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government*, HHS Publication ASMB C-10, available on the Internet at <http://rates.psc.gov/fms/dca/asmb%20c-10.pdf>).

ARTICLE II. DEFINITIONS

The words and terms of this Contract are intended to have their usual meaning unless a specific or more limited meaning is associated with their usage pursuant to the HSC, Title 9, and/or Title 22. Definitions of covered treatment modalities and services are found in Title 22 (Document 2C) and are incorporated by this reference.

- A. **"Administrative Costs"** means the Contractor's actual direct costs, as recorded in the Contractor's financial records and supported by source documentation, to administer the program or an activity to provide service to the DMC program. Administrative costs do not include the cost of treatment or other direct services to the beneficiary. Administrative costs may include, but are not limited to, the cost of training, program review, and activities related to billing. Administrative costs may include Contractor's overhead per the approved indirect cost rate proposal pursuant to OMB Circular A-87 and the State Controller's Office Handbook of Cost Plan Procedures.
- B. **"Authorization"** is the approval process for DMC Services prior to the submission of a DMC claim.
- C. **"Beneficiary"** means a person who: (a) has been determined eligible for Medi-Cal; (b) is not institutionalized; (c) has a substance-related disorder per the "Diagnostic and Statistical Manual of Mental Disorders III Revised (DSM)," and/or DSM IV criteria; and (d) meets the admission criteria to receive DMC covered services.
- D. **"Certified Provider"** means a substance abuse clinic and/or satellite clinic location that has received certification to be reimbursed as a Drug Medi-Cal (DMC) clinic by the Department of Health Care Services to provide services as described in Title 22, California Code of Regulations, Section 51341.1.
- E. **"Contractor"** means the county identified in the Standard Agreement or the department authorized by that county's Board of Supervisors to administer alcohol and drug programs.
- F. **"Covered Services"** means those DMC services authorized by Title XIX or Title XXI of the Social Security Act; Title 22 Section 51341.1; W&IC Section 14124.24; and California's Medicaid State Plan.
- G. **"County"** means the county in which the Contractor physically provides covered substance use treatment services.
- H. **"County Realignment Funds"** means the Behavioral Health Subaccount funds received by the county as per the California Government Code Section 30025.
- I. **"Direct Provider Contract"** means a contract established between the State and a Drug Medi-Cal certified provider entered into pursuant to this Agreement for the provision of Drug Medi-Cal services.

- J. **"Drug Medi-Cal Program"** means the state system wherein beneficiaries receive covered services from DMC-certified substance use treatment providers.
- K. **"Drug Medi-Cal Termination of Certification"** means the provider is no longer certified to participate in the Drug Medi-Cal program upon the Department's issuance of a Drug Medi-Cal Termination of Certification Termination notice.
- L. **"Early and Periodic Screening, Diagnosis, and Treatment Program"** means the federally mandated Medicaid benefit that entitles full-scope Medi-Cal-covered beneficiaries under 21 years of age to receive any Medicaid service necessary to correct or ameliorate a defect, mental illness, or other condition, such as a substance-related disorder, that is discovered during a health screening.
- M. **"Early and Periodic Screening, Diagnosis, and Treatment Program (Supplemental Service)"** means the supplemental individual outpatient drug-free (ODF) counseling services provided to beneficiaries eligible for the EPSDT program. Supplemental individual ODF counseling consists of any necessary individual AOD counseling not otherwise included in the ODF counseling modality under the DMC program.
- N. **"Federal Financial Participation (FFP)"** means the share of federal Medicaid funds for reimbursement of DMC services.
- O. **"Final Settlement"** means permanent settlement of the Contractor's actual allowable costs or expenditures as determined at the time of audit, which shall be completed within three years of the date the year-end cost settlement report was accepted for interim settlement by the State. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.
- P. **"Interim Settlement"** means temporary settlement of actual allowable costs or expenditures reflected in the Contractor's year-end cost settlement report.
- Q. **"Medical Necessity"** means those substance use treatment services that are reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain through the diagnosis and treatment of a disease, illness, or injury or, in the case of EPSDT, services that meet the criteria specified in Title 22, Sections 51303 and 51340.1.
- R. **"Minor Consent DMC Services"** are those covered services that, pursuant to Family Code Section 6929, may be provided to persons 12-20 years old without parental consent.
- S. **"Narcotic Treatment Program (NTP)"** means an outpatient clinic licensed by the State to provide narcotic replacement therapy using methadone directed at stabilization and rehabilitation of persons who are opiate-addicted and have a substance use diagnosis.

- T. **“Payment Suspension”** means the Drug Medi-Cal certified provider has been issued a notice pursuant to W&IC 14107.11 and is not authorized to receive payments for DMC services, regardless of when the service was provided.
- U. **“Perinatal DMC Services”** means covered services as well as mother/child habilitative and rehabilitative services; services access (i.e., provision or arrangement of transportation to and from medically necessary treatment); education to reduce harmful effects of alcohol and drugs on the mother and fetus or infant; and coordination of ancillary services (Title 22, Section 51341.1(c) 4).
- V. **“Postpartum”**, as defined for DMC purposes, means the 60-day period beginning on the last day of pregnancy, regardless of whether other conditions of eligibility are met. Eligibility shall end on the last day of the calendar month in which the 60th day occurs.
- W. **“Postservice Postpayment (PSP) Utilization Review”** means the review for program compliance and medical necessity conducted by the State after service was rendered and paid. State may recover prior payments of Federal funds if such review determines that the services did not comply with the applicable statutes, regulations, or standards.
- X. **“Projected Units of Service”** means the number of reimbursable DMC units of service, based on historical data and current capacity, the Contractor expects to provide on an annual basis.
- Y. **“Provider of DMC Services”** means any person or entity that provides direct substance use treatment services and has been certified by State as meeting the standards for participation in the DMC program set forth in the “DMC Certification Standards for Substance Abuse Clinics”, Document 2E and “Standards for Drug Treatment Programs (October 21, 1981)”, Document 2F.
- Z. **“Re-certification”** means the process by which the certified clinic and/or satellite program is required to submit an application and specified documentation, as determined by DHCS, to remain eligible to participate in and be reimbursed in through the Drug Medi-Cal program. Re-certification shall occur no less than every five years from date of previous Drug Medi-Cal certification or re-certification.
- AA. **“Satellite Site”** has the same meaning as defined in the Drug Medi-Cal Certification Standards for Substance Abuse Clinics.
- BB. **“Service Area”** means the geographical area under Contractor’s jurisdiction.
- CC. **“State”** means the Department of Health Care Services.
- DD. **“Statewide Maximum Allowances (SMA)”** means the maximum amount authorized to be paid by DMC for each covered unit of service for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. While the rates are approved by the State, they are subject to change through the regulation

process. The SMA for FY 2013-14 is listed in the “Unit of Service” table in this Article II, Section HH.

- EE. **“Subcontract”** means an agreement between the Contractor and its Subcontractors. A Subcontractor shall not delegate its obligation to provide covered services or otherwise subcontract for the provision of direct patient/client services.
- FF. **“Subcontractor”** means an individual or entity that is DMC certified and has entered into an agreement with the Contractor to be a provider of covered services. It may also mean a vendor who has entered into a procurement agreement with the Contractor to provide any of the administrative functions related to fulfilling the Contractor’s obligations under the terms of this Exhibit D.
- GG. **“Uniform Statewide Daily Reimbursement (USDR) Rate”** means the rate for NTP services based on a unit of service that is a daily treatment service provided pursuant to Title 22, Sections 51341.1 and 51516.1 and Title 9, commencing with Section 10000 (Document 3G), or the rate for individual or group counseling. The following table shows the Fiscal Year (FY) 2013-14 USDR rates.

Service	Type of Unit of Service (UOS)	Non-perinatal (Regular) Rate Per UOS (*)	Perinatal Rate Per UOS (*)
NTP-Methadone Dosing	Daily	\$11.49 \$1.04 (*)	\$12.57 \$1.14 (*)
NTP-Individual Counseling (**)	One 10-minute increment	\$14.46 \$1.33 (*)	\$20.70 \$1.86 (*)
NTP Group Counseling (**)	One 10-minute increment	\$3.27 \$0.30 (*)	\$6.91 \$0.63 (*)

(*) Administrative Costs incorporated within the rate.

(**) The NTP Subcontractors may be reimbursed for up to 200 minutes (20 10-minute increments) of individual and/or group counseling per calendar month per beneficiary. Effective January 1, 2014, if medical necessity is met that requires additional NTP counseling beyond 200 minutes per calendar month, NTP subcontractors may bill and be reimbursed for additional counseling (in 10 minute increments). Medical justification for the additional counseling must be clearly documented in the patient record.

Reimbursement for covered NTP services shall be limited to the lower of the NTP's usual and customary charge to the general public for the same or similar services or the USDR rate. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual patient/client is not liable to pay, does not constitute a usual or customary charge to the general public. (W&IC Section 14021.51).

HH. **"Unit of Service"** means a face-to-face contact on a calendar day for outpatient drug free, day care rehabilitative, perinatal residential, and Naltrexone treatment services. Only one face-to-face service contact per day is covered by DMC except in the case of emergencies when an additional face-to-face contact may be covered for intake crisis intervention or collateral service. To count as a unit of service, the second contact shall not duplicate the services provided on the first contact, and each contact shall be clearly documented in the beneficiary's record. While the rates are approved by the State, they are subject to change through the regulation process. Units of service and SMA for FY 2013-14 are identified in the following table.

Service	Type of Unit of Service (UOS)	Non-Perinatal (Regular) Rate Per UOS	Perinatal Rate Per UOS
Intensive Outpatient Treatment (formerly called Day Care Rehabilitative (see Article III.A.2.))	Face-to-Face Visit	\$62.15 (*)	\$79.39
Naltrexone Treatment	Face-to-Face Visit	\$19.07	NA
Outpatient Drug Free	Face-to Face Visit – Individual (per person)	\$72.32	\$103.52
	Face-to-Face Visit – Group (per person)	\$29.39	\$62.24
Perinatal Residential	Daily – Residential Day	NA	\$97.72

(*) Services provided December 31, 2013 and prior are only reimbursable for EPSDT only and pregnant/postpartum women.

ARTICLE III. PROVISION OF SERVICE

A. Covered Services

1. Contractor shall establish assessment and referral procedures and shall arrange, provide, or subcontract for covered services in the Contractor's service area. Covered services include:
 - (a) Outpatient drug-free treatment;
 - (b) Narcotic replacement therapy;
 - (c) Naltrexone treatment;
 - (d) Day care rehabilitative (pregnant or postpartum, and EPSDT only for service dates of December 31, 2013 and prior); and,
 - (e) Perinatal residential AOD treatment services (excluding room and board).
2. Effective January 1, 2014, Day Care Rehabilitative services is renamed to Intensive Outpatient Treatment, consistent with California's Medicaid State Plan Amendment# 13-038. Effective January 1, 2014, these services are available to the general population and is not restricted to just the EPSDT only or pregnant/postpartum population.
3. In the event of a conflict between the definition of services contained in this Exhibit D and the definition of services in Title 22, Sections 51341.1, 51490.1, and 51516.1, the provisions of Title 22 shall govern.

B. Federal and State Mandates

1. Effective the date of execution of the amended 2013-2014 State-County DMC Contract, nothing in this Contract waives the protections provided to Contractor under section 36 of article XIII of the California Constitution ("Proposition 30"). Except where specifically stated in the terms of this contract, Contractor's performance of any additional legal requirements, including, but not limited to, court-ordered requirements and statutory or regulatory amendments, is subject to Proposition 30's funding requirements.
2. Contractor, to the extent applicable, shall comply with "Sobky v. Smoley" (Document 2A), 855 F. Supp. 1123 (E.D. Cal 1994), incorporated by this reference.

3. Contractor shall comply with federal and state mandates to provide alcohol and other drug treatment services deemed medically necessary for Medi-Cal eligible: (1) pregnant and postpartum women, and (2) youth under age 21 who are eligible under the EPSDT Program.
4. If Drug Medi-Cal services are provided to Minor Consent beneficiaries, Contractor shall comply with California Family Code Section 6929.
5. Subject to DHCS provider enrollment certification requirements, Contractor shall maintain continuous availability and accessibility of covered services and facilities, service sites, and personnel to provide the covered services through use of DMC certified providers. Such services shall not be limited due to budgetary constraints.
 - (a) When a request for covered services is made by a beneficiary, Contractor shall require services to be initiated with reasonable promptness. Contractor shall have a documented system for monitoring and evaluating accessibility of care, including a system for addressing problems that develop regarding waiting times and appointments.
 - (b) The contractor shall authorize residential services in accordance with the medical necessity criteria specified in Title 22, Section 51303 and the coverage provisions of the approved state Medi-Cal Plan. Room and board are not reimbursable DMC service. If services are denied, the provider shall inform the beneficiary in accordance with Title 22, Section 51341.1 (p).
 - (c) Contractor shall submit, and shall require its Subcontractors to submit, client data required by the State. The information shall include, but is not limited to, data as required pursuant to the following:

Document 1K:	Drug and Alcohol Treatment Access Report (DATAR) in an electronic format as provided and/or approved by the State, which complies with the Department of Health Care Services (DHCS) compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and reporting method. The format for submission shall be limited to electronic format only.
Document 3J:	California Outcomes Measurement System (CalOMS) Treatment records – Submit CalOMS Treatment admission, discharge, annual update, or “provider no activity report” records in an electronic format provided and/or approved by the State,

which complies with DHCS compliance requirements for data content, data quality, data completeness, reporting frequency, reporting deadlines, and report method.

When contractor obtains a new software vendor or when there are changes to the Contractor's CalOMS Treatment software, or changes to Contractors vendors CalOMS Treatment software, DHCS's Information Technology Services Division must be contacted and re-certification and testing of the new or changed software must be completed before Contractor can submit data.

Contractor shall follow the CalOMS Treatment Data Compliance Standards for submission of CalOMS Treatment data (reference Document 3S).

- (d) Contractor agrees that it shall submit all data requested in (c) in a manner identified, or on forms provided, by the State by the applicable due dates or the dates in Document 1F(a), "Reporting Requirement Matrix – County Submission Requirements for the Department of Health Care Services."
 - (e) Contractor shall require that treatment programs are accessible to people with disabilities in accordance with Title 45, Code of Federal Regulations (hereinafter referred to as CFR), Part 84 and the Americans with Disabilities Act.
6. Covered services, whether provided directly by the Contractor or through subcontractors with DMC certified programs, shall be provided to beneficiaries without regard to the beneficiaries' county of residence.
 7. In the event Contractor fails to comply with subdivisions 1 through 6 of this Section, the State may terminate this Contract for cause.
 8. Contractor shall notify the State in writing prior to reducing the provision of covered services. In addition, any proposal to change the location where covered services are provided, or to reduce their availability, shall be submitted in an application to the State sixty (60) days prior to the proposed effective date. Contractor shall not implement the proposed changes if the State denies the Contractor's proposal.
 9. Contractor shall amend its subcontracts for covered services in order to provide sufficient funds to match allowable federal Medicaid reimbursements for any increase in provider DMC services to beneficiaries.

10. Contractor shall require that providers of perinatal DMC services are properly certified to provide these services and comply with the requirements contained in Title 22, Section 51341.1, Services for Pregnant and Postpartum Women.
11. In the event that the Contractor fails to provide covered services in accordance with the provisions of this Contract, at the discretion of the State, Contractor may be required to forfeit its county realignment funds pursuant to Government Code section 30027.10 (a) through (d), from the Behavioral Health Subaccount that is set aside for Drug Medi-Cal services and surrender its authority to function as the administrator of covered services in its service area.
12. The failure of the Contractor or its Subcontractors to comply with Section B of this Article will be deemed a breach of this Contract sufficient to terminate this Contract for cause. In the event the Contract is terminated, the provision of Exhibit B, Paragraph G, subsection 3 shall apply.
13. The Contractor shall provide assurance to the State that all deficiencies findings from the monitoring and utilization visits have been resolved. If stated in the contract between the Contractor and the Subcontractor, the Contractor has the authority to withhold Drug Medi-Cal payment as a result of (1) noncompliance actions, (2) failure to timely submit Corrective Action Plan, (3) or failure to correct deficiencies.
14. Contractor is responsible to conduct oversight through a system of monitoring, utilization review and fiscal and programmatic controls of their contracted DMC network of providers and services. The contractor system of oversight shall ensure:
 - (a) Compliance with state and federal law and regulations;
 - (b) All county DMC audit/monitoring reports are shared with the state; and
 - (c) DMC claims submitted to the state have been subject to review and verification process for accuracy and legitimacy. (42 CFR 430.30, 433.32, 433.51)

C. Provider Participation, Certification, Recertification, and Appeals

1. State will review and certify eligible providers to participate in the DMC program. Certified providers are limited to five years and subject to re-certification process. State will conduct recertification on-site visits at clinics for circumstances identified in the "Drug Medi-Cal Certification Standards for Substance Abuse Clinics", (Document 2E). Document 2E contains the appeal process in the event the State disapproves a provider's request for certification or recertification and shall be included in the Contractor's subcontracts.

2. Contractor shall include a provision in its subcontracts informing the provider that it may seek assistance from the State in the event of a dispute over the terms and conditions of subcontracts.
3. Contractor shall require all the providers of services to be licensed, registered, DMC certified and/or approved in accordance with applicable laws and regulations. Contractor's subcontracts shall require that providers comply with the following regulations and guidelines:
 - (a) Title 21, CFR Part 1300, et seq., Title 42, CFR, Part 8;
 - (b) Drug Medi-Cal Certification Standards for Substance Abuse Clinics (Document 2E);
 - (c) Title 22, CCR, Sections 51341.1, 51490.1, and 51516.1, (Document 2C);
 - (d) Standards for Drug Treatment Programs (October 21, 1981) (Document 2F); and
 - (e) Title 9, CCR, Division 4, Chapter 4, Subchapter 1, Sections 10000, et seq.

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

Contractor acknowledges that if a provider is under investigation by the State or any other state, local or federal law enforcement agency for fraud or abuse, the State may temporarily suspend the provider from the DMC program, pursuant to W&IC Section 14043.36(a).

Contractor and Subcontractors shall participate in DMC orientation training sessions as prescribed by the Department.

4. If, at any time, a Subcontractor's license, registration, certification, or approval to operate a substance use treatment program or provide a covered service is revoked, suspended, modified, or not renewed, the State may amend this Contract.

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

5. Narcotic treatment program services per W&IC 14124.22:
- (a) In addition to narcotic treatment program services, a narcotic treatment program provider who is also enrolled as a Medi-Cal provider may provide medically necessary treatment of concurrent health conditions within the scope of the provider's practice, to Medi-Cal beneficiaries who are not enrolled in managed care plans. Medi-Cal beneficiaries enrolled in managed care plans shall be referred to those plans for receipt of medically necessary medical treatment of concurrent health conditions.
 - (b) Diagnosis and treatment of concurrent health conditions of Medi-Cal beneficiaries not enrolled in managed care plans by a narcotic treatment program provider may be provided within the Medi-Cal coverage limits. When the services are not part of the substance use disorder treatment reimbursed pursuant to Section 14021.51, services shall be reimbursed in accordance with the Medi-Cal program. Services reimbursable under this section shall include, but not limited to, all of the following:
 - (1) Medical treatment visits
 - (2) Diagnostic blood, urine, and X-rays
 - (3) Psychological and psychiatric tests and services
 - (4) Quantitative blood and urine toxicology assays
 - (5) Medical supplies
 - (c) A narcotic treatment provider, who is enrolled as a Medi-Cal fee-for-service provider, shall not seek reimbursement from a beneficiary for substance abuse treatment services, if services for treatment of concurrent health conditions are billed to the Medi-Cal fee-for-service program.

ARTICLE IV. FISCAL PROVISIONS

A. Reimbursements

To the extent that the Contractor provides the covered services in a satisfactory manner and in accordance with the terms and conditions of this Contract, the State agrees to pay the Contractor federal Medicaid funds according to Article V. Subject to the availability of such funds, Contractor shall receive federal Medicaid funds for allowable expenditures as established by the federal government and approved by the State, for the cost of services rendered to beneficiaries.

1. Reimbursement for covered services shall be made in accordance with applicable provisions of Title 22 and all other currently applicable policies and procedures.
2. It is understood and agreed that failure by the Contractor or its Subcontractors to comply with applicable federal and state requirements in rendering covered services shall be sufficient cause for the State to deny payments to and/or recover payments from the Contractor. If the State or the Department of Health and Human Services (DHHS) disallows or denies payments for any claim, Contractor shall repay to the State the federal Medicaid funds it received for all claims so disallowed or denied. The overpayment shall be recovered by any of the methods allowed in Title 22, CCR, Sections 51047(a) and (b).

Before such denial, recoupment, or disallowances are made, State shall provide the Contractor with written notice of its proposed action. Such notice shall include the reason for the proposed action and shall allow the Contractor sixty (60) days to submit additional information before the proposed action is taken, as required in Title 22, CCR, Section 51047(a). This requirement does not apply to the DMC PSPP Utilization Reviews.

The State shall refund to the Contractor any recovered Federal Drug Medi-Cal overpayment that is subsequently determined to have been erroneously collected, together with interest, in accordance with Title 22, CCR, Section 51047(e).

B. Return of Unexpended Funds

Contractor assumes the total cost of providing covered services on the basis of the payments delineated in this Exhibit D. Any federal Medicaid funds and State General Funds paid to the Contractor, but not expended for DMC services shall be returned to the State.

C. Availability of Funds

It is understood that, for the mutual benefit of both parties, this Contract may have been written before ascertaining the availability of congressional appropriation of funds in order to avoid program and fiscal delays that would occur if this Contract were not executed until after that determination. If so, State may amend the amount of funding provided for in this Contract based on the actual congressional appropriation.

D. Additional Restrictions

This Contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress, or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this Contract in any manner.

E. Amendment or Cancellation Due to Insufficient Appropriation

This Contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the purpose of the DMC program. It is mutually agreed that if the Congress does not appropriate sufficient funds for this program, State has the option to void this contract or to amend the Contract to reflect any reduction of funds.

F. Exemptions

Exemptions to the provisions of Section E, above, may be granted by the California Department of Finance provided that the Director of DHCS certifies in writing that federal funds are available for the term of the contract.

G. Payment for Covered Services

Any payment for covered services rendered pursuant to this Exhibit D shall only be made pursuant to applicable provisions of Title XIX or Title XXI of the Social Security Act; the W&IC; the HSC; California's Medicaid State Plan; and Sections 51341.1, 51490.1, 51516.1, and 51532 of Title 22.

1. Contractor shall be reimbursed by the State on the basis of its actual net reimbursable cost, including any allowable county administrative costs, not to exceed the unit of service maximum rate.

Pursuant to W&IC Section 14021.51(h), reimbursement to NTP providers shall be limited to the lower of either the uniform statewide monthly reimbursement rate, or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a Contractor to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public. (W&IC Section 14021.51(h)(2)(A))

2. Pursuant to HSC Section 11818(2)(A), Contractor shall reimburse providers that receive a combination of Medi-Cal funding and other federal funding for the same service element and location based on the provider's actual costs in accordance with Medi-Cal reimbursement requirements as specified in Title XIX or Title XXI of the Social Security Act; Title 22, and the state's Medicaid Plan. Payments at negotiated rates shall be settled to actual cost at year-end.
3. Claims submitted to the contractor by a sub-contracted provider that is not certified or whose certification has been suspended pursuant to the Welfare and Institutions Code section 14107.11, and Code of Federal Regulations, Title 42, section 455.23 shall not be certified or processed for federal or state reimbursement by the contractor. Payments for any DMC services shall be held by the Contractor until the payment suspension is resolved.

H. Allowable Costs

Allowable costs, as used in Section 51516.1 of Title 22 shall be determined in accordance with Title 42, CFR Parts 405 and 413, and Centers for Medicare and Medicaid Services (CMS), "Medicare Provider Reimbursement Manual (Publication Number 15)," which can be obtained from the Centers for Medicare & Medicaid Services, or www.cms.hhs.gov." In accordance with W&IC Sections 14132.44 and 14132.47, funds allocated to the Contractor for DMC services, including funding for alcohol and other drug services for pregnant and postpartum women pursuant to Title 22, Section 51341.1(c), may not be used as match for targeted case management services or for Medi-Cal administrative activities.

I. Records and Additional Audit Requirements

1. Accurate fiscal records and supporting documentation shall be maintained by the Contractor and its Subcontractors to support all claims for reimbursement. All records must be capable of verification by auditors.
2. Should a Subcontractor discontinue operations, Contractor shall retain the Subcontractor's fiscal and program records for the required retention period. The State Administrative Manual (SAM) contains statutory requirements governing the retention, storage, and disposal of records retaining to state funds. Contractor shall follow SAM requirements.

If the Contractor cannot physically maintain the fiscal and program records of the Subcontractor, then arrangements shall be made with the State to take possession and maintain all records.

3. Accounting records and supporting documents shall be retained for a three-year period from the date the year-end cost settlement report was approved by the State for interim settlement. When an audit by the Federal Government, the State, or the California State Auditor has been started before the expiration of the three-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 three years, the interim settlement shall be considered as the final settlement.

Contractor shall retain client records for a minimum of three (3) years from the date of the last face-to-face contact. When an audit by the Federal Government or the State has been started before the expiration of the three-year period, the client records shall be maintained until completion of the audit and the final resolution of all audit issues.

4. In addition to the audit requirements set forth in Exhibit B, State may also conduct financial audits of DMC programs, exclusive of NTP services provided on or after July 1, 1997, to accomplish any of, but not limited to, the following audit objectives:
 - (a) To review reported costs for validity, appropriate allocation methodology, and compliance with Medicaid laws and regulations;
 - (b) To ensure that only the cost of allowable DMC activities are included in reported costs;
 - (c) To determine the provider's usual and customary charge to the general public in accordance with CMS (The Medicare Provider Reimbursement Manual) (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov, for comparison to the DMC cost per unit;
 - (d) To review documentation of units of service and determine the final number of approved units of service;
 - (e) To determine the amount of clients' third-party revenue and Medi-Cal share of cost to offset allowable DMC reimbursement; and,
 - (f) To compute final settlement based on the lower of actual allowable cost, the usual and customary charge, or the maximum allowance, in accordance with Title 22, Section 51516.1.

5. In addition to the audit requirements set forth in Exhibit B, State may conduct financial audits of NTP programs. For NTP services on or after July 1, 1997, the audits will address items 4(c) through 4(e) above, except that the comparison of the provider's usual and customary charge in 4(c) will be to the DMC USDR rate in lieu of DMC cost per unit. In addition, these audits will include, but not be limited to:

- (a) For those NTP providers required to submit a cost report pursuant to W&IC Section 14124.24, a review of cost allocation methodology between NTP and other service modalities, and between DMC and other funding sources;
 - (b) A review of actual costs incurred for comparison to services claimed;
 - (c) A review of counseling claims to ensure that the appropriate group or individual counseling rate has been used and that counseling sessions have been billed appropriately;
 - (d) A review of the number of clients in group sessions to ensure that sessions include no less than four and no more than ten clients at the same time, with at least one Medi-Cal client in attendance;
 - (e) Computation of final settlement based on the lower of USDR rate or the provider's usual and customary charge to the general public; and,
 - (f) A review of supporting service, time, financial, and patient records to verify the validity of counseling claims.
6. Audit reports by the State shall reflect all findings and any recommendations, adjustments, or corrective action necessary as a result of those findings.
 7. Contractor shall be responsible for any disallowances taken by the Federal Government, the State, or the California State Auditor as a result of any audit exception that is related to its responsibilities. Contractor shall not use funds administered by the State to repay one federal funding source with funds provided by another federal funding source, or to repay federal funds with state funds, or to repay state funds with federal funds
 8. Contractor agrees to promptly develop and implement any corrective action plans in a manner acceptable to the State in order to comply with recommendations contained in any audit report. Such corrective action plans shall include time-specific objectives to allow for measurement of progress and are subject to verification by the State within one year from the date of the plan.
 9. Contractor, in coordination with the State, must provide follow-up on all significant findings in the audit report, including findings relating to a Subcontractor, and submit the results to the State.
 10. If differences cannot be resolved between the State and the Contractor regarding the terms of the final financial audit settlements for funds expended under Exhibit D, Contractor may request an appeal in accordance with the appeal process described in the "DMC Audit Appeal Process," Document 1J(b), incorporated by this reference. When a financial audit is conducted by

the Federal Government, the State, or the California State Auditor directly with a Subcontractor of the Contractor, and if the Subcontractor disagrees with audit disallowances related to its programs, claims or services, Contractor shall, at the Subcontractor's request, request an appeal to the State in accordance with Document 1J(b). Contractor shall include a provision in its subcontracts regarding the process by which a Subcontractor may file an audit appeal via the Contractor.

Contractors that conduct financial audits of Subcontractors, other than a Subcontractor whose funding consists entirely of non-Department funds, shall develop a process to resolve disputed financial findings and notify Subcontractors of their appeal rights pursuant to that process.

11. Providers of DMC services shall, upon request, make available to the State their fiscal and other records to assure that such provider have adequate recordkeeping capability and to assure that reimbursement for covered DMC services are made in accordance with Title 22, CCR, Section 51516.1. These records include, but are not limited to, matters pertaining to:
 - (a) Provider ownership, organization, and operation;
 - (b) Fiscal, medical, and other recordkeeping systems;
 - (c) Federal income tax status;
 - (d) Asset acquisition, lease, sale, or other action;
 - (e) Franchise or management arrangements;
 - (f) Patient service charge schedules;
 - (g) Costs of operation;
 - (h) Cost allocation methodology;
 - (i) Amounts of income received by source and purpose; and,
 - (j) Flow of funds and working capital.
12. In the event this Contract is terminated, Contractor shall deliver its entire fiscal and program records pertaining to the performance of this Contract to the State, which will retain the records for the required retention period.
13. Contractor shall retain records of utilization review activities required in Article VI herein for a minimum of three (3) years.

14. If an audit or review of “Administrative Costs” results in a disallowance, any recoupment and/or appeal of any such disallowances will be subject to that of the Department of Health Care Services W&IC Section 14124.21, 14170, and 14171 appeals and recoupment process and not that of the State Controller’s Office.

J. Direct Provider Contracts

Pursuant to Exhibit B, Section G.1., and in accordance with Government Code section 30029.7 and W&IC Section 14124.21, effective July 1, 2012, the State shall, through the use of county-approved subcontractors, provide specified DMC services on the Contractor’s behalf.

The State will invoice the Contractor for the county realignment share of approved DMC claims received by the State from the State’s subcontractor. Contractor shall reimburse the State for the county realignment share of the approved DMC claims within 30 days of receipt of the invoice. If Contractor does not reimburse the State within 30 days of receipt of the invoice, the State may offset the amount owed from any other funding owed to Contractor by the State. The parties acknowledge that the State’s subcontractor shall be responsible for repayment of any disallowed claims. However, in no event shall the State be liable for Medicaid reimbursement for any disallowed claims

Effective July 1, 2012, any Contractor contracting with the State for the provision of services through NTP providers may receive reimbursement of the NTP administrative rate.

ARTICLE V. INVOICE/CLAIM AND PAYMENT PROCEDURES

A. Payments

1. State shall reimburse the Contractor:
 - (a) State General Funds and the federal Medicaid amount of the approved DMC claims and documents submitted in accordance with Article V of Section B, below:
 - (b) State General Funds and the federal Medicaid share:
 - I. At either the USDR or the provider's usual or customary charge to the general public for NTP's; or,
 - II. At a rate that is lesser of the projected cost or the maximum rate allowance for other DMC modalities.
2. State will adjust subsequent reimbursements to the Contractor to actual allowable costs. Actual allowable costs are defined in the Medicare Provider Reimbursement Manual (CMS-Pub.15), which can be obtained from the Centers for Medicare & Medicaid Services, Baltimore, Maryland, or www.cms.hhs.gov.
3. Contractors and Subcontractors must accept, as payment in full, the amounts paid by the State in accordance with Title 22, CCR, Section 51516.1, plus any cost sharing charges (deductible, coinsurance, or copayment) required to be paid by the client. However, Contractors and Subcontractors may not deny services to any client eligible for DMC services on account of the client's inability to pay or location of eligibility. Contractors and Subcontractors may not demand any additional payment from the State, client, or other third party payers.

B. Drug Medi-Cal Claims and Reports

1. Contractors or providers that bill the State or the County for services identified in Section 51516.1 of Title 22 shall submit claims in accordance with the DMC Provider Billing manual. Contractor shall certify the public expenditure was made prior to submitting a claim for reimbursement.
 - (a) Claims shall be submitted electronically in a Health Insurance Portability and Accountability Act (HIPAA) compliance format (837P). All adjudicated claim information must be retrieved by the Contractor via an 835 HIPAA compliance format (Health Care Claim Payment/Advice)

- (b) Contractor shall submit to the State the Drug Medi-Cal Certification Form for Federal Reimbursement (ADP 100224 - Document 4D) certifying the public expenditure for each claim file submitted for reimbursement of the federal Medicaid funds, 42 CFR Section 433.51.
 - (c) The following forms shall be prepared as needed and retained by the provider for review by State staff:
 - Multiple Billing Override Certification (MC 6700), Document 2K
 - Good Cause Certification (MC 6065A), Document 2L(a)
 - Good Cause Certification (MC 6065B), Document 2L(b)
2. In the absence of good cause documented on the Good Cause Certification (MC 6065A or 6065B) form, claims that are not submitted within 30 days of the end of the month of service shall be denied. The existence of good cause shall be determined by the State in accordance with Title 22, CCR, Sections 51008 and 51008.5.
3. Claims for reimbursement shall include only those services covered under Title 22, Section 51341.1(c-d) and administrative charges that are allowed under W&IC, Sections 14132.44 and 14132.47.

C. Year-End Cost Settlement Reports

1. Pursuant to W&IC Section 14124.24 Contractor shall submit to the State, on November 1 of each year, the following year-end cost settlement documents by paper or electronic submission for the previous fiscal year:
- (a) Document 2P, County Certification Year-End Claim for Reimbursement
 - (b) Document 2P(a) and 2P(b), Drug Medi-Cal Cost Report Forms for Day Care Rehabilitative for Non-Perinatal or Perinatal (if applicable)
 - (c) Document 2P(c) and 2P(d), Drug Medi-Cal Cost Report Forms for Outpatient Drug Free Individual Counseling for Non-Perinatal or Perinatal (if applicable)
 - (d) Document 2P(e) and 2P(f), Drug Medi-Cal Cost Report Forms for Outpatient Drug Free Group Counseling for Non-Perinatal or Perinatal (if applicable)
 - (e) Document 2P(g), Drug Medi-Cal Cost Report Forms for Residential for Perinatal (if applicable)

- (f) Document 2P(h) and 2P(i), Drug Medi-Cal Expenditure Forms for Narcotic Treatment Programs for Non-Perinatal or Perinatal (if applicable)
 - (g) Electronic program as prescribed by the State that contains the detailed cost report data
2. Cost reports for direct contract providers will be settled prior to the settlement of the Contractor's cost report. As a result of the direct contract provider's settled cost report, any County Realignment funds owed to the direct contract provider will be handled through an invoice process to the Contractor. Additionally, as a result of the direct contract provider's settled cost report, any County Realignment funds owed to the State will be returned to the Contractor.
 3. State may settle costs for DMC services based on the year-end cost settlement report as the final amendment to the approved single State/County contract.
 4. Reimbursement for covered services, other than NTP services, shall be limited to the lower of: (a) the provider's usual and customary charges to the general public for the same or similar services; (b) the provider's actual allowable costs; or (c) the DMC SMA for the modality.
 5. Reimbursement to NTP's shall be limited to the lower of either the USDR, pursuant to W&IC Section 14021.51(h), or the provider's usual and customary charge to the general public for the same or similar service. However, reimbursement paid by a county to an NTP provider for services provided to any person subject to Penal Code Sections 1210.1 or 3063.1 and for which the individual client is not liable to pay, does not constitute a usual or customary charge to the general public. (W&IC Section 14021.51(h)(2)(A)).

ARTICLE VI. POSTSERVICE POSTPAYMENT UTILIZATION REVIEW

- A. State shall conduct Postservice Postpayment (PSPP) utilization reviews 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 paid.
- B. State shall take appropriate steps in accordance with Title 22, CCR, 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, and/or shall take the corrective action as appropriate.

Contractor and/or Subcontractor may appeal DMC dispositions concerning demands for recovery of payment and/or programmatic deficiencies of specific claims. Such appeals shall be handled pursuant to Title 22, CCR, Section 51015. This section shall not apply to those grievances or complaints arising from the financial findings of an audit or examination made by or on behalf of the State pursuant to Article IV, Section I, of this Contract.

- C. State shall monitor the Subcontractor's compliance with PSPP utilization review requirements in accordance with Title 22. The federal government may also review the existence and effectiveness of the State's utilization review system.
- D. Contractor shall implement and maintain compliance with the system of review described in Title 22, Section 51341.1, for the purposes of reviewing the utilization, quality, and appropriateness of covered services and ensuring that all applicable Medi-Cal requirements are met.
- E. Satellite sites must keep a record of the clients/patients being treated at that location. Contractor shall retain client records for a minimum of three (3) years from the date of the last face-to-face contact. When an audit by the Federal Government or the State has been started before the expiration of the three-year period, the client records shall be maintained until completion of the audit and the final resolution of all issues as a result of the audit.

**LIST OF EXHIBIT D DOCUMENTS INCORPORATED BY REFERENCE*
FISCAL YEAR 13-14**

The following documents are hereby incorporated by reference into Exhibit D of the combined County contract though they may not be physically attached to the contract:

- Document 1F(a): Reporting Requirement Matrix – County Submission Requirements for the Department of Alcohol and Drug Programs and the Department of Health Care Services
- Document 1H(a): Service Code Descriptions
- Document 1H(b): Program Code Listing
- Document 1H(c) : Funding Line Descriptions
- Document 1J(b): DMC Audit Appeals Process
- Document 1K: Drug and Alcohol Treatment Access Report (DATAR)
http://www.adp.ca.gov/datar/manuals/DATARWeb_manual.pdf
- Document 1P: Alcohol and/or Other Drug Program Certification Standards (March 15, 2004)
http://www.adp.ca.gov/Licensing/doc/Alcohol_andor_Other_Drug_Program_Certification_Standards.doc
- Document 1V: Youth Treatment Guidelines
http://www.adp.ca.gov/youth/pdf/Youth_Treatment_Guidelines.pdf
- Document 1W: Certification Regarding Lobbying
- Document 1X: Disclosure of Lobbying Activities – Standard Form LLL
<http://www.whitehouse.gov/omb/grants/sflllin.pdf>
- Document 2A: Sobky v. Smoley, Judgment, Signed February 1, 1995
- Document 2C: Title 22, California Code of Regulations
<http://ccr.oal.ca.gov>
- Document 2E: Drug Medi-Cal Certification Standards for Substance Abuse Clinics (Updated July 1, 2004)
http://www.adp.ca.gov/dmc/pdf/DMCA_Drug_Medi-

Cal Certification Standards.pdf

- Document 2F: Standards for Drug Treatment Programs (October 21, 1981)
[http://www.adp.ca.gov/dmc/pdf/DMCA Standards for Drug Treatment Programs.pdf](http://www.adp.ca.gov/dmc/pdf/DMCA_Standards_for_Drug_Treatment_Programs.pdf)
- Document 2K: Multiple Billing Override Certification (MC 6700)
- Document 2L(a): Good Cause Certification (MC 6065A)
- Document 2L(b): Good Cause Certification (MC 6065B)
- Document 2P: County Certification - Cost Report Year-End Claim For Reimbursement
- Document 2P(a): Drug Medi-Cal Cost Report Forms – Day Care Rehabilitative – Non-Perinatal (form and instructions)
- Document 2P(b): Drug Medi-Cal Cost Report Forms – Day Care Rehabilitative – Perinatal (form and instructions)
- Document 2P(c): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Individual Counseling – Non-Perinatal (form and instructions)
- Document 2P(d): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Individual Counseling – Perinatal (form and instructions)
- Document 2P(e): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Group Counseling – Non-Perinatal (form and instructions)
- Document 2P(f): Drug Medi-Cal Cost Report Forms – Outpatient Drug Free Group Counseling – Perinatal (form and instructions)
- Document 2P(g): Drug Medi-Cal Cost Report Forms – Residential – Perinatal (form and instructions)
- Document 2P(h): Drug Medi-Cal Cost Report Forms – Narcotic Treatment Program – County – Non-Perinatal (form and instructions)
- Document 2P(i): Drug Medi-Cal Cost Report Forms – Narcotic Treatment Program – County – Perinatal (form and instructions)
- Document 3G: California Code of Regulations, Title 9 – Rehabilitation and Developmental Services, Division 4 – Department of Alcohol and Drug Programs, Chapter 4 – Narcotic Treatment Programs
<http://www.calregs.com>

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

<http://www.calregs.com>
- Document 3J: CalOMS Treatment Data Collection Guide

[http://www.adp.ca.gov/CalOMS/pdf/CalOMS Tx Data Collection Guide.pdf](http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Tx_Data_Collection_Guide.pdf)
- Document 3S CalOMS Treatment Data Compliance Standards

[http://www.adp.ca.gov/CalOMS/pdf/CalOMS Data Compliance.pdf](http://www.adp.ca.gov/CalOMS/pdf/CalOMS_Data_Compliance.pdf)
- Document 3T Non-Drug Medi-Cal and Drug Medi-Cal Local Assistance Funding Matrix
- Document 3V Culturally and Linguistically Appropriate Services (CLAS) National Standards

<http://minorityhealth.hhs.gov/templates/browse.aspx?lvl=2&lvlID=15>
- Document 4A : Drug Medi-Cal Claim Submission Certification – County Contracted Provider – DHCS Form MC 8186 with Instructions
- Document 4B : Drug Medi-Cal Claim Submission Certification – County Operated Provider – DHCS Form MC 8187 with Instructions
- Document 4D : Drug Medi-Cal Certification for Federal Reimbursement (ADP 100224)

<http://www.adp.ca.gov/adpltrs/doc/11-17exA.doc>
- Document 4E : Treatment Standards for Substance Use Diagnosis : A Guide for Services (Spring 2010)

http://www.adp.ca.gov/treatment/standards/pdf/treatment_standards_spring_2010.pdf
- Exhibit G Privacy and Information Security Provisions

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 as defined under Civil Code Section 1798.3(a) and 1798.29. These terms of the California Information Practices Act (CIPA) are included here because they do not apply to counties directly, and the statute requires the Department to contractually extend these CIPA terms to contractors if they use the Department's PI to accomplish a function for the Department.
3. Exhibit G-3, Miscellaneous Provision, sets forth additional terms and conditions that extend to the provisions of Exhibit G 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 performs functions or activities on behalf of the Department pursuant to this Agreement that are described in the definition of "business associate" in 45 C.F.R. 160.103, including but not limited to utilization review, quality assurance, or benefit management.
- B. The Department wishes to disclose to Contractor certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, to be used or disclosed in the course of providing services and activities as set forth in Section 1.A. of Exhibit G-1 of this Agreement. This information is hereafter referred to as "Department PHI".
- C. To the extent Contractor performs the services, functions and activities on behalf of Department as set forth in Section 1.A. of Exhibit G-1 of this Agreement, Contractor is the Business Associate of the Department acting on the Department's behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of the Department and creates, receives, maintains, transmits, uses or discloses PHI and ePHI in the provision of such services or in the performance of such functions or activities. The Department and Contractor are each a party to this Agreement and are collectively referred to as the "parties."
- D. The purpose of this 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.
- E. 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, 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 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, except with the prior written consent of the Department and as permitted by 42 U.S.C. Section 17935(d)(2).

D. Responsibilities of Contractor

Contractor agrees:

- 1) **Nondisclosure.** Not to use or disclose Department PHI other than as permitted or required by this Agreement or as required by law.
- 2) **Compliance with the HIPAA Security Rule.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Department PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of the Department, in compliance with 45 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, Business Associate 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-1.
- 6) **Reporting Unauthorized Use or Disclosure.** To report to Department any use or disclosure of Department PHI not provided for by this Exhibit G-1 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). This section shall be effective as of the date that 42 U.S.C. Section 17935(e) and its implementing regulations apply to the Department.

9) Amendment of Department PHI. To make any amendment(s) to Department PHI that were requested by a patient and that the Department directs or agrees should be made to assure compliance with 45 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. This section shall be effective only as of the date that 42 USC Section 17935(c) and its implementing regulations apply to the Department.

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 plus email or fax** upon the discovery of a breach of unsecured PHI in electronic media or in any other media if the PHI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person. (2) To notify the Department **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement or this ExhibitG-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 Department Program Contract Manager the Information Protection Unit. 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, or by emailing privacyofficer@dhcs.ca.gov, or by emailing iso@dhcs.ca.gov. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then

“Business Partner” near the middle of the page) or use this link:

<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

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

- i) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; 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 Department Program Contract Manager and 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 individual notifications are required, and

the corrective action plan.

- 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 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. The Department Program Contract Manager and the Department Privacy Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. The Department will provide its review and approval expeditiously and without unreasonable delay.
- f. **Department Contact Information.** To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

Department Program Contract	DHCS Privacy Officer	DHCS Information Security Officer
See the Exhibit A, Scope of Work for Program Contract Manager information	Information Protection Unit c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 (916) 445-4646 Email: privacyofficer@dhcs.ca.gov	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Telephone: ITSD Service Desk (916) 440-7000 or

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 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/default.aspx> or the DHCS website at www.dhcs.ca.gov (select "Privacy in the right column and "Notice of Privacy Practices" on the right side of the page).

F. Audits, Inspection and Enforcement

If Contractor is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Exhibit G-1, Contractor shall notify the Department. Upon request from the Department, Contractor shall provide the Department with a copy of any Department PHI that Contractor, as the Business Associate, provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI to the Secretary. Contractor is responsible for any civil penalties assessed due to an audit or investigation of Contractor, in accordance with 42 U.S.C. 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)(I).
- 2) **Termination for Cause.** In accordance with 45 CFR Section 164.504(e)(1)(ii), 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 G 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 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(d).
- C. "CMPPA Agreement" means the Computer Matching and Privacy Protection Act Agreement between the Social Security Administration and the California Health and Human Services Agency (CHHS).
- D. "Department PI" shall mean Personal Information, as defined below, accessed in a database maintained by the Department, received by Contractor from the Department or acquired or created by Contractor in connection with performing the functions, activities and services specified in this Agreement on behalf of the Department.
- E. "IEA" shall mean the Information Exchange Agreement currently in effect between the Social Security Administration (SSA) and the California Department of Health Care Services (DHCS).
- F. "Notice-triggering Personal Information" shall mean the personal information identified in Civil Code section 1798.29(e) whose unauthorized access may trigger notification requirements under Civil Code section 1709.29. For purposes of this provision, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering Personal Information includes PI in electronic, paper or any other medium.
- G. "Personally Identifiable Information" (PII) shall have the meaning given to such term in the IEA and CMPPA.
- H. "Personal Information" (PI) shall have the meaning given to such term in California Civil Code 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 ¹⁵PI 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
- 4) **Security.** Contractor shall take any and all steps necessary to ensure the

continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:

- a. Complying with all of the data system security precautions listed in Attachment A, Business Associate Data Security Requirements; and
- b. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III- Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.
- c. If the data obtained by 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 agree 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 17 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 plus email or fax** upon the discovery of a breach of unsecured Department PI or PII in electronic media or in any other media if the PI or PII was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, or upon discovery of a suspected security incident involving Department PII. (2) To notify the Department within 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 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.

b. Notice shall be provided to the Department Program Contract Manager and the Department Information Protection Unit. If the incident occurs after business hours or on a weekend or holiday and involves electronic Department PI or PII, notice shall be provided by calling the Department Information Security Officer. Notice shall be made using the DHCS "Privacy Incident Report" form, including all information known at the time. Contractor shall use the most

current version of this form, which is posted on the DHCS Information Security Officer website (www.dhcs.ca.gov, then select "Privacy" in the left column and then "Business Partner" near the middle of the page) or use this link:

<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>

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

individual notifications are required, and the corrective action plan.

- g. **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(a) – (d) and as may be required under the IEA. Contractor shall bear all costs of required notifications to individuals as well as any costs associated with the breach. The Department Program Contract Manager and the 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.
- h. 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.
- i. **Department Contact Information.** To direct communications to the above referenced Department staff, the Contractor shall initiate contact as indicated herein. The Department reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

Department Program Contract	DHCS Privacy Officer	DHCS Information Security Officer
See the Exhibit A, Scope of Work for Program Contract Manager information	Information Protection Unit c/o: Office of HIPAA Compliance Department of Health Care Services P.O. Box 997413, MS 4722 Sacramento, CA 95899-7413 (916) 445-4646 Email: privacyofficer@dhcs.ca.gov Telephone:(916) 445-4646	Information Security Officer DHCS Information Security Office P.O. Box 997413, MS 6400 Sacramento, CA 95899-7413 Email: iso@dhcs.ca.gov Telephone: ITSD Service Desk (916) 440-7000 or

9. Designation of Individual Responsible for Security

Contractor shall designate an individual, (e.g., Security Officer), to oversee its data security program who shall be responsible for carrying out the

requirements of this Exhibit 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.

- 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 G may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations. Upon either party's request, the other party agrees to promptly enter into negotiations concerning an amendment to this Exhibit G embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, and the HIPAA regulations. The Department may terminate this Agreement upon thirty (30) days written notice in the event:
 - a) Contractor does not promptly enter into negotiations to amend this Exhibit G 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.

- 3) **Assistance in Litigation or Administrative Proceedings.** Contractor shall make itself and any 22subcontractors, 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.

- 4) **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.
- 5) **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.
- 6) **Conflict.** In case of a conflict between any applicable privacy or security rules, laws, regulations or standards the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Contractor must comply within a reasonable period of time with changes to these standards that occur after the effective date of this Agreement.
- 7) **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.
- 8) **Survival.** The respective rights and obligations of Contractor under Section 3, Item D of Exhibit G-1, Responsibilities of Contractor, shall survive the termination or expiration of this Agreement.
- 9) **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.
- 10) **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 G and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Exhibit 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
Business Associate Data Security Requirements

1. Personnel Controls

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

2. Technical Security Controls

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

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

methods require prior written permission of the Department Information Security Office.

- 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 cross cut shredding and pulverizing.
- D. **Removal of Data.** Only the minimum necessary Department PHI or PI may be removed from the premises of the Contractor except with express written permission of the Department. Department PHI or PI shall not be considered "removed from the premises" if it is only being transported from one of Contractor's locations to another of Contractor's locations.

- E. **Faxing.** Faxes containing Department PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.

- F. **Mailing.** Mailings containing Department PHI or PI shall be sealed and secured from damage or inappropriate viewing of such PHI or PI to the extent possible. 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.