



COLORADO

Department of Health Care
Policy & Financing

HCPF Solicitation #:

RFP UHAA **XXXXXXXXXXXXXX**

ACC Phase III

Appendix B,
Draft Contract

STATE OF COLORADO CONTRACT

COVER PAGE

State Agency Department of Health Care Policy and Financing	Contract Number		
Contractor	Contract Performance Beginning Date The later of the Effective Date		
Contract Maximum Amount Initial Term State Fiscal Year 20xx \$0.00 Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 Total for All State Fiscal Years \$0.00	Initial Contract Expiration Date		
Contract Authority Authority to enter into this Contract exists in C.R.S. §25.5-1-101, <i>et seq.</i> , C.R.S.			
Contract Purpose Contractor shall be the Regional Accountable Entity (RAE) for Region #XXX and shall be the Primary Care Case Management (PCCME) and the Prepaid Inpatient Health Plan (PIHP) for Members enrolled with Contractor. Contractor shall conduct Work to achieve the Accountable Care Collaborative (ACC) mission of improving Member health and reducing costs in the Medicaid Program.			
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Contract: <ol style="list-style-type: none"> 1. Exhibit A – HIPAA Business Associates Addendum 2. Exhibit B – Statement of Work 3. Exhibit C – Rates 4. Exhibit D – Terminology 5. Exhibit E – Contractor’s Administrative Requirements 6. Exhibit F – Sample Option Letter 7. Exhibit G – Federal Provisions 8. Exhibit H – PII Certification 9. Exhibit I – Care Coordination Tiers 10. Exhibit J, Peer Specialist Core Competencies 11. Exhibit K, Capitated Behavioral Health Benefit Covered Services In the event of a conflict or inconsistency between this Contract and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: <ol style="list-style-type: none"> 12. Exhibit A, HIPAA Business Associates Addendum 13. Exhibit G, Federal Provisions 14. Colorado Special Provisions in §18 of the main body of this Contract 15. The provisions of the other sections of the main body of this Contract 16. Exhibit B, Statement of Work 17. Exhibit C, Terminology 18. Exhibit D, Contractor’s Administrative Requirements 19. Exhibit I – Care Coordination Tiers 20. Exhibit J, Peer Specialist Core Competencies 21. Exhibit K, Capitated Behavioral Health Benefit Covered Services 22. Exhibit E, Rates 23. Exhibit H, PII Certification 24. Exhibit F, Sample Option Letter 			
Principal Representatives <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> For the State: Name Department Name Address Address City, State Zip </td> <td style="width: 50%; border: none;"> For Contractor: Name Company Name Address Address City, State Zip </td> </tr> </table>		For the State: Name Department Name Address Address City, State Zip	For Contractor: Name Company Name Address Address City, State Zip
For the State: Name Department Name Address Address City, State Zip	For Contractor: Name Company Name Address Address City, State Zip		

DRAFT

SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

Each person signing this Contract represents and warrants that he or she is duly authorized to execute this Contract and to bind the Party authorizing his or her signature.

<p>CONTRACTOR INSERT-Legal Name of Contractor</p> <p>By: _____</p> <p>Date: _____</p>	<p>STATE OF COLORADO Jared S. Polis, Governor Department of Health Care Policy and Financing Kim Bimestefer, Executive Director</p> <p>By: _____</p> <p>Date: _____</p>
	<p>LEGAL REVIEW Philip J. Weiser, Attorney General</p> <p>By: _____ <u>N/A</u></p> <p>Date: _____</p>
<p>In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p>STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____</p> <p>Effective Date: _____</p>	

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1. PARTIES

This Contract is entered into by and between Contractor named on the Cover Page for this contract (the “Contractor”), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Contract (the “State,” the “Department,” or “HCPF”). Contractor and the State agree to the terms and conditions in this Contract.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Contract shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Contract before the Effective Date and shall have no obligation to pay Contractor for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Contract.

B. Initial Term

The Parties’ respective performances under this Contract shall commence on the Contract Performance Beginning Date shown on the Cover Page for this Contract and shall terminate on the Initial Contract Expiration Date shown on the Cover Page for this Contract (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Contract.

C. Extension Terms - State’s Option

The State, at its discretion, shall have the option to extend the performance under this Contract beyond the Initial Term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in the Contract (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to the Sample Option Letter attached to this Contract. Except as stated in §2.D, the total duration of this Contract, including the exercise of any options to extend, shall not exceed seven years from its Effective Date absent prior approval from the Chief Procurement Officer in accordance with the Colorado Procurement Code.

D. End of Term Extension

If this Contract approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Contractor as provided in §14, may unilaterally extend such Initial Term or Extension Term for a period not to exceed two months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Contract in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of this Contract.

E. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Contract by the State for Breach of Contract by Contractor,

which shall be governed by §11.

i. Method and Content

The State shall notify Contractor of such termination in accordance with §14. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in §12.

iii. Payments

If the State terminates this Contract in the public interest, the State shall pay Contractor an amount equal to the percentage of the total reimbursement payable under this Contract that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Contract is less than 60% completed, as determined by the State, the State may reimburse Contractor for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Contract, incurred by Contractor which are directly attributable to the uncompleted portion of Contractor's obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Contractor hereunder.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Breach of Contract”** means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Contractor is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.
- B. **“Business Day”** means any day other than Saturday, Sunday, or a Legal Holiday as listed in §24-11-101(1), C.R.S.
- C. **“Chief Procurement Officer”** means the individual to whom the Executive Director has delegated his or her authority, pursuant to §24-102-202, C.R.S. to procure or supervise the procurement of all supplies and services needed by the State.
- D. **“Contract”** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- E. **“Contract Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Contract.
- F. **“Contractor Pre-Existing Material”** means material, code, methodology, concepts, process, systems, technique, trade or service marks, copyrights, or other intellectual property

developed, licensed or otherwise acquired by Contractor prior to the Effective Date of this Contract and independent of any services rendered under any other contract with the State.

- G. **“Colorado Open Records Act (CORA)”** means §24-72-200.1, *et seq.*, C.R.S.
- H. **“Criminal Justice Information (CJI)”** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- I. **“Deliverable”** means the outcome to be achieved or output to be provided, in the form of a tangible object or software that is produced as a result of Contractor’s Work that is intended to be delivered to the State by Contractor.
- J. **“Effective Date”** means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Contract. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then the Effective Date of this Contract shall be the later of the date on which this Contract is approved and signed by the State’s Chief Information Officer or authorized delegate or the date on which this Contract is approved and signed by the State Controller or authorized delegate, as shown on the Signature Page for this Contract.
- K. **“End of Term Extension”** means the time period defined in §2.D
- L. **“Exhibits”** means the exhibits and attachments included with this Contract as shown on the Cover Page for this Contract.
- M. **“Extension Term”** means the time period defined in §2.C
- N. **“Goods”** means any movable material acquired, produced, or delivered by Contractor as set forth in this Contract and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.
- O. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §24-37.5-401, *et seq.*, C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- P. **“Initial Term”** means the time period defined in §2.B
- Q. **“Party”** means the State or Contractor, and **“Parties”** means both the State and Contractor.
- R. **“Payment Card Information (PCI)”** means payment card information including any data related to credit card holders’ names, credit card numbers, or other credit card information as may be protected by state or federal law.
- S. **“Personal Health Information (PHI)”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (i) that relates to the past, present, or future physical or mental 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; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.

- T. **“Personally Identifiable Information (PII)”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, *et seq.*, C.R.S.
- U. **“Services”** means the services to be performed by Contractor as set forth in this Contract and shall include any services to be rendered by Contractor in connection with the Goods.
- V. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- W. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- X. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- Y. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- Z. **“Subcontractor”** means any third party engaged by Contractor to aid in performance of the Work.
- AA. **“Tax Information”** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to, all information defined as federal tax information in Internal Revenue Service Publication 1075.
- BB. **“Work”** means the Goods delivered and Services performed pursuant to this Contract.
- CC. **“Work Product”** means the tangible and intangible results of the Work, whether finished or

unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. "Work Product" does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit, including the terminology in Exhibit D.

4. STATEMENT OF WORK

- A. Contractor shall complete the Work as described in this Contract and in accordance with the provisions of Exhibit B, and Exhibit E. The State shall have no liability to compensate Contractor for the delivery of any goods or the performance of any services that are not specifically set forth in this Contract.
- B. The State, at its discretion, shall have the option to increase or decrease the statewide quantity of Goods and Services based upon rates established in this Contract, and increase the maximum amount payable accordingly. In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to the Sample Option Letter attached to this contract. Delivery of Goods and performance of Services shall continue at the same rates and terms as described in this Contract.

5. PAYMENTS TO CONTRACTOR

A. Maximum Amount

Payments to Contractor are limited to the unpaid, obligated balance of the Contract Funds. The State shall not pay Contractor any amount under this Contract that exceeds the Contract Maximum for that State Fiscal Year shown on the Cover Page for this Contract.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Contractor in the amounts and in accordance with the schedule and other conditions set forth in Exhibit B, Statement of Work and Exhibit C, Rates.
- b. Contractor shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Contractor and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Contractor shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or Deliverables provided under this Contract.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however,

that interest shall not accrue on unpaid amounts that the State disputes in writing. Contractor shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

If Contractor disputes any calculation, determination or amount of any payment, Contractor shall notify the State in writing of its dispute within 30 days following the earlier to occur of Contractor's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Contractor and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Contractor beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Contract Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Contract Funds, the State's obligation to pay Contractor shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Contract shall be made only from Contract Funds, and the State's liability for such payments shall be limited to the amount remaining of such Contract Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Contract, the State may, upon written notice, terminate this Contract, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Contract were terminated in the public interest as described in §2.E.

6. REPORTING - NOTIFICATION

A. Quarterly Reports.

In addition to any reports required pursuant to this Contract or pursuant to any other Exhibit, for any contract having a term longer than three months, Contractor shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Contract. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than five Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision-making body, and such pleading or document relates to this Contract or may affect Contractor's ability to perform its obligations under this Contract, Contractor shall, within ten days after being served, notify the State of such action

and deliver copies of such pleading or document to the State's Principal Representative identified on the Cover Page of this Contract.

C. Performance Outside the State of Colorado or the United States, §24-102-206, C.R.S.

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., Contractor shall provide written notice to the State, in accordance with §14 and in a form designated by the State, within 20 days following the earlier to occur of Contractor's decision to perform Services outside of the State of Colorado or the United States, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations, and such notice shall be a public record. Knowing failure by Contractor to provide notice to the State under this section shall constitute a breach of this Contract. This section shall not apply if the Contract Funds include any federal funds.

D. SOC 1 Type II Annual Report

If Contractor performs Work for any of the State's IT systems that impact the State's Comprehensive Annual Financial Report as determined by the Colorado Office of the State Controller, Contractor, on an annual basis, shall deliver to the State, at Contractor's sole cost and expense, Contractor's System and Organization Controls 1 Type II Report ("SOC 1 Type II Report") prepared by a qualified independent audit firm with respect to the Statement on Standards for Attestation Engagements, Reporting on Controls at a Service Organization (SSAE) as promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants, as amended, from time to time.

7. CONTRACTOR RECORDS

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the "Contractor Records"). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: **(i)** the date three years after the date this Contract expires or is terminated, **(ii)** final payment under this Contract is made, **(iii)** the resolution of any pending Contract matters, or **(iv)** if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Contractor shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, the federal government, and any other duly authorized agent of a governmental agency in its discretion, may monitor Contractor's performance of its obligations under this Contract using procedures as determined by the State or that governmental entity. The State shall monitor Contractor's performance in a manner that does not unduly interfere with Contractor's performance of the Work.

D. Final Audit Report

Contractor shall promptly submit to the State a copy of any final audit report of an audit performed on Contractor's records that relates to or affects this Contract or the Work, whether the audit is conducted by Contractor or a third party.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Contractor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law, or approved in writing by the State. Contractor shall provide for the security of all State Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. If Contractor or any of its Subcontractors will or may receive the following types of data, Contractor or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Contract as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Contract, if applicable. Contractor shall immediately forward any request or demand for State Records to the State's Principal Representative.

B. Other Entity Access and Nondisclosure Agreements

Contractor may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Contract. Contractor shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign, or Subcontractor has access to any State Confidential Information. Contractor shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

C. Use, Security, and Retention

Contractor shall use, hold, and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential

Information. Contractor shall provide the State with access, subject to Contractor's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Contract, Contractor shall return State Records provided to Contractor or destroy such State Records and certify to the State that it has done so, as directed by the State. If Contractor is prevented by law or regulation from returning or destroying State Confidential Information, Contractor warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Contractor becomes aware of any Incident, Contractor shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Contractor can establish that Contractor and its Subcontractors are not the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan in its sole discretion, and Contractor shall make all modifications as directed by the State. If Contractor cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Contractor shall reimburse the State for the actual costs thereof. The State may, in its sole discretion and at Contractor's sole expense, require Contractor to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Contractor shall provide the State with the results of such audit and evidence of Contractor's planned remediation in response to any negative findings.

E. Data Protection and Handling

Contractor shall ensure that all State Records and Work Product in the possession of Contractor or any Subcontractors are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

F. Safeguarding PII

If Contractor or any of its Subcontractors will or may receive PII under this Contract, Contractor shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Contractor shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S. In addition, as set forth in § 24-74-102, *et seq.*, C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as Exhibit H on an annual basis Contractor's duty and obligation to certify as set forth in Exhibit H shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring

direct access to State databases containing PII, Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Contractor shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Contractor under this Contract. Such a conflict of interest would arise when a Contractor's or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Contract.

B. Apparent Conflicts of Interest

Contractor acknowledges that, with respect to this Contract, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor's obligations under this Contract.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Contractor is uncertain whether a conflict or the appearance of a conflict has arisen, Contractor shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Contract.

D. Contractor acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Contractor further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Contract.

10. INSURANCE

Contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Contract. All insurance policies required by this Contract shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Contractor or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any one fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Cyber/Network Security and Privacy Liability

Liability insurance covering civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

E. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

F. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

G. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Contractor and Subcontractors.

H. Primacy of Coverage

Coverage required of Contractor and each Subcontractor shall be primary and noncontributory over any insurance or self-insurance program carried by Contractor or the State.

I. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with §14 within seven days of Contractor's receipt of such notice.

J. Subrogation Waiver

All insurance policies secured or maintained by Contractor or its Subcontractors in relation to this Contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

K. Public Entities

If Contractor is a “public entity” within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., (the “GIA”), Contractor shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Contractor shall ensure that the Subcontractor maintains at all times during the terms of this Contract, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor’s obligations under the GIA.

L. Certificates

Contractor shall provide to the State certificates evidencing Contractor’s insurance coverage required in this Contract within seven Business Days following the Effective Date. Contractor shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Contract within seven Business Days following the Effective Date, except that, if Contractor’s subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage required under this Contract within seven Business Days following Contractor’s execution of the subcontract. No later than 15 days before the expiration date of Contractor’s or any Subcontractor’s coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Contractor shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section. Contractor shall provide all certificates electronically to the Department’s designated insurance certificate submission site, unless the Department has specifically directed otherwise.

11. BREACH OF CONTRACT

In the event of a Breach of Contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Contract, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in this Contract in order to protect the public interest of the State; or if Contractor is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State’s Remedies

If Contractor is in breach under any provision of this Contract and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section, in addition to all other remedies set forth in this Contract or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach of Contract

In the event of Contractor’s uncured breach, the State may terminate this entire Contract or any part of this Contract. Contractor shall continue performance of this Contract to

the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the State all Work not cancelled by the termination notice and may incur obligations as necessary to do so within this Contract's terms. At the request of the State, Contractor shall assign to the State all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor but in which the State has an interest. At the State's request, Contractor shall return materials owned by the State in Contractor's possession at the time of any termination. Contractor shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Contractor for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Contract had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State for any damages sustained by the State in connection with any breach by Contractor, and the State may withhold payment to Contractor for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Contractor is determined. The State may withhold any amount that may be due Contractor as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Contractor's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Contractor to an adjustment in price or cost or an adjustment in the performance schedule. Contractor shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Contractor after the suspension of performance.

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Contractor's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the State; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Contractor's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Contract is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Contractor shall, as approved by the State (i) secure that right to use such Work for the State and Contractor; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Contractor's Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of the State Agency named on the Cover Page of this Contract as described in §24-102-202(3), C.R.S. for resolution in accordance with the provisions of C.R.S. §24-106-109, C.R.S., and §§24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the Executive Director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

14. NOTICES AND REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Contract shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page of this Contract or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page of this Contract. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Contract. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this section without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Contractor hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Contractor cannot make any of the assignments required by this section, Contractor hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Contractor grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Contractor that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not Contractor is under contract with the State at the time, Contractor shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. To the extent that Work Product would fall under the definition of "works made for

hire” under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire. Contractor assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Contract, all State Records, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and information provided by or on behalf of the State to Contractor are the exclusive property of the State (collectively, “State Materials”). Contractor shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Contractor’s obligations in this Contract without the prior written consent of the State. Upon termination of this Contract for any reason, Contractor shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Contractor

Contractor retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Contractor including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Contractor under the Contract, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, “Contractor Property”). Contractor Property shall be licensed to the State as set forth in this Contract or a State approved license agreement: **(i)** entered into as exhibits to this Contract; **(ii)** obtained by the State from the applicable third-party vendor; or **(iii)** in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. GENERAL PROVISIONS

A. Assignment

Contractor’s rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Contractor’s rights and obligations approved by the State shall be subject to the provisions of this Contract

B. Subcontracts

Contractor shall not enter into any subcontract in connection with its obligations under this Contract without the prior, written approval of the State. Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

C. Binding Effect

Except as otherwise provided in **§16.A.**, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Contract may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Contract represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

H. Digital Signatures

If any signatory signs this Contract using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

I. Modification

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Contract to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Contract.

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Contractor's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Contract.

L. Severability

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.

M. Survival of Certain Contract Terms

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of this Contract shall survive the termination or expiration of this Contract and shall be enforceable by the other Party.

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excises, sales or use taxes that Contractor may wish to have in place in connection with this Contract.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §16.A., this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Contractor shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Contractor's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations

Contractor shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all licenses, certifications, permits and other

authorizations required to perform their obligations in relation to this Contract.

T. Indemnification

i. General Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Contractor in violation of §8 may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys’ fees and costs) incurred by the State in relation to any act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §8.

iii. Intellectual Property Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the Indemnified Parties in relation to any claim that any deliverable, Good or Service, software, or Work Product provided by Contractor under this Contract (collectively, “IP Deliverables”), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. Contractor’s obligations hereunder shall not extend to the combination of any IP Deliverables provided by Contractor with any other product, system, or method, unless the other product, system, or method is **(a)** provided by Contractor or Contractor’s subsidiaries or affiliates; **(b)** specified by Contractor to work with the IP Deliverables; **(c)** reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or **(d)** is reasonably expected to be used in combination with the IP Deliverables.

iv. Accessibility Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to Contractor’s failure to comply with §§24-85-101, *et seq.*, C.R.S., or the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103(2.5), C.R.S.

U. Accessibility

i. Contractor shall comply with and the Work Product provided under this Contract shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by the Governor’s Office Of Information Technology (OIT), pursuant to Section §24-85-

103(2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

- ii. The State may require Contractor's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Contractor's Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103(2.5), C.R.S.

V. Additional Provisions

Contractor shall comply with all requirements shown Exhibit A and Exhibit G.

17. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR.

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when**

requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference that conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109, C.R.S.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and

(v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

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EXHIBIT A, HIPAA BUSINESS ASSOCIATES ADDENDUM

This HIPAA Business Associate Agreement (“Agreement”) between the State and Contractor is agreed to in connection with, and as an exhibit to, the Contract. For purposes of this Agreement, the State is referred to as “Covered Entity” and Contractor is referred to as “Business Associate”. Unless the context clearly requires a distinction between the Contract and this Agreement, all references to “Contract” shall include this Agreement.

1. PURPOSE

Covered Entity wishes to disclose information to Business Associate, which may include Protected Health Information (“PHI”). The Parties intend to protect the privacy and security of the disclosed PHI in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. No. 104-191 (1996) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) enacted under the American Recovery and Reinvestment Act of 2009 (“ARRA”) Pub. L. No. 111-5 (2009), implementing regulations promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended. Prior to the disclosure of PHI, Covered Entity is required to enter into an agreement with Business Associate containing specific requirements as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and all other applicable laws and regulations, all as may be amended.

2. DEFINITIONS

The following terms used in this Agreement shall have the same meanings as in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

The following terms used in this Agreement shall have the meanings set forth below:

- a. Business Associate. “Business Associate” shall have the same meaning as the term “business associate” at 45 C.F.R. 160.103, and shall refer to Contractor.
- b. Covered Entity. “Covered Entity” shall have the same meaning as the term “covered entity” at 45 C.F.R. 160.103, and shall refer to the State.
- c. Information Technology and Information Security. “Information Technology” and “Information Security” shall have the same meanings as the terms “information technology” and “information security”, respectively, in §24-37.5-102, C.R.S.

Capitalized terms used herein and not otherwise defined herein or in the HIPAA Rules shall have the meanings ascribed to them in the Contract.

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

a. Permitted Uses and Disclosures.

- i. Business Associate shall use and disclose PHI only to accomplish Business Associate's obligations under the Contract.
- i. To the extent Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with any and all requirements of Subpart E that apply to Covered Entity in the performance of such obligation.
- ii. Business Associate may disclose PHI to carry out the legal responsibilities of Business Associate, provided, that the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that:
 - A. the information will remain confidential and will be used or disclosed only as Required by Law or for the purpose for which Business Associate originally disclosed the information to that person, and;
 - B. the person notifies Business Associate of any Breach involving PHI of which it is aware.
- iii. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity. Business Associate may de-identify any or all PHI created or received by Business Associate under this Agreement, provided the de-identification conforms to the requirements of the HIPAA Rules.

b. Minimum Necessary. Business Associate, its Subcontractors and agents, shall access, use, and disclose only the minimum amount of PHI necessary to accomplish the objectives of the Contract, in accordance with the Minimum Necessary Requirements of the HIPAA Rules including, but not limited to, 45 C.F.R. 164.502(b) and 164.514(d).

c. Impermissible Uses and Disclosures.

- i. Business Associate shall not disclose the PHI of Covered Entity to another covered entity without the written authorization of Covered Entity.
- ii. Business Associate shall not share, use, disclose or make available any Covered Entity PHI in any form via any medium with or to any person or entity beyond the boundaries or jurisdiction of the United States without express written authorization from Covered Entity.

d. Business Associate's Subcontractors.

- i. Business Associate shall, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any Subcontractors who create, receive, maintain, or transmit PHI on behalf of Business Associate agree in writing to the same restrictions,

conditions, and requirements that apply to Business Associate with respect to safeguarding PHI.

- ii. Business Associate shall provide to Covered Entity, on Covered Entity's request, a list of Subcontractors who have entered into any such agreement with Business Associate.
 - iii. Business Associate shall provide to Covered Entity, on Covered Entity's request, copies of any such agreements Business Associate has entered into with Subcontractors.
- e. Access to System. If Business Associate needs access to a Covered Entity Information Technology system to comply with its obligations under the Contract or this Agreement, Business Associate shall request, review, and comply with any and all policies applicable to Covered Entity regarding such system including, but not limited to, any policies promulgated by the Office of Information Technology and available at <http://oit.state.co.us/about/policies>.
- f. Access to PHI. Business Associate shall, within ten days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.524.
- g. Amendment of PHI.
- i. Business Associate shall within ten days of receiving a written request from Covered Entity make any amendment to PHI in a Designated Record Set as directed by or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.
 - ii. Business Associate shall promptly forward to Covered Entity any request for amendment of PHI that Business Associate receives directly from an Individual.
- h. Accounting Rights. Business Associate shall, within ten days of receiving a written request from Covered Entity, maintain and make available to Covered Entity the information necessary for Covered Entity to satisfy its obligations to provide an accounting of Disclosure under 45 C.F.R. 164.528.
- i. Restrictions and Confidential Communications.
- i. Business Associate shall restrict the Use or Disclosure of an Individual's PHI within ten days of notice from Covered Entity of:
 - A. a restriction on Use or Disclosure of PHI pursuant to 45 C.F.R. 164.522; or
 - B. a request for confidential communication of PHI pursuant to 45 C.F.R. 164.522.
 - ii. Business Associate shall not respond directly to an Individual's requests to restrict the Use or Disclosure of PHI or to send all communication of PHI to an alternate address.

- iii. Business Associate shall refer such requests to Covered Entity so that Covered Entity can coordinate and prepare a timely response to the requesting Individual and provide direction to Business Associate.

- j. Governmental Access to Records. Business Associate shall make its facilities, internal practices, books, records, and other sources of information, including PHI, available to the Secretary for purposes of determining compliance with the HIPAA Rules in accordance with 45 C.F.R. 160.310.

- k. Audit, Inspection and Enforcement.
 - i. Business Associate shall obtain and update at least annually a written assessment performed by an independent third party reasonably acceptable to Covered Entity, which evaluates the Information Security of the applications, infrastructure, and processes that interact with the Covered Entity data Business Associate receives, manipulates, stores and distributes. Upon request by Covered Entity, Business Associate shall provide to Covered Entity the executive summary of the assessment.
 - ii. Business Associate, upon the request of Covered Entity, shall fully cooperate with Covered Entity's efforts to audit Business Associate's compliance with applicable HIPAA Rules. If, through audit or inspection, Covered Entity determines that Business Associate's conduct would result in violation of the HIPAA Rules or is in violation of the Contract or this Agreement, Business Associate shall promptly remedy any such violation and shall certify completion of its remedy in writing to Covered Entity.

- l. Appropriate Safeguards.
 - i. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided in this Agreement.
 - ii. Business Associate shall safeguard the PHI from tampering and unauthorized disclosures.
 - iii. Business Associate shall maintain the confidentiality of passwords and other data required for accessing this information.
 - iv. Business Associate shall extend protection beyond the initial information obtained from Covered Entity to any databases or collections of PHI containing information derived from the PHI. The provisions of this section shall be in force unless PHI is de-identified in conformance to the requirements of the HIPAA Rules.

- m. Safeguard During Transmission.
 - i. Business Associate shall use reasonable and appropriate safeguards including, without limitation, Information Security measures to ensure that all transmissions of PHI are authorized and to prevent use or disclosure of PHI other than as provided for by this Agreement.

- ii. Business Associate shall not transmit PHI over the internet or any other insecure or open communication channel unless the PHI is encrypted or otherwise safeguarded with a FIPS-compliant encryption algorithm.
- n. Reporting of Improper Use or Disclosure and Notification of Breach.
- i. Business Associate shall, as soon as reasonably possible, but immediately after discovery of a Breach, notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, including a Breach of Unsecured Protected Health Information as such notice is required by 45 C.F.R. 164.410 or a breach for which notice is required under §24-73-103, C.R.S.
 - ii. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach.
 - iii. Business Associate shall, as soon as reasonably possible, but immediately after discovery of any Security Incident that does not constitute a Breach, notify Covered Entity of such incident.
 - iv. Business Associate shall have the burden of demonstrating that all notifications were made as required, including evidence demonstrating the necessity of any delay.
- o. Business Associate's Insurance and Notification Costs.
- i. Business Associate shall bear all costs of a Breach response including, without limitation, notifications, and shall maintain insurance to cover:
 - A. loss of PHI data;
 - B. Breach notification requirements specified in HIPAA Rules and in §24-73-103, C.R.S.; and
 - C. claims based upon alleged violations of privacy rights through improper use or disclosure of PHI.
 - ii. All such policies shall meet or exceed the minimum insurance requirements of the Contract or otherwise as may be approved by Covered Entity (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status, and notice of cancellation).
 - iii. Business Associate shall provide Covered Entity a point of contact who possesses relevant Information Security knowledge and is accessible 24 hours per day, 7 days per week to assist with incident handling.
 - iv. Business Associate, to the extent practicable, shall mitigate any harmful effect known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of this Agreement.

p. Subcontractors and Breaches.

- i. Business Associate shall enter into a written agreement with each of its Subcontractors and agents, who create, receive, maintain, or transmit PHI on behalf of Business Associate. The agreements shall require such Subcontractors and agents to report to Business Associate any use or disclosure of PHI not provided for by this Agreement, including Security Incidents and Breaches of Unsecured Protected Health Information, on the first day such Subcontractor or agent knows or should have known of the Breach as required by 45 C.F.R. 164.410.
- ii. Business Associate shall notify Covered Entity of any such report and shall provide copies of any such agreements to Covered Entity on request.

q. Data Ownership.

- i. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.
- ii. Upon request by Covered Entity, Business Associate immediately shall provide Covered Entity with any keys to decrypt information that the Business Association has encrypted and maintains in encrypted form, or shall provide such information in unencrypted usable form.

- r. Retention of PHI. Except upon termination of this Agreement as provided in Section 5 below, Business Associate and its Subcontractors or agents shall retain all PHI throughout the term of this Agreement, and shall continue to maintain the accounting of disclosures required under Section 3.h above, for a period of six years.

4. OBLIGATIONS OF COVERED ENTITY

- b. Safeguards During Transmission. Covered Entity shall be responsible for using appropriate safeguards including encryption of PHI, to maintain and ensure the confidentiality, integrity, and security of PHI transmitted pursuant to this Agreement, in accordance with the standards and requirements of the HIPAA Rules.

c. Notice of Changes.

- i. Covered Entity maintains a copy of its Notice of Privacy Practices on its website. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission to use or disclose PHI, to the extent that it may affect Business Associate's permitted or required uses or disclosures.
- ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. 164.522, to the extent that it may affect Business Associate's permitted use or disclosure of PHI.

5. TERMINATION

d. Breach.

- i. In addition to any Contract provision regarding remedies for breach, Covered Entity shall have the right, in the event of a breach by Business Associate of any provision of this Agreement, to terminate immediately the Contract, or this Agreement, or both.
- ii. Subject to any directions from Covered Entity, upon termination of the Contract, this Agreement, or both, Business Associate shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Business Associate in which Covered Entity has an interest.

b. Effect of Termination.

- i. Upon termination of this Agreement for any reason, Business Associate, at the option of Covered Entity, shall return or destroy all PHI that Business Associate, its agents, or its Subcontractors maintain in any form, and shall not retain any copies of such PHI.
- ii. If Covered Entity directs Business Associate to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.
- iii. If Business Associate believes that returning or destroying the PHI is not feasible, Business Associate shall promptly provide Covered Entity with notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of Section 3 of this Agreement to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

6. INJUNCTIVE RELIEF

Covered Entity and Business Associate agree that irreparable damage would occur in the event Business Associate or any of its Subcontractors or agents use or disclosure of PHI in violation of this Agreement, the HIPAA Rules or any applicable law. Covered Entity and Business Associate further agree that money damages would not provide an adequate remedy for such Breach. Accordingly, Covered Entity and Business Associate agree that Covered Entity shall be entitled to injunctive relief, specific performance, and other equitable relief to prevent or restrain any Breach or threatened Breach of and to enforce specifically the terms and provisions of this Agreement.

7. LIMITATION OF LIABILITY

Any provision in the Contract limiting Contractor's liability shall not apply to Business Associate's liability under this Agreement, which shall not be limited.

8. DISCLAIMER

Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement or the HIPAA Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made and actions taken by Business Associate regarding the safeguarding of PHI.

9. CERTIFICATION

Covered Entity has a legal obligation under HIPAA Rules to certify as to Business Associate's Information Security practices. Covered Entity or its authorized agent or contractor shall have the right to examine Business Associate's facilities, systems, procedures, and records, at Covered Entity's expense, if Covered Entity determines that examination is necessary to certify that Business Associate's Information Security safeguards comply with the HIPAA Rules or this Agreement.

10. AMENDMENT

- e. Amendment to Comply with Law. The Parties acknowledge that state and federal laws and regulations relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide procedures to ensure compliance with such developments.
 - i. In the event of any change to state or federal laws and regulations relating to data security and privacy affecting this Agreement, the Parties shall take such action as is necessary to implement the changes to the standards and requirements of HIPAA, the HIPAA Rules and other applicable rules relating to the confidentiality, integrity, availability and security of PHI with respect to this Agreement.
 - ii. Business Associate shall provide to Covered Entity written assurance satisfactory to Covered Entity that Business Associate shall adequately safeguard all PHI, and obtain written assurance satisfactory to Covered Entity from Business Associate's Subcontractors and agents that they shall adequately safeguard all PHI.
 - iii. Upon the request of either Party, the other Party promptly shall negotiate in good faith the terms of an amendment to the Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Rules, or other applicable rules.
 - iv. Covered Entity may terminate this Agreement upon 30 days' prior written notice in the event that:
 - A. Business Associate does not promptly enter into negotiations to amend the Contract and this Agreement when requested by Covered Entity pursuant to this Section; or
 - B. Business Associate does not enter into an amendment to the Contract and this Agreement, which provides assurances regarding the safeguarding of PHI

sufficient, in Covered Entity's sole discretion, to satisfy the standards and requirements of the HIPAA, the HIPAA Rules and applicable law.

- b. Amendment of Appendix. The Appendix to this Agreement may be modified or amended by the mutual written agreement of the Parties, without amendment of this Agreement. Any modified or amended Appendix agreed to in writing by the Parties shall supersede and replace any prior version of the Appendix.

11. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS

Covered Entity shall provide written notice to Business Associate if litigation or administrative proceeding is commenced against Covered Entity, its directors, officers, or employees, based on a claimed violation by Business Associate of HIPAA, the HIPAA Rules or other laws relating to security and privacy or PHI. Upon receipt of such notice and to the extent requested by Covered Entity, Business Associate shall, and shall cause its employees, Subcontractors, or agents assisting Business Associate in the performance of its obligations under the Contract to, assist Covered Entity in the defense of such litigation or proceedings. Business Associate shall, and shall cause its employees, Subcontractor's and agents to, provide assistance, to Covered Entity, which may include testifying as a witness at such proceedings. Business Associate or any of its employees, Subcontractors or agents shall not be required to provide such assistance if Business Associate is a named adverse party.

12. INTERPRETATION AND ORDER OF PRECEDENCE

Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. In the event of an inconsistency between the Contract and this Agreement, this Agreement shall control. This Agreement supersedes and replaces any previous, separately executed HIPAA business associate agreement between the Parties.

13. SURVIVAL

Provisions of this Agreement requiring continued performance, compliance, or effect after termination shall survive termination of this contract or this agreement and shall be enforceable by Covered Entity.

APPENDIX TO HIPAA BUSINESS ASSOCIATE AGREEMENT

This Appendix (“Appendix”) to the HIPAA Business Associate Agreement (“Agreement”) is an appendix to the Contract and the Agreement. For the purposes of this Appendix, defined terms shall have the meanings ascribed to them in the Agreement and the Contract.

Unless the context clearly requires a distinction between the Contract, the Agreement, and this Appendix, all references to “Contract” or “Agreement” shall include this Appendix.

1. PURPOSE

This Appendix sets forth additional terms to the Agreement. Any sub-section of this Appendix marked as “Reserved” shall be construed as setting forth no additional terms.

2. ADDITIONAL TERMS

- f. Additional Permitted Uses. In addition to those purposes set forth in the Agreement, Business Associate may use PHI for the following additional purposes:
 - i. Reserved.

- g. Additional Permitted Disclosures. In addition to those purposes set forth in the Agreement, Business Associate may disclose PHI for the following additional purposes:
 - ii. Reserved.

- c. Approved Subcontractors. Covered Entity agrees that the following Subcontractors or agents of Business Associate may receive PHI under the Agreement:
 - i. Reserved.

- d. Definition of Receipt of PHI. Business Associate’s receipt of PHI under this Contract shall be deemed to occur, and Business Associate’s obligations under the Agreement shall commence, as follows:
 - i. Reserved.

- e. Additional Restrictions on Business Associate. Business Associate agrees to comply with the following additional restrictions on Business Associate’s use and disclosure of PHI under the Contract:
 - i. Reserved.

- f. Additional Terms. Business Associate agrees to comply with the following additional terms under the Agreement:
 - i. Reserved.

EXHIBIT B, STATEMENT OF WORK

- 1. SEE SEPARATE PDF FOR FULL EXHIBIT B, STATEMENT OF WORK**

DRAFT

EXHIBIT C, RATES

DELIVERABLES	DATE DUE TO THE DEPARTMENT	FIXED PRICE PAID UPON ACCEPTANCE OF DELIVERABLE
Total		

DRAFT

EXHIBIT D, TERMINOLOGY

1. TERMINOLOGY

- 1.1. In addition to the terms defined in §3 of this Contract, the following list of terms shall be construed and interpreted as follows:
- 1.1.1. 1915(b)(3) Services – Alternative, non-State Plan Services described in 42 C.F.R. § 440 and provided under the Departments 1915(b)(3) waiver such as: intensive case management, Assertive Community Treatment (ACT), respite care, vocational services, clubhouses and drop-in center services, recovery services, educational and skills training courses, prevention/early intervention and residential services.
 - 1.1.2. Accountable Care Collaborative (ACC) – A program designed to affordably optimize Member health, functioning, and self-sufficiency. The primary goals of the Program are to improve Member health and life outcomes and to use state resources wisely. Regional Accountable Entities (RAEs) work in collaboration with Primary Care Medical Providers (PCMPs) that serve as medical homes, behavioral health providers, and other health providers and Members to optimize the delivery of outcomes-based, cost-effective health care services.
 - 1.1.3. Admit, Discharge, and Transfer data (ADT) – A notification that leverages Electronic Health Record data to identify when a patient is admitted to a hospital, transferred to another facility, or discharged from the hospital.
 - 1.1.4. Adverse Benefit Determination – The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit; reduction suspension, or termination of a previously authorized service; denial, in whole or in part, of payment for a service; failure to provide services in a timely manner; failure of Contractor to act with the timeframes provided in 42 CFR 438.408(b)(1) – (2) regarding the standard resolution of grievances and appeals; and the denial of an enrollee’s request to dispute a financial liability.
 - 1.1.5. ASAM – (American Society of Addiction Medicine) Professional medical society that defines treatment guidelines for addictive, substance-related and co-occurring conditions.
 - 1.1.6. APM – see Primary Care Alternative Payment Model
 - 1.1.7. Appeal – A review by a MCO, PHIP or PAHP, of an Adverse Benefit Determination.
 - 1.1.8. Behavioral Health – Behavioral health refers to a level of psychological well-being, not just an absence of mental illness. When used in this contract it is referring to both mental health and substance use.
 - 1.1.9. Business Hours – 8:00 a.m.-5 p.m. Mountain Time each Business Day.
 - 1.1.10. Business Intelligence and Data Management System (BIDM System) – a data warehouse that collects, consolidates, and organizes data from multiple sources, and fully integrates Medicaid eligibility and claims data for reporting, analytics and decision support.
 - 1.1.11. Business Interruption – Any event that disrupts Contractor’s ability to complete the Work for a period of time, and may include, but is not limited to a Disaster, power outage, strike, loss of necessary personnel or computer virus.

- 1.1.12. Capitated Behavioral Health Benefit – A statewide benefit that advances the emotional, behavioral, and social well-being of all Members. The benefit promotes psychological health, the ability to cope and adapt to adversity, and the realization of Members’ abilities. The benefit provides comprehensive State Plan and non-State Plan mental health and substance use disorder services. The Benefit operates under a monthly capitation.
- 1.1.13. Capitated Payment – A monthly payment the Department makes on behalf of each Member for the provision of non-fee-for-service behavioral health services delivered through the Capitated Behavioral Health Benefit.
- 1.1.14. Care Coordination – The deliberate organization of Client care activities between two or more participants (including the Client and/or family members/caregivers) to facilitate the appropriate delivery of physical health, behavioral health, functional Long Term Services and Supports (LTSS) supports, oral health, specialty care, and other services. Care Coordination may range from deliberate provider interventions to coordinate with other aspects of the health system to interventions over an extended period of time by an individual designated to coordinate a Member’s health and social needs.
- 1.1.15. Care Coordination Model – Department-specified-requirements for Contractor’s care coordination program, including the three-tiered approach, transitions of care, CBO network, and system collaboration.
- 1.1.16. Care Coordination Program – Contractor’s care coordination program, inclusive of but not limited to the Department’s Care Coordination Model.
- 1.1.17. Care and Case Management System (CCM) – The Department’s system for case management, currently under development, which aims to consolidate case management functions and add additional functionality to support Long-Term Services and Supports (LTSS) case managers.
- 1.1.18. Care Plan – A plan developed by a care coordinator in collaboration with a Member to guide goals towards whole person health, which may include physical health, behavioral health, and/or health related social needs.
- 1.1.19. Center for Medicare and Medicaid Services (CMS) – The United States federal agency that administers Medicare, Medicaid, and the State Children’s Health Insurance Program.
- 1.1.20. Child Health Plan Plus (CHP+) – Colorado’s public low-cost health insurance for certain children and pregnant women. It is for people who earn too much to qualify for Health First Colorado (Colorado's Medicaid Program), but not enough to pay for private health insurance.
- 1.1.21. Client – An individual eligible for and enrolled in the Colorado Medicaid program
- 1.1.22. Client Over-Utilization Program (COUP) – A program to assist Clients who are shown, through development and review of Client utilization pattern profiles, to have a history of unnecessary or inappropriate utilization of care services.
- 1.1.23. Closed-Loop Referrals – Referrals that consider both the information originating at the source (i.e., the individual or organization initiating the referral) and the information returning from the receiving organization to the originator. Closed-loop referrals allow both the originator and the receiver to access relevant client information and require the receiver to notify the originator when the referral is completed.
- 1.1.24. Closeout Period – The period beginning on the earlier of 90 days prior to the end of the last Extension Term or notice by the Department of its decision to not exercise its option for an

Extension Term, and ending on the day that the Department has accepted the final deliverable for the Closeout Period, as determined in the Department-approved and updated Closeout Plan, and has determined that the closeout is complete.

- 1.1.25. Colorado Crisis Services - Colorado Crisis Services is the statewide behavioral health crisis response system offering individuals mental health, substance use or emotional crisis help, information and referrals.
- 1.1.26. Colorado Revised Statutes (C.R.S.) – The legal code of Colorado; the legal codified general and permanent statutes of the Colorado General Assembly.
- 1.1.27. Code of Federal Regulations (CFR) – The codification of the general and permanent rules and regulations published in the Federal Register by the executive departments and agencies of the Federal Government.
- 1.1.28. Colorado interChange – The Department’s Medicaid Management Information System and supporting services, which includes: Fiscal Agent Operations Services, Provider Web Portal, online provider enrollment, claims processing and payment, Electronic Data Interchange (EDI), Electronic Document Management System (EDMS), provider call center, help desk, and general information technology functionality and business operations
- 1.1.29. Colorado Medicaid – A program authorized by the Colorado Medical Assistance Act (Section 25.5-4-104, et seq., C.R.S.) and Title XIX of the Social Security Act.
- 1.1.30. Colorado Mental Health Institute – State-run psychiatric hospitals located in Fort Logan and Pueblo.
- 1.1.31. Colorado Opportunity Framework – a life stage, indicator-based framework designed to develop a health care delivery system that incorporates key social determinants of health. The Colorado Opportunity Framework has been developed through a cross-agency collaborative that coordinates and aligns the interventions of government, private, non-profit, and Community partners with the goal of delivering evidence-based initiatives and community-based promising practices so that all Coloradans will have the opportunity to reach and maintain their full potential.
- 1.1.32. Colorado’s 10 Winnable Battles – Public health and environmental priorities that have known, effective solutions focusing on healthier air, clean water, infectious disease prevention, injury prevention, mental health and substance use, obesity, oral health, safe food, tobacco and unintended pregnancy. The initiative is overseen by the Colorado Department of Public Health and Environment.
- 1.1.33. Community – For the Accountable Care Collaborative, Community is defined as the services and supports that impact Member well-being, including Health Neighborhood providers and organizations that address the spiritual, social, educational, recreational, and employment aspects of a Member’s life.
- 1.1.34. Community Based Organizations (CBOs) – A public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and provides services to individuals in that community.
- 1.1.35. Community Centered Boards (CCB) – A for-profit or nonprofit private corporation, which, when designated pursuant to 27-10.5-105, C.R.S., provides case management services to Clients with developmental disabilities. A CCB is authorized to determine eligibility of such

Clients within a specified geographical area and serves as the single point of entry for Clients to receive services and supports under 27-10.5-101 et seq., C.R.S.

- 1.1.36. Community Mental Health Centers (CMHC) – An institution that provides mental health services required by §1916(c)(4) of the Public Health Service Act (US) and certified by the appropriate State authorities as meeting such requirements.
- 1.1.37. Comprehensive Needs Assessment – A valid and reliable tool used to determine the strengths and needs of a Member participating in care coordination over multiple domains, including physical health, behavioral health, and health-related social needs in order to inform care plan goals.
- 1.1.38. Comprehensive Risk Contract – A risk contract between the Department and an MCO that covers comprehensive services that includes inpatient hospital services and any of the following services, or any three or more of the following services: outpatient hospital services, rural health clinic services, Federally Qualified Health Center (FQHC) services, other laboratory and x-ray services, nursing facility service, Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services, family planning services, physician services, and home health services as defined in 42 C.F.R. § 438.2.
- 1.1.39. Complex Members – Department defined subset of adult and pediatric Members as stated in the Performance Pool data specification document. Contractor may develop a different definition of Complex Members subject to approval and periodic review by the Department.
- 1.1.40. Consumer Price Index- Urban (CPI-U) – The Consumer Price Index for All Urban Consumers published by the US Department of Labor, Bureau of Labor Statistics.
- 1.1.41. Contract – The agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto, that is entered into as a result of this solicitation.
- 1.1.42. Contract Funds – The funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under the Contract resulting from this Solicitation.
- 1.1.43. Contractor – The individual or entity selected as a result of this solicitation to complete the Work contained in the Contract.
- 1.1.44. Contractor Pre-Existing Material – Material, code, methodology, concepts, process, systems, technique, trade or service marks, copyrights, or other intellectual property developed, licensed or otherwise acquired by Contractor prior to the Effective Date of this Contract and independent of any services rendered under any other contract with the State.
- 1.1.45. Credible Allegation of Fraud – May be an allegation which has been verified by the state, from any source, including but not limited to the following: Fraud hotline complaints, claims data mining, and patterns identified through provider audits, civil false claims cases, and law enforcement investigations. Allegations are considered to be credible when they have indicia of reliability and the State Medicaid agency has reviewed all allegations, facts, and evidence carefully and acts judiciously on a case-by-case basis as defined at 42 C.F.R. § 455.2.
- 1.1.46. Crisis Plan – A plan developed by a clinical provider or care coordinator in collaboration with a Member with an aim to prevent future behavioral health crises.
- 1.1.47. Data – State Confidential Information and other State information resources transferred to Contractor for the purpose of completing a task or project assigned in the Statement of Work.

- 1.1.48. Deliverable – Any tangible or intangible object produced by Contractor as a result of the work that is intended to be delivered to the Department, regardless of whether the object is specifically described or called out as a “Deliverable” or not.
- 1.1.49. Department – The Colorado Department of Health Care Policy and Financing, a department of the government of the State of Colorado.
- 1.1.50. Disaster – An event that makes it impossible for Contractor to perform the Work out of its regular facility or facilities, and may include, but is not limited to, natural disasters, fire or terrorist attacks.
- 1.1.51. Early Periodic Screening, Diagnostic and Treatment (EPSDT) – EPSDT provides a comprehensive array of prevention, diagnostic, and treatment services for low-income infants, children and adolescents under age 21, as specified in Section 1905(r) of the Social Security Act (the Act). The EPSDT requirements are defined by 42 C.F.R. § 441.50 to 441.162 , 42 C.F.R. § 440.345, 42 U.S.C. 1902(a)(43) and 1905(a)(4)(B), and Medicaid Part V state manual.
- 1.1.52. Effective Date – The date on which the Contract resulting from this solicitation is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for the Contract.
- 1.1.53. Emergency Medical Condition – As defined in 42 C.F.R. § 438.114(a) means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:
- 1.1.53.1. Placing the health of the individual (or, for a pregnant woman, the health of the woman or her unborn child) in serious jeopardy.
- 1.1.53.2. Serious impairment to bodily functions.
- 1.1.53.3. Serious dysfunction of any bodily organ or part.
- 1.1.54. Emergency Services – Covered inpatient and outpatient services that are furnished by a provider that is qualified to deliver these services under 42 C.F.R. § 438, and needed to evaluate or stabilize an emergency medical condition as defined in 42 C.F.R. § 438.114.
- 1.1.55. Encounter Data – The information relating to the receipt of any item(s) or service(s) by an enrollee under a contract between the State and a provider as defined in 42 C.F.R. § 438.2.
- 1.1.56. Essential Community Provider (ECP) – Providers that historically serve medically needy or medically indigent individuals and demonstrate a commitment to serve low-income and medically indigent populations who comprise a significant portion of the patient population. To be designated an “ECP,” the provider must demonstrate that it meets the requirements as defined in 25.5-5-404.2, C.R.S.
- 1.1.57. Fee-for-Service (FFS) – A payment delivery mechanism based on a unit established for the delivery of that service (e.g., office visit, test, procedure, unit of time).
- 1.1.58. Federally Qualified Health Center (FQHC) – A hospital-based or free-standing center that meets the FQHC definition found in Section 1905(1)(2)I of the Social Security Act.
- 1.1.59. Fiscal Agent – A contractor that processes or pays vendor claims on behalf of the Medicaid agency.
- 1.1.60. Fiscal Year (FY) – The 12 month period beginning on July 1 of a year and ending on June

30 of the following year.

- 1.1.61. Fraud – An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or some other person and includes any act that constitutes fraud under any federal or state law.
- 1.1.62. Frontier County – A county in Contractor’s service area with a population density less than or equal to 6 persons per square mile.
- 1.1.63. Grievance – An expression of dissatisfaction about any matter other than an adverse benefit determination, including but not limited to, quality of care or services provided and aspects of interpersonal relationships such as rudeness of provider or employee, or failure to respect the Member’s rights as defined at 42 C.F.R. § 438.400 (b).
- 1.1.64. Group of Practitioners – means two (2) or more health care practitioners who practice their profession at a common location, whether or not they share common facilities, common supporting staff, or common equipment.
- 1.1.65. Goods – Any movable material to be acquired, produced, or delivered by Contractor which shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.
- 1.1.66. Health First Colorado – Colorado’s Medicaid Program.
- 1.1.67. Health Neighborhood – A network of Medicaid providers ranging from specialists, hospitals, oral health providers, LTSS providers, home health care agencies, ancillary providers, local public health agencies, and county social/human services agencies that support Members’ health and wellness.
- 1.1.68. Health Needs Survey – A brief tool to assess individual Member’s health risks and quality of life issues, and identify high priority Member needs for health care and Care Coordination.
- 1.1.69. HEDIS – The Healthcare Effectiveness Data and Information Set developed by the National Committee for Quality Assurance.
- 1.1.70. Health Insurance Portability and Accountability Act (HIPAA) – The Health Insurance Portability and Accountability Act of 1996, as amended.
- 1.1.71. HHS-OIG – The U.S. Department of Health and Human Services Office of Inspector General.
- 1.1.72. Home and Community Based Services (HCBS) Waivers – Services and supports authorized through 1915(c) waivers of the Social Security Act and provided in community settings to a Client who requires a level of institutional care that would otherwise be provided in a hospital, nursing facility or intermediate care facility for individuals with intellectual disabilities (ICF/IID) as described at 42 CFR 441.300, et seq.
- 1.1.73. Hospital Transformation Program – A Department initiative to connect hospitals to the Health Neighborhood and align hospital incentives with the goals of the Accountable Care Collaborative Program.
- 1.1.74. Incident – Any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- 1.1.75. Indirect Ownership Interest – Means an ownership interest in an entity that has an ownership interest in another entity. This term includes an ownership interest in any entity that has an indirect ownership interest in another entity.

- 1.1.76. Independent Assessment - A process to assess the strengths and needs of a child or adolescent using the Child and Adolescent Needs and Strengths (CANS) assessment. The CANS is an age-appropriate, evidence-based, validated, functional assessment tool. The assessment determines whether treatment in a Qualified Residential Treatment Program (QRTP) provides the most effective and appropriate level of care for the child in the least restrictive environment, in accordance with Colorado Department of Human Services regulations (10 CCR 2505-10 8.765.1). An Independent Assessment must be conducted by a provider contracted with the Behavioral Health Administration (BHA) or its designee.
- 1.1.77. Key Performance Indicators (KPIs) – Performance measures tied to incentive payments for the Accountable Care Collaborative.
- 1.1.78. Key Personnel – The position or positions that are specifically designated as such in this Contract.
- 1.1.79. Limited Service Licensed Provider Network (LSLPN) – As defined by 3 CCR 702-2, Regulation 2-1-9, a provider network restricted to (i) a narrowly defined health specialty (e.g., substance abuse, radiology, mental health, pediatrics, pharmacology, etc.) or (ii) services narrowly limited to a single type of licensed health facility (e.g., inpatient hospital, birth center, long-term care facility, hospice, etc.) or (iii) home health care services delivered in the covered person’s residence only.
- 1.1.80. Long-Term Services and Supports (LTSS) – A broad range of paid and unpaid medical and personal care assistance services that people may need for several weeks, months, or years when they experience difficulty completing self-care tasks as a result of aging, chronic illness, or disability. LTSS may be delivered in institutional or home and community-based settings (see “Home and Community Based Services). LTSS may include, but are not limited to, nursing facility care, adult day programs, home health aide services, personal care services, transportation, and supported employment, as well as associated care coordination and care planning services.
- 1.1.81. Managed Care Organization (MCO) – An entity that has or is seeking to qualify for, a Comprehensive Risk Contract and that is a federally qualified health maintenance organization that meets the advanced directives requirements; or any public or private entity that meets the advance directives requirements and is determined by the Secretary to make the services it provides to its Medicaid enrollees as accessible (in terms of timeliness, amount, duration, and scope) as those services are to other Medicaid beneficiaries within the area served by the entity, and meets the solvency standards of 42 C.F.R. § 438.116 as defined in 42 C.F.R. § 438.2.
- 1.1.82. Managing Employee – Means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control, or who directly or indirectly conducts the day-to-day operation.
- 1.1.83. Marketing – Means any communication from MCO, PIHP, PAHP, PCCM or PCCM Entity to a Medicaid beneficiary who is not enrolled in that entity, that can reasonably be interpreted as intended to influence the beneficiary to enroll in that particular, MCO’s, PIHP’s, PAHP’s, PCCM’s or PCCM Entity’s, Medicaid product, or either to not enroll in or disenroll from another MCO’s, PIHP’s, PAHP’s, PCCM’s or PCCM Entity’s and other Medicaid product, as defined in CFR 438.104(a).

- 1.1.84. Medical Home – An approach to providing comprehensive primary care that facilitates partnerships between individual Members, their providers, and, where appropriate, the Member’s family.
- 1.1.85. Medical Loss Ratio (MLR) – Percent of a premium used to pay for medical claims and activities that improve the quality of care; a basic financial measurement used in the Affordable Care Act to encourage health plans to provide value to enrollees.
- 1.1.86. Medicaid Management Information Systems (MMIS) – The Department’s automated computer systems that process Medicaid and CHP+ claims and other pertinent information as required under federal regulations.
- 1.1.87. Medically Necessary – Also called Medical Necessity, shall be defined as described in 10 CCR 2505-10 § 8.076.1.8, §8.280.4.E.2., 10 CCR 2505-10 § 8.280, and 42 CFR § 441.50 to 441.62.
- 1.1.88. Medical Record – A document, either physical or electronic, that reflects the utilization of health care services and treatment history of the Member.
- 1.1.89. Member – Any individual enrolled in the Colorado Medicaid program, Colorado’s CHP+ program or the Colorado Indigent Care Program, as determined by the Department.
- 1.1.90. Monthly Capitation Payment – A payment the State makes on a monthly basis to a Contractor on behalf of each Member enrolled in its plan under a contract and based on the actuarially sound capitation rate for the provision of services covered under the Contract.
- 1.1.91. Network Provider – Any Primary Care Medical Provider or specialty behavioral health provider contracted with the Regional Accountable Entity (RAE) to deliver Accountable Care Collaborative services to Members.
- 1.1.92. Nursing Facility – A facility that primarily provides skilled nursing care and related services to residents for the rehabilitation of individuals who are injured, disabled, or sick, or on a regular basis above the level of custodial care to other individuals with intellectual or developmental disabilities.
- 1.1.93. Operational Start Date – When the Department authorizes Contractor to begin fulfilling its obligations under the Contract.
- 1.1.94. Other Personnel – Individuals and Subcontractors, in addition to Key Personnel, assigned to positions to complete tasks associated with the Work.
- 1.1.95. Overpayment – The amount paid to a Provider which is in excess of the amount that is allowable for goods or services furnished and which is required by Title XIX of the Social Security Act to be refunded. An Overpayment may include, but is not limited to, improper payments made as the result of Fraud, Waste, and abuse.
- 1.1.96. Ownership – Means the possession of equity in the capital, stock, or profits of an entity.
- 1.1.97. Ownership or Control Interest – Means an individual or entity that: has an ownership interest totaling five percent or more; has an Indirect Ownership Interest equal to five percent or more; has a combination of direct and Indirect Ownership Interests equal to five percent or more; owns an interest of five percent or more in any mortgage, deed of trust, note, or other obligation another entity, if that interest equals at least five percent of the value of the property or assets of the other entity; is an officer or director of an entity that is organized as a corporation; or is a partner in an entity that is organized as a partnership.

- 1.1.98. Part 2 Data – Information the Department shares with Contractor that is covered under 42 C.F.R. Part 2.
- 1.1.99. Patient Abuse – The willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical or financial harm or pain or mental anguish, including any acts or omissions that constitute a criminal violation under state law.
- 1.1.100. Payment Card Information – Payment card information, including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- 1.1.101. Personally Identifiable Information – Personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24–72–501 C.R.S.
- 1.1.102. Protected Health Information (PHI) – Any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present or future physical or mental 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; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- 1.1.103. Provider – Any health care professional or entity that has been accepted as a provider in the Colorado Medicaid program, Colorado’s CHP+ program or the Colorado Indigent Care Program, as determined by the Department.
- 1.1.104. Population Management Framework – The Department-developed population stratification framework that includes three levels: complex care coordination and management for members with complex health needs or catastrophic costs; condition management for members with chronic or specific health conditions identified by the Department; and prevention and supportive services for general wellness and member engagement as identified and prioritized by the Department.
- 1.1.105. Post-Stabilization Care Services – Covered services related to an Emergency Medical Condition that are provided after a Member is stabilized in order to maintain the stabilized condition, or, under the circumstances described in 42 C.F.R. § 438.114(e), to improve or resolve the Member’s condition.
- 1.1.106. Prepaid Inpatient Health Plan (PIHP) – An entity that provides health and medical services to enrollees under a non-comprehensive risk contract with the Department, and on the basis of prepaid capitation payments, or other arrangements that do not use State Plan payment rates, and provides, arranges for, or is otherwise responsible for the provisions of any inpatient hospital or institutional services for its enrollees as defined in 42 C.F.R. § 438.2.
- 1.1.107. Prevalent Language – Means a non-English language determined to be spoken by a significant number or percentage of potential enrollees and enrollees that are limited English proficient, as defined in 42 C.F.R. § 438.10(a).

- 1.1.108. Primary Care Alternative Payment Model (APM) – A Department initiative to transition primary care provider reimbursement from one based on volume to one based on value in the FFS system.
- 1.1.109. Primary Care Case Management (PCCM) – A system under which a primary care case manager (PCCM) contracts with the State to furnish case management services (which include the location, coordination and monitoring of primary health care services) to Members, or a PCCM entity that contracts with the State to provide a defined set of functions as defined in 42 C.F.R. § 438.2.
- 1.1.110. Primary Care Case Management Entity (PCCM Entity) – An organization that provides any of the following functions, in addition to PCCM services, for the state: provision of intensive telephonic or face-to-face case management; development of enrollee care plans; execution of contracts with and/or oversight responsibilities for the activities of fee-for-service providers in the Fee-for-Service program; provision of payments to Fee-for-Service providers on behalf of the state; provision of enrollee outreach and education activities; operation of a customer service call center; review of provider claims, utilization and practice patterns to conduct provider profiling and/or practice improvement; implementation of quality improvement activities including administering enrollee satisfaction surveys or collecting data necessary for performance measurement of providers; coordination with behavioral health systems/providers; coordination with long-term services and supports systems/providers as defined in 42 C.F.R. § 438.2.
- 1.1.111. Primary Care Medical Provider (PCMP) – A primary care provider contracted with a RAE to participate in the Accountable Care Collaborative as a Network Provider.
- 1.1.112. Primary Care Medical Provider Practice Site (PCMP Practice Site) – A single “brick and mortar” physical location where services are delivered to Members under a single Medicaid billing provider identification number.
- 1.1.113. Private Institution for Mental Diseases (Private IMD) – A hospital, nursing facility, or other institution of more than 16 beds that is not under the jurisdiction of the State’s mental health authority that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services as defined in Section 1905(i) of the Social Security Act, 42 CFR 435.1009, and the State Medicaid Manual Section 4390.
- 1.1.114. Primary Diagnosis – The diagnosis the provider either conducted an evaluation for or was the reason for the specific treatment that is requested or submitted for reimbursement on a CMS 1500.
- 1.1.115. Principal Diagnosis – Condition established after study to be chiefly responsible for a Member's admission to the hospital. It is always the first-listed diagnosis on the health record and the UB-04 claim form.
- 1.1.116. Program Abuse – Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medical Assistance program, an Overpayment by the Medical Assistance program, in reimbursement for good or services that are not medically necessary, or that fail to meet professionally recognized standards for health care.
- 1.1.117. Program of All-Inclusive Care for the Elderly (PACE) – A Medicare/Medicaid managed care program that provides health care and support services to individuals 55 years of age and

older to assist frail individuals to live in their communities as independently as possible by providing comprehensive services based on their needs, as described at 25.5-5-412, C.R.S.

- 1.1.118. Protected Health Information (PHI) – Any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental 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; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- 1.1.119. Provider – Any health care professional or entity that has been accepted as a provider in the Colorado Medicaid program as determined by the Department.
- 1.1.120. Provider Dispute – Means an administrative, payment, or other dispute between a provider and a Contractor that does not involve a member appeal and does not include routine provider inquires that Contractor resolves in a timely fashion through existing informal processes.
- 1.1.121. Public Institution for Mental Diseases (Public IMD) – A facility under the jurisdiction of the State’s mental health authority that provides services to mentally ill persons as defined in Section 1905(i) of the Social Security Act, 42 CFR 435.1009, and the State Medicaid Manual Section 4390.
- 1.1.122. Reattribution – The process of attributing a Member to a new PCMP based upon new information (e.g., claims information, changes in PCMP status and location).
- 1.1.123. Referral or Written Referral – A document from a provider that recommends or provides permission for a Member to receive additional services.
- 1.1.124. Regional Accountable Entity (RAE) – A single regional entity responsible for implementing the Accountable Care Collaborative within its region.
- 1.1.125. Rural County – A county in Contractor’s service area with a total population of less than 100,000 people.
- 1.1.126. Rural Health Center (RHC) – A hospital-based or free-standing center that meets the RHC definition found in Section 1905(1)(2)(B) of the Social Security Act.
- 1.1.127. Specialty Drugs – A list of Outpatient Hospital Physician Administered Drugs maintained by the Department that are subject to special reimbursement terms.
- 1.1.128. Significant Business Transaction – Any business transaction or series of transactions that, during any one fiscal year, exceed the lesser of \$25,000.00 and five percent of Contractor’s total operating expenses.
- 1.1.129. Site Review – The visit of Department staff or its designee to the site or the administrative office(s) of Contractor and/or its participating providers and/or subcontractors to assess the physical resources and operational practices in place to deliver contracted services and/or health care.
- 1.1.130. Special Connections – The Special Connections program provides treatment services for pregnant women and women up to 12 months postpartum with substance use disorders who are assessed to be at risk for poor maternal or infant health outcomes. The program is jointly administered by the Colorado Department of Human Services, Office of Behavioral Health,

and the Department to provide specialized women's services that are gender responsive and trauma informed.

- 1.1.131. Stakeholder – any individual, group or organization that is involved in or affected by a course of action related to the Accountable Care Collaborative. Stakeholders may be Members, family members, caregivers, clinicians, advocacy groups, professional societies, businesses, policymakers, or others.
- 1.1.132. State Fair Hearing – The process set forth in 42 C.F.R. § 431 subpart E.
- 1.1.133. Start-Up Period – The period starting on the Effective Date and ending on the Operational Start Date.
- 1.1.134. Subcontractor – An individual or entity that has a contract with an MCO, PIHP, or PCCM Entity that relates directly or indirectly to the performance of the MCO, PIHP, or PCCM Entity's obligations under its contract with the state. A Network Provider is not a Subcontractor by virtue of the Network Provider agreement with the MCO, or PIHP as defined in 42 C.F.R. § 438.2.
- 1.1.135. Suspected Fraud – An instance of when an idea, impression, belief, feeling, or thought of an event, behavior or trend exists, but definitive evidence is lacking.
- 1.1.136. Services – The services to be performed by Contractor as set forth in this Solicitation, and shall include any services to be rendered by Contractor in connection with the Goods.
- 1.1.137. State – The State of Colorado, acting by and through any State agency.
- 1.1.138. State Fiscal Rules – The fiscal rules promulgated by the Colorado State Controller pursuant to C.R.S. §24-30-202(13)(a).
- 1.1.139. State Fiscal Year – The 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- 1.1.140. State Records – Any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- 1.1.141. Subcontractor – Third-parties, if any, engaged by Contractor to aid in performance of the Work.
- 1.1.142. Tax Information – Federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.
- 1.1.143. Termination/Terminated – Occurring when a state Medicaid program, CHP+, or the Medicare program has taken action to revoke a Medicaid or CHP+ provider's or Medicare provider's or supplier's billing ID.
- 1.1.144. Treatment Plan – a plan developed by a clinical provider to focus on specific treatment goals.
- 1.1.145. Universal Contract – Provisions required in CRS 27-50-203 to be used by state agencies and their contractors when contracting for behavioral health services in the state.
- 1.1.146. Urban County – A county in Contractor's service area with a total population equal to or greater than 100,000 people.

- 1.1.147. Utilization Management – The function wherein use, consumption, and outcome services, along with level and intensity of care, are reviewed for their appropriateness using Utilization Review techniques.
- 1.1.148. Utilization Review – A set of formal techniques designed to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, Referrals, procedures or settings.
- 1.1.149. Waste – Inappropriate utilization that results in unnecessary cost.
- 1.1.150. Wholly Owned Supplier – A supplier whose total ownership interest is held by Contractor or by a person, persons, or other entity with an Ownership or Control Interest in Contractor.
- 1.1.151. Work – The delivery of the Goods and performance of the Services described in the Contract.
- 1.1.152. Work Product – The tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

2. ACRONYMS AND ABBREVIATIONS

- 2.1. The following list is provided to assist the reader in understanding certain acronyms and abbreviations used in this Contract:
 - 2.1.1. AAP – American Association of Pediatrics
 - 2.1.2. ASD – Autism Spectrum Disorder
 - 2.1.3. BH – Behavioral Health
 - 2.1.4. CANS – Child and Adolescent Needs and Strengths tool
 - 2.1.5. CFO – Chief Financial Officer
 - 2.1.6. CFR – Code of Federal Regulations
 - 2.1.7. CHP+ –Child Health Plan Plus
 - 2.1.8. CHRP – Children’s Habilitation Residential Program Waiver
 - 2.1.9. CORA –Colorado Open Records Act, C.R.S. §24–72–200.1, et. seq.
 - 2.1.10. C.R.S. – Colorado Revised Statutes
 - 2.1.11. CPD – Current Dental Terminology
 - 2.1.12. CPI – Consumer Price Index
 - 2.1.13. CPI-U – CPI for all urban consumers
 - 2.1.14. CPT – Current Procedural Terminology
 - 2.1.15. EPSDT – Early Periodic Screening, Diagnostic, and Treatment.
 - 2.1.16. FHIR – Fast Healthcare Interoperability Resources
 - 2.1.17. GAD-7 – General Anxiety Disorder - 7

- 2.1.18. GME – Graduate Medical Education
- 2.1.19. HCPCS – Healthcare Common Procedure Coding System
- 2.1.20. HIPAA – Health Insurance Portability and Accountability Act of 1996, as amended.
- 2.1.21. HFW - High Fidelity Wraparound
- 2.1.22. HMO – Health Management Organization
- 2.1.23. IA(s) – Independent Assessment(s)
- 2.1.24. ICC – Intensive Care Coordination
- 2.1.25. IDEA – Individuals with Disabilities Education Act
- 2.1.26. LEIE – List of Excluded Individuals
- 2.1.27. LSLPN – Limited Service Licensed Provider Network
- 2.1.28. MFCU – the Colorado Medicaid Fraud Control Unit in the Colorado Department of Law
- 2.1.29. OIT – Colorado Governor’s Office of Information Technology
- 2.1.30. PCI – Payment Card Information
- 2.1.31. PCCM – Primary Care Case Management
- 2.1.32. PCMP – Primary Care Case Management Entity
- 2.1.33. PIHP – Prepaid Inpatient Health Plan
- 2.1.34. PHI – Protected Health Information
- 2.1.35. PHQ-9 – Patient Health Questionnaire-9
- 2.1.36. PII – Personally Identifiable Information
- 2.1.37. PRTF - Psychiatric Residential Treatment Facility
- 2.1.38. QRTP - Qualified Residential Treatment Programs
- 2.1.39. RAE – Regional Accountable Entity
- 2.1.40. SAP – Statutory Accounting Principles
- 2.1.41. SSUM – Statewide Standardized Utilization Management
- 2.1.42. SFY – State Fiscal Year
- 2.1.43. U.S.C. – United States Code
- 2.1.44. VARA – Visual Rights Act of 1990
- 2.1.45. WIC - Special Supplemental Food Program for Women, Infants and Children

EXHIBIT E, CONTRACTOR'S ADMINISTRATIVE REQUIREMENTS

1. CONTRACTOR'S GENERAL REQUIREMENTS

- 1.1. The Department will contract with only one organization, Contractor, and will work solely with that organization with respect to all tasks and deliverables to be completed, services to be rendered and performance standards to be met under this Contract.
- 1.2. Contractor may be privy to internal policy discussions, contractual issues, price negotiations, confidential medical information, Department financial information, advance knowledge of legislation and other Confidential Information. In addition to all other confidentiality requirements of the Contract, Contractor shall also consider and treat any such information as Confidential Information and shall only disclose it in accordance with the terms of the Contract.
- 1.3. Contractor shall work cooperatively with Department staff and, if applicable, the staff of other State contractors to ensure the completion of the Work. The Department may, in its sole discretion, use other contractors to perform activities related to the Work that are not contained in the Contract or to perform any of the Department's responsibilities. In the event of a conflict between Contractor and any other State contractor, the State will resolve the conflict and Contractor shall abide by the resolution provided by the State.
- 1.4. Contractor shall inform the Department on current trends and issues in the healthcare marketplace and provide information on new technologies in use that may impact Contractor's responsibilities under this Contract.
- 1.5. Contractor shall maintain complete and detailed records of all meetings, system development life cycle documents, presentations, project artifacts, and any other interactions or Deliverables related to the Work described in the Contract. Contractor shall make such records available to the Department upon request throughout the term of the Contract.
- 1.6. Deliverables
 - 1.6.1. All Deliverables shall meet Department-approved format and content requirements. The Department will specify the number of copies and media for each Deliverable.
 - 1.6.1.1. Contractor shall submit each Deliverable to the Department for review and approval and shall adhere to the following Deliverable process such for any documentation creation, review, and acceptable cycle, Contractor shall:
 - 1.6.1.1.1. Gather and document requirements for the Deliverable.
 - 1.6.1.1.2. Create a draft in the Department-approved format for the individual Deliverable.
 - 1.6.1.1.3. Perform internal quality control review(s) of the Deliverable, including, but not limited to:
 - 1.6.1.1.3.1. Readability.
 - 1.6.1.1.3.2. Spelling.
 - 1.6.1.1.3.3. Grammar.
 - 1.6.1.1.3.4. Completion.
 - 1.6.1.1.4. Adhere to all required templates or development of templates.

- 1.6.1.1.5. Perform modifications that include version control and tracked changes.
- 1.6.1.2. The Department will review the Deliverable and may direct Contractor to make changes to the Deliverable. Contractor shall make all changes within five Business Days following the Department's direction to make the change unless the Department provides a longer period in writing.
 - 1.6.1.2.1. Changes the Department direct include, but are not limited to, modifying portions of the Deliverable, requiring new pages or portions of the Deliverable, requiring resubmission of the Deliverable or requiring inclusion of information or components that were left out of the Deliverable.
 - 1.6.1.2.2. The Department may also direct Contractor to provide clarification or provide a walkthrough of any Deliverable to assist the Department in its review. Contractor shall provide the clarification or walkthrough as directed by the Department.
- 1.6.1.3. Once the Department has received an acceptable version of the Deliverable, including all changes directed by the Department, the Department will notify Contractor of its acceptance of the Deliverable in writing. A Deliverable shall not be deemed accepted prior to the Department's notice to Contractor of its acceptance of that Deliverable.
- 1.6.2. Contractor shall employ an internal quality control process to ensure that all Deliverables are complete, accurate, easy to understand and of high quality, as described herein. Contractor shall provide Deliverables that, at a minimum, are responsive to the specific requirements for that Deliverable, organized into a logical order, contain accurate spelling and grammar, are formatted uniformly, and contain accurate information and correct calculations. Contractor shall retain all draft and marked-up documents and checklists utilized in reviewing Deliverables for reference as directed by the Department.
- 1.6.3. In the event any due date for a Deliverable falls on a day that is not a Business Day, the due date shall be automatically extended to the next Business Day, unless otherwise directed by the Department.
- 1.6.4. All due dates or timelines that reference a period of days, months or quarters shall be measured in calendar days, months and quarters unless specifically stated as being measured in Business Days or otherwise. All times stated in the Contract shall be considered to be in Mountain Time, adjusted for Daylight Saving Time as appropriate, unless specifically stated otherwise.
- 1.6.5. No Deliverable, report, data, procedure or system created by Contractor for the Department that is necessary to fulfilling Contractor's responsibilities under the Contract, as determined by the Department, shall be considered proprietary.
- 1.6.6. If any Deliverable contains ongoing responsibilities or requirements for Contractor, such as Deliverables that are plans, policies or procedures, then Contractor shall comply with all requirements of the most recently approved version of that Deliverable. Contractor shall not implement any version of any such Deliverable prior to receipt of the Department's written approval of that version of that Deliverable. Once a version of any Deliverable described in this subsection is approved by the Department, all requirements, milestones and other Deliverables contained within that Deliverable shall be considered to be requirements, milestones and Deliverables of this Contract.
 - 1.6.6.1. Any Deliverable described as an update of another Deliverable shall be considered a version of the original Deliverable for the purposes of this subsection.

1.7. Stated Deliverables and Performance Standards

1.7.1. Any section within this Statement of Work headed with or including the term "DELIVERABLE" or "PERFORMANCE STANDARD" is intended to highlight a Deliverable or performance standard contained in this Statement of Work and provide a clear due date for the Deliverables. The sections with these headings are for ease of reference not intended to expand or limit the requirements or responsibilities related to any Deliverable or performance standard, except to provide the due date for the Deliverables.

1.8. Communication with the Department

1.8.1. Contractor shall enable all Contractor staff to exchange documents and electronic files with the Department staff in formats compatible with the Department's systems. The Department currently uses Microsoft Office 2016 and/or Microsoft Office 365 for PC. If Contractor uses a compatible program, then Contractor shall ensure that all documents or files delivered to the Department are completely transferrable and reviewable, without error, on the Department's systems.

1.8.2. The Department will use a transmittal process to provide Contractor with official direction within the scope of the Contract. Contractor shall comply with all direction contained within a completed transmittal. For a transmittal to be considered complete, it must include, at a minimum, all of the following:

1.8.2.1. The date the transmittal will be effective.

1.8.2.2. Direction to Contractor regarding performance under the Contract.

1.8.2.3. A due date or timeline by which Contractor shall comply with the direction contained in the transmittal.

1.8.2.4. The signature of the Department employee who has been designated to sign transmittals.

1.8.2.4.1. The Department will provide Contractor with the name of the person it has designated to sign transmittals on behalf of the Department, who will be the Department's primary designee. The Department will also provide Contractor with a list of backups who may sign a transmittal on behalf of the Department if the primary designee is unavailable. The Department may change any of its designees from time to time by providing notice to Contractor through a transmittal.

1.8.3. The Department may deliver a completed transmittal to Contractor in hard copy, as a scanned attachment to an email or through a dedicated communication system, if such a system is available.

1.8.3.1. If a transmittal is delivered through a dedicated communication system or other electronic system, then the Department may use an electronic signature to sign that transmittal.

1.8.4. If Contractor receives conflicting transmittals, Contractor shall contact the Department's primary designee, or backup designees if the primary designee is unavailable, to obtain direction. If the Department does not provide direction otherwise, then the transmittal with the latest effective date shall control.

1.8.5. In the event that Contractor receives direction from the Department outside of the transmittal process, it shall contact the Department's primary designee, or backup designees if the primary designee is unavailable, and have the Department confirm that direction through a transmittal prior to complying with that direction.

- 1.8.6. Transmittals may not be used in place of an amendment, and may not, under any circumstances be used to modify the term of the Contract or any compensation under the Contract. Transmittals are not intended to be the sole means of communication between the Department and Contractor, and the Department may provide day-to-day communication to Contractor without using a transmittal.
- 1.8.7. Contractor shall retain all transmittals for reference and shall provide copies of any received transmittals upon request by the Department.
- 1.9. Start-Up Period
 - 1.9.1. The Start-Up Period shall begin on the Effective Date. The Start-Up Period shall end on the Operational Start Date of the Contract.
 - 1.9.2. Contractor shall receive no financial compensation during the Start-Up Period.
 - 1.9.3. Contractor shall complete all requirements of the Start-Up Period and Start-Up Plan prior to the Operational start date.
 - 1.9.4. With input from the Department, Contractor shall complete all of the following during the Start-Up Period:
 - 1.9.4.1. Schedule and facilitate a Kickoff Meeting that includes the following:
 - 1.9.4.1.1. Key Personnel.
 - 1.9.4.1.2. Department Leadership.
 - 1.9.4.1.3. Department Project Team Members.
 - 1.9.4.1.4. Any other relevant and needed persons or organizations.
 - 1.9.4.2. Develop Kickoff Meeting materials and an agenda that contains, at a minimum, the following:
 - 1.9.4.2.1. Initial timelines for starting the Work and creating initial Deliverables.
 - 1.9.4.2.2. Establishment of Communication channels to describe how the Work is to be completed.
 - 1.9.4.2.3. Transmission methods and specific Deliverable templates or requirements.
 - 1.9.4.2.4. Any other item required to initiate and ensure Work is started and completed on time.
 - 1.9.4.3. Prepare Kickoff Meeting Minutes and deliver them to the Department for review and approval.
 - 1.9.4.3.1. DELIVERABLE: Kickoff Meeting Agenda & Materials
 - 1.9.4.3.2. DUE: Within three Business Days after the Kickoff Meeting
 - 1.9.4.4. Create a Policy and Procedures Manual that contains the policies and procedures for all systems and functions necessary for Contractor to complete its obligations under the Contract.
 - 1.9.4.5. Prepare all documents, forms, training materials, and any other documents, information and protocols that require approval by the Department prior to the end of the Start-Up Period and are necessary for Contractor to begin work on the Operational Start Date. Contractor shall deliver all documents, forms, training materials, and any other documents, information and protocols that require approval by the Department to the

Department for review and approval in a timely manner that allows the Department to review and approve those documents prior to end of the Start-Up Period.

1.9.4.5.1. DELIVERABLE: Policies & Procedures Manual

1.9.4.5.2. DUE: No later than the Operational Start Date

1.10. Operations Guide

1.10.1. Contractor shall not engage in any Work under the Contract, other than the Work described in this Sections 1.9 and 1.10, prior to the Operational Start Date. The Department shall not be liable to Contractor for, and Contractor shall not receive, any payment for any period prior to the Operational Start Date under this Contract.

1.10.2. Contractor shall create and implement an Operations Guide. The Operations Guide shall include the creation and management of the following:

1.10.2.1. Communication Plan.

1.10.2.2. Business Continuity Plan.

1.10.2.3. Start-Up Plan.

1.10.2.4. Closeout Plan.

1.10.3. Contractor shall submit the Operations Guide to the Department for review and approval.

1.10.3.1. DELIVERABLE: Operations Guide

1.10.3.2. DUE: Within 30 Business Days after the Effective Date

1.10.4. Contractor shall review its Operations Guide on annual basis and determine if any modifications are required to account for any changes in the Work, in the Department's processes and procedures or in Contractor's processes and procedures and update the Guide as appropriate to account for any changes. Contractor shall submit an Annual Operations Guide Update that contains all changes from the most recently approved prior Operations Guide or Annual Operations Guide Update or shall note that there were no changes.

1.10.4.1. DELIVERABLE: Annual Operations Guide Update

1.10.4.2. DUE: Annually, by June 30th of each year

1.10.4.3. The Operational Start Date shall not occur until Contractor has completed all requirements of the Operations Guide, unless the Department provides written approval otherwise.

1.10.5. Communication with Members, Providers, and Other Entities

1.10.5.1. Contractor shall ensure that Contractor's Provider and Member communications adhere to Health First Colorado's brand standards.

1.10.5.2. Contractor shall create a Communication Plan that includes, but is not limited to, all of the following:

1.10.5.2.1. A description of how Contractor will shall communicate to Members any changes to the services those Members will receive or how those Members will receive the services.

- 1.10.5.2.2. A description of the communication methods, including things such as email lists, newsletters and other methods, that Contractor will shall use to communicate with Providers and Subcontractors.
- 1.10.5.2.3. The specific means of immediate communication with Members and a method for accelerating the internal approval and communication process to address urgent communications or crisis situations.
- 1.10.5.2.4. A general plan for how Contractor will shall address communication deficiencies or crisis situations, including how Contractor will shall increase staff, contact hours or other steps Contractor will Contractor shall take if existing communication methods for Members or Providers are insufficient.
- 1.10.5.2.5. A listing of the following individuals within Contractor's organization, including cell phone numbers and email addresses:
 - 1.10.5.2.5.1. An individual who is authorized to speak on the record regarding the Work, the Contract or any issues that arise that are related to the Work.
 - 1.10.5.2.5.2. An individual who is responsible for any website or marketing related to the Work.
 - 1.10.5.2.5.3. Back-up communication staff that can respond in the event that the other individuals listed are unavailable.
- 1.10.6. Business Continuity Plan
 - 1.10.6.1. Contractor shall create a Business Continuity Plan that Contractor will follow in order to continue operations after a Disaster or a Business Interruption. The Business Continuity Plan shall include, but is not limited to, all of the following:
 - 1.10.6.1.1. How Contractor will replace staff that are lost or unavailable during or after a Business Interruption so that the Work is performed in accordance with the Contract.
 - 1.10.6.1.2. How Contractor will back-up all information necessary to continue performing the Work, so that no information is lost because of a Business Interruption.
 - 1.10.6.1.2.1. In the event of a Disaster, the plan shall also include how Contractor will make all information available at its back-up facilities.
 - 1.10.6.1.3. How Contractor will maintain complete back-up copies of all data, databases, operating programs, files, systems, and software pertaining to enrollment information at a Department-approved, off-site location.
 - 1.10.6.1.4. How Contractor will minimize the effects on Members of any Business Interruption.
 - 1.10.6.1.5. How Contractor will communicate with the Department during the Business Interruption and points of contact within Contractor's organization the Department can contact in the event of a Business Interruption.
 - 1.10.6.1.6. Planned long-term back-up facilities out of which Contractor can continue operations after a Disaster.
 - 1.10.6.1.7. The time period it will take to transition all activities from Contractor's regular facilities to the back-up facilities after a Disaster.
 - 1.10.6.1.7.1. DELIVERABLE: Business Continuity Plan

1.10.6.1.7.2. DUE: Within 30 Business Days after the Contract Execution

1.10.7. Start-Up Plan

1.10.7.1. Contractor shall create a Start-Up Plan that contains, at a minimum, the following:

- 1.10.7.1.1. A description of all steps, timelines, and milestones necessary to fully transition the Accountable Care Collaborative Program described in the Contract from a prior contractor to Contractor.
- 1.10.7.1.2. A description of all steps, timelines, milestones, and Deliverables necessary for Contractor to be fully able to perform all Work by the Operational Start Date.
- 1.10.7.1.3. A listing of all personnel involved in the start-up and what aspect of the start-up they are responsible for.
- 1.10.7.1.4. An operational readiness review for the Department to determine if Contractor is ready to begin performance of all Work.
 - 1.10.7.1.4.1. The Operational Readiness Review shall be done in compliance with 42 C.F.R. § 438.66. The Operational Readiness Review shall consist of a desk audit and a Site Review covering the following:
 - 1.10.7.1.4.1.1. Administrative staffing and resources.
 - 1.10.7.1.4.1.2. Delegation and oversight of MCO, PIHP, PAHP or PCCM Entity responsibilities.
 - 1.10.7.1.4.1.3. Provider communications.
 - 1.10.7.1.4.1.4. Grievances and Appeals.
 - 1.10.7.1.4.1.5. Member communication, services and outreach.
 - 1.10.7.1.4.1.6. Provider Network Management.
 - 1.10.7.1.4.1.7. Program Integrity/Compliance.
 - 1.10.7.1.4.1.8. Case management/Care Coordination/service planning.
 - 1.10.7.1.4.1.9. Quality improvement.
 - 1.10.7.1.4.1.10. Utilization review.
 - 1.10.7.1.4.1.11. Financial reporting and monitoring.
 - 1.10.7.1.4.1.12. Financial solvency.
 - 1.10.7.1.4.1.13. Claims management.
 - 1.10.7.1.4.1.14. Encounter Data and enrollment information management.
 - 1.10.7.1.4.1.15. Staff hiring and training.
 - 1.10.7.1.4.1.16. Infrastructure for data collection and exchanges, billing and reimbursement.
 - 1.10.7.1.4.1.17. Test system compatibility.
 - 1.10.7.1.4.1.18. Adherence to security protocols.
 - 1.10.7.1.4.1.19. Established Provider Networks and agreements.
 - 1.10.7.1.4.1.20. Member and provider materials and education.

- 1.10.7.1.4.1.21. Data as needed for the Department rate setting process.
- 1.10.7.1.4.1.22. Activities to fully transition the services described in the Contract from a prior contractor.
- 1.10.7.1.4.1.23. Policy and Procedures Manual that contains the policies and procedures for all systems and functions necessary for Contractor to complete its obligations under the Contract.
- 1.10.7.1.4.1.24. The risks associated with the start-up and a plan to mitigate those risks.
- 1.10.7.1.4.1.24.1. DELIVERABLE: Start-Up Plan
- 1.10.7.1.4.1.24.2. DUE: Within five Business Days after the effective date
- 1.10.7.2. Contractor shall update the Start-Up Plan based on the Department's request and resubmit the Start-Up Plan for review and approval.
- 1.10.7.2.1. DELIVERABLE: Start-Up Plan Update
- 1.10.7.2.2. DUE: Within five Business Days from the Department's request for an update
- 1.10.7.3. Contractor shall implement the Start-Up Plan upon the Department's approval of the Start-Up Plan.
- 1.10.7.4. Contractor shall not engage in any Work under the Contract, other than the Work described above in the Start-Up Period, prior to the Operational Start Date.
- 1.10.7.5. Contractor shall submit to the Department, Contractor's Colorado Division of Insurance license as either a Health Maintenance Organization or Limited Service Licensed Provider Network
- 1.10.7.5.1. DELIVERABLE: Contractor's Colorado Division of Insurance license
- 1.10.7.5.2. DUE: Upon the Effective Date
- 1.10.7.6. Contractor shall ensure that all requirements of the Start-Up Period are complete by the deadlines contained in the Department-approved Start-Up Plan and that Contractor is ready to perform all Work by the Operational Start Date
- 1.10.8. Closeout Plan
- 1.10.8.1. Contractor shall create a Closeout Plan that describes all requirements, steps, timelines, milestones, and Deliverables necessary to fully transition the services described in the Contract from Contractor to the Department or to another contractor selected by the Department to be the Accountable Care Collaborative Program contractor after the termination of the Contract.
- 1.10.8.1.1. The Closeout Plan shall also designate an individual to act as a closeout coordinator who will ensure that all requirements, steps, timelines, milestones, and deliverables contained in the Closeout Plan are completed and work with the Department and any other contractor to minimize the impact of the transition on Members and the Department.
- 1.10.8.1.2. Contractor shall deliver the Closeout Plan to the Department for review and approval.
- 1.10.8.2. Contractor shall provide weekly updates to the Department throughout the creation of and the performances within the Operations Guide, that show Contractor's status toward meeting the milestones described herein.

1.10.8.3. Contractor shall be ready to perform all Work by the Operational Start Date.

1.11. Closeout Period

1.11.1. The Closeout Period shall begin 90 days prior to the end of the last renewal year of the Contract or notice by the Department of non-renewal. The Closeout Period shall end on the day that the Department has accepted the final deliverable for the Closeout Period, as determined in the Department-approved and updated Closeout Plan and has determined that the closeout is complete.

1.11.1.1. This Closeout Period may extend past the termination of the Contract. The Department will perform a closeout review to ensure Contractor has completed all requirements of the Closeout Period. If Contractor has not completed all of the requirements of the Closeout Period by the date of the termination of the Contract, then any incomplete requirements shall survive termination of the Contract.

1.11.2. During the Closeout Period, Contractor shall complete all of the following:

1.11.2.1. Implement the most recent Closeout Plan or Closeout Plan Update as approved by the Department in the Operations Guide, as described herein and complete all steps, Deliverables and milestones contained in the most recent Closeout Plan or Closeout Plan Update that has been approved by the Department.

1.11.2.2. Provide to the Department, or any other contractor at the Department's direction, all reports, data, systems, Deliverables and other information reasonably necessary for a transition as determined by the Department or included in the most recent Closeout Plan or Closeout Plan Update that has been approved by the Department.

1.11.2.3. Ensure that all responsibilities under the Contract have been transferred to the Department, or to another contractor at the Department's direction, without significant interruption.

1.11.2.4. Notify any Subcontractors of the termination of the Contract, as directed by the Department.

1.11.2.5. Notify all Members that Contractor will no longer be the RAE as directed by the Department. Contractor shall create these notifications and deliver them to the Department for approval. Once the Department has approved the notifications, Contractor shall deliver these notifications to all Members but in no event shall Contractor deliver any such notification prior to approval of that notification by the Department.

1.11.2.5.1. DELIVERABLE: Member Notifications

1.11.2.5.2. DUE: 30 days prior to termination of the Contract

1.11.2.6. Notify all providers that Contractor will no longer be the RAE as directed by the Department. Contractor shall create these notifications and deliver them to the Department for approval. Once the Department has approved the notifications, Contractor shall deliver these notifications to all providers, but in no event shall Contractor deliver any such notification prior to approval of that notification by the Department.

1.11.2.6.1. DELIVERABLE: Provider Notifications

1.11.2.6.2. DUE: 60 days prior to termination of the Contract

1.11.2.7. Continue meeting each requirement of the Contract as described in the Department-approved and updated Closeout Plan, or until the Department determines that specific

requirement is being performed by the Department or another contractor, whichever is sooner. The Department will determine when any specific requirement is being performed by the Department or another contractor, and will notify Contractor of this determination for that requirement.

1.12. Accreditation

1.12.1. In accordance with 42 C.F.R. § 438.332(a) Contractor shall inform the Department of whether it is accredited by a private independent accrediting entity. If so, Contractor shall allow the accrediting entity to provide the Department a copy of the most recent review, including:

1.12.1.1. Accreditation status, survey type, and level;

1.12.1.2. Accreditation results including recommended actions, corrective action plans, or findings; and

1.12.1.3. Expiration date of the accreditation.

1.13. Performance Reviews

1.13.1. The Department may conduct performance reviews or evaluations of Contractor in relation to the Work performed under the Contract.

1.13.2. The Department may work with Contractor in the completion of any performance reviews or evaluations or the Department may complete any or all performance reviews or evaluations independently, at the Department's sole discretion.

1.13.3. Contractor shall provide all information necessary for the Department to complete all performance reviews or evaluations, as determined by the Department, upon the Department's request. Contractor shall provide this information regardless of whether the Department decides to work with Contractor on any aspect of the performance review or evaluation.

1.13.4. The Department may conduct these performance reviews or evaluations at any point during the term of the Contract, or after termination of the Contract for any reason.

1.13.5. The Department may make the results of any performance reviews or evaluations available to the public, or may publicly post the results of any performance reviews or evaluations.

1.14. Renewal Options and Extensions

1.14.1. The Department may, within its sole discretion, choose to not exercise any renewal option in the Contract for any reason. If the Department chooses to not exercise an option, it may reprocur the performance of the Work in its sole discretion.

1.14.2. The Parties may amend the Contract to extend beyond five years, in accordance with the Colorado Procurement Code and its implementing rules, in the event that the Department determines the extension is necessary to align the Contract with other Department contracts, to address state or federal programmatic or policy changes related to the Contract, or to provide sufficient time to transition the Work.

1.14.3. In the event that the Contract is extended beyond five years, the annual maximum compensation for the Contract in any of those additional years shall not exceed the Contract maximum amount for the prior State Fiscal Year (SFY) plus the annual percent increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the Denver-Boulder-Greeley metropolitan area for the calendar year ending during that prior SFY. If the CPI-U for Denver-

Boulder-Greeley is for some reason not available as specified in this subsection, the increase shall be equal to the percent increase in the CPI-U (U.S.) for the same period.

1.14.4. The limitation on the annual maximum compensation in this Contract shall not include increases made specifically as compensation for additional Work added to the Contract.

1.15. Department System Access

1.15.1. In the event that Contractor requires access to any Department computer system to complete the Work, Contractor shall have and maintain all hardware, software, and interfaces necessary to access the system without requiring any modification to the Department's system. Contractor shall follow all Department policies, processes, and procedures necessary to gain access to the Department's systems.

1.15.2. Contractor shall be responsible for any costs associated with obtaining and maintaining access to systems needed to perform the Work under this solicitation, as determined by the Department. The Department will not reimburse Contractor for any costs associated with obtaining and maintaining access to Department systems.

1.16. Provider Fraud

1.16.1. Contractor shall notify the Department and the Colorado Medicaid Fraud Control Unit of the Colorado Department of Law (MFCU) if it identifies or suspects possible Provider Fraud as a result of any activities in its performance of this Contract.

1.16.2. Upon identification or suspicion of possible Provider Fraud, Contractor shall complete Contractor Suspected Fraud Written Notice Form provided by the Department.

1.16.2.1. For each incident of identified or suspected Provider Fraud, Contractor shall provide all of the following, at a minimum:

1.16.2.1.1. Written documentation of the findings.

1.16.2.1.2. Information on any verbal or written reports.

1.16.2.1.3. All details of the findings and concerns, including a chronology of Contractor actions which resulted in the reports, in a format agreed to by the Department.

1.16.2.1.4. Information on the identification of any affected claims that have been discovered.

1.16.2.1.5. Any claims data associated with its report (in a mutually agreed upon format, if possible).

1.16.2.1.6. Any additional information as required by the Department.

1.16.3. For each incident of identified or suspected Provider Fraud, Contractor shall deliver the completed Contractor Suspected Fraud Written Notice Form to the Department and the MFCU.

1.16.3.1. **DELIVERABLE:** Completed Contractor Suspected Fraud Written Notice Form

1.16.3.2. **DUE:** Within three Business Days following the initial discovery of the Fraud or suspected Fraud

1.16.4. Contractor shall revise or provide additional information related to Contractor Suspected Fraud Written Notice Form as requested by the Department or the MFCU.

1.16.4.1. **DELIVERABLE:** Contractor Suspected Fraud Written Notice Revisions and Additional Information

1.16.4.2. DUE: Within three Business Days following the Department's or the MFCU's request, unless the Department or MFCU provides for a different period in its request.

1.17. Member Fraud

1.17.1. Contractor shall notify the Department if it identifies or suspects possible Member Fraud as a result of any activities in its performance of this Contract.

1.17.2. Upon identification or suspicion of possible Member Fraud, Contractor shall complete Contractor Suspected Fraud Written Notice Form provided by the Department.

1.17.2.1. For each incident of identified or suspected Member Fraud, Contractor shall provide all of the following, at a minimum:

1.17.2.1.1. All verbal and written reports related to the suspected fraud.

1.17.2.1.2. All details of the findings and concerns, including a chronology of Contractor actions which resulted in the reports, and the Member's State ID number, and Member's date of birth if applicable.

1.17.2.1.3. Information on the identification of any affected claims that have been discovered.

1.17.2.1.4. Any claims data associated with its report in a format agreed to by the Department.

1.17.2.1.5. Any additional information as required by the Department.

1.17.3. For each incident of identified or suspected Member Fraud, Contractor shall deliver the completed Contractor Suspected Fraud Written Notice Form to the Department at report.clientfraud@state.co.us, or at such other email address as provided by the Department from time to time.

1.17.3.1. DELIVERABLE: Completed Contractor Suspected Fraud Written Notice Form

1.17.3.2. DUE: Within three Business Days following the initial discovery of the Fraud or suspected Fraud

1.17.4. Contractor shall revise or provide additional information related to Contractor Suspected Fraud Written Notice Form as requested by the Department.

1.17.4.1. DELIVERABLE: Contractor Suspected Fraud Written Notice Revisions and Additional Information

1.17.4.2. DUE: Within three Business Days following the Department's request, unless the Department provides for a different period in its request.

2. CONTRACTOR PERSONNEL

2.1. Personnel General Requirements

2.1.1. Contractor shall possess the organizational resources and commitment necessary to perform the work and successfully implement and operate the program in Contractor's Region. Specifically, Contractor shall:

2.1.1.1. Have a physical office located in Contractor's Region, unless otherwise approved by the Department in writing.

2.1.1.2. Have a defined organizational structure with clear lines of responsibility, authority, communication and coordination throughout the organization.

- 2.1.2. Contractor shall provide qualified Key Personnel and Other Personnel as necessary to perform the Work and successfully implement and operate the program in Contractor's Region, throughout the term of the Contract. Specifically, Contractor shall:
 - 2.1.2.1. Take into consideration the diversity of the community and the members it serves when hiring its Key Personnel and Other Personnel.
 - 2.1.2.2. Contractor shall provide the Department with a final list of individuals assigned to the Contract and appropriate contact information for those individuals, including relevant management/supervisory staff assigned to the Contract.
 - 2.1.2.2.1. DELIVERABLE: Final list of individuals assigned to the Contract
 - 2.1.2.2.2. DUE: Within five Business Days after the Effective Date
 - 2.1.2.3. Contractor shall update this list upon the Department's request to account for changes in the individuals assigned to the Contract.
 - 2.1.2.3.1. DELIVERABLE: Updated list of individuals assigned to the Contract
 - 2.1.2.3.2. DUE: Within five Business Days after the Department's request for an update
- 2.1.3. Contractor shall not permit any individual proposed for assignment to Key Personnel positions to perform any Work prior to the Department's approval of that individual to be assigned as Key Personnel.
- 2.1.4. Contractor shall not voluntarily change individuals in Key Personnel positions without the prior written approval of the Department. Contractor shall supply the Department with the name, resume and references for any proposed replacement whenever there is a change to Key Personnel. Any individual replacing Key Personnel shall have qualifications that are equivalent to or exceed the qualifications of the individual that previously held the position, unless otherwise approved in writing by the Department.
 - 2.1.4.1. DELIVERABLE: Name(s), resume(s) and references for the person(s) replacing anyone in a Key Personnel position during a voluntary change
 - 2.1.4.2. DUE: At least five Business Days prior to the change in Key Personnel
- 2.1.5. If any individual filling a Key Personnel position leaves employment with Contractor, Contractor shall propose a replacement person to the Department. The replacement person shall have qualifications that are equivalent to or exceed the qualifications of the individual that previously held the position, unless otherwise approved, in writing, by the Department.
 - 2.1.5.1. DELIVERABLE: Name(s), resume(s) and references for the person(s) replacing anyone in a Key Personnel position who leaves employment with Contractor
 - 2.1.5.2. DUE: Within ten Business Days after Contractor's receipt of notice that the person is leaving employment, unless the Department allows for a longer time in writing for Contractor to recruit a replacement.
- 2.1.6. If any of Contractor's Key Personnel or Other Personnel are required to have and maintain any professional licensure or certification issued by any federal, state or local government agency, then Contractor shall submit copies of such current licenses and certifications to the Department.
 - 2.1.6.1. DELIVERABLE: All current professional licensure and certification documentation as specified for Key Personnel or Other Personnel

- 2.1.6.2. DUE: Within five Business Days of receipt of updated licensure or upon request by the Department
- 2.1.7. Contractor shall provide the Department with an Organizational Chart listing all positions within Contractor's organization and Subcontracted organizations that are responsible for the performance of any activity related to the Contract, their hierarchy and reporting structure and the names of the individuals fulfilling each position.
 - 2.1.7.1. Contractor's Organizational Chart shall clearly communicate the following information at a minimum:
 - 2.1.7.1.1. Contractor's executive leadership structure and reporting arrangements
 - 2.1.7.1.2. Contractor's Care Coordination staffing structure, including Subcontracted and delegated organizations, Member to Care Coordinator FTE ratio and any specialized care coordination services offered,
 - 2.1.7.1.3. The Employer for the position, including owning entities, wholly-owned subsidiary organizations and Subcontracted organizations.
 - 2.1.7.1.3.1. DELIVERABLE: Organizational Chart.
 - 2.1.7.1.3.2. DUE: Five Business days after the Effective Date.
 - 2.1.7.2. Contractor shall provide the Department with an updated Organizational Chart with any changes in Key Personnel.
 - 2.1.7.2.1. DELIVERABLE: Updated Organizational Chart
 - 2.1.7.2.2. DUE: Within five Business Days from any change in Key Personnel or from the Department's request for an updated Organizational Chart
- 2.2. Personnel Availability
 - 2.2.1. Contractor shall ensure Key Personnel and Other Personnel assigned to the Contract are available for meetings with the Department during the Department's normal business hours, as determined by the Department. Contractor shall also make these personnel available outside of the Department's normal business hours and on weekends with prior notice from the Department.
 - 2.2.2. Contractor's Key Personnel and Other Personnel shall be available for all regularly scheduled meetings between Contractor and the Department, unless the Department has granted prior written approval otherwise.
 - 2.2.3. Contractor shall ensure that the Key Personnel and Other Personnel attending all meetings between the Department and Contractor have the authority to represent and commit Contractor regarding work planning, problem resolution and program development.
 - 2.2.4. At the Department's direction, Contractor shall make its Key Personnel and Other Personnel available to attend meetings as subject matter experts with stakeholders both within the State government and external private stakeholders.
 - 2.2.5. All of Contractor's Key Personnel and Other Personnel shall be available to physically attend any meeting with the Department or other Department stakeholders at the location of the meeting. When Contractor has personnel attend by telephone or video conference, Contractor shall provide all additional equipment necessary for attendance, including any virtual meeting space or telephone conference lines.

2.2.6. Contractor shall respond to all telephone calls, voicemails, and emails from the Department within two Business Days of receipt by Contractor.

2.3. Key Personnel

2.3.1. Contractor shall designate people to hold the following Key Personnel positions:

2.3.1.1. Program Officer – One full-time employee. The Program Officer shall be a senior management position.

2.3.1.1.1. The Program Officer shall:

2.3.1.1.1.1. Be located in Colorado.

2.3.1.1.1.2. Have senior management decision-making authority regarding the Contract.

2.3.1.1.1.3. Serve as Contractor’s primary point of contact for the Contract and for Contract performance. The Program Officer shall work out of an office within Contractor’s Region, unless otherwise approved by the Department in writing or Contractor chooses to have a Regional Contract Manager.

2.3.1.1.1.4. Be accountable for all other Key Personnel and other personnel and ensure appropriate staffing levels throughout the term of the Contract.

2.3.1.1.1.5. Monitor all phases of the project in accordance with work plans or timelines or as determined between Contractor and the Department.

2.3.1.1.1.6. Ensure the completion of all work in accordance with the Contract’s requirements. This includes, but is not limited to, ensuring the accuracy, timeliness and completeness of all work.

2.3.1.1.1.7. Participate in Department-led meetings to discuss the progress and direction of the Program.

2.3.1.1.1.8. The Program Officer shall have the following qualifications:

2.3.1.1.1.8.1. Experience designing and/or administering health programs and developing health care policy.

2.3.1.1.1.8.2. Experience managing projects or contracts of similar scope and size.

2.3.1.1.1.8.3. Knowledge of and experience with health care delivery system reforms and Medicaid programs, including federal and state regulations.

2.3.1.1.2. Chief Financial Officer (CFO) – One full-time employee. The CFO shall be a senior management position.

2.3.1.1.2.1. The CFO shall:

2.3.1.1.2.1.1. Be accountable for the administrative, financial, and risk management operations of the organization, to include the development of a financial and operational strategy, metrics tied to that strategy, and the ongoing development and monitoring of control systems designed to preserve company assets and report accurate financial information.

2.3.1.1.2.1.2. Effectively implement and oversee the budget, accounting systems, financial and risk management operations for the organization, development of financial management strategy, including robust monitoring and reporting.

- 2.3.1.1.2.1.3. Ensure financial compliance with federal and state laws as well as any applicable requirements.
- 2.3.1.1.2.2. The CFO shall have the following qualifications:
 - 2.3.1.1.2.2.1. Licensed as Certified Public Accountant or have a Master’s degree in accounting or business administration, unless otherwise approved by the Department in writing.
 - 2.3.1.1.2.2.2. Experience and demonstrated success in managed health care, accounting systems and financial operations.
- 2.3.1.1.3. Chief Clinical Officer (CCO) – One full-time employee. The CCO shall be a senior management position.
 - 2.3.1.1.3.1. The CCO shall:
 - 2.3.1.1.3.1.1. Define the overall clinical vision for the organization and provide clinical direction to network management, quality improvement, utilization management and credentialing divisions.
 - 2.3.1.1.3.1.2. Provide medical oversight, expertise and leadership to ensure the delivery of coordinated, cost-effective services and supports for Members.
 - 2.3.1.1.3.1.3. Participate in strategy development and the design and implementation of innovative clinical programs and interventions with the Health Neighborhood.
 - 2.3.1.1.3.2. The CCO shall have the following qualifications:
 - 2.3.1.1.3.2.1. Be a physician licensed and registered in any state.
 - 2.3.1.1.3.2.2. Have a minimum of five years’ experience within the last ten years working at a management level with Medicaid programs spanning both physical and behavioral health.
 - 2.3.1.1.3.2.3. Have knowledge and experience with health care delivery system reform, addressing the health related social needs and establishing coverage policies based on evidence-based practices.
- 2.3.1.1.4. Chief Behavioral Health Officer – One full-time employee. The Chief Behavioral Health Officer shall be a senior management position.
 - 2.3.1.1.4.1. The Behavioral Health Director shall:
 - 2.3.1.1.4.1.1. Collaborate with the CCO to define the clinical vision for Contractor’s Behavioral Health program and PIHP.
 - 2.3.1.1.4.1.2. Provide clinical direction to the Behavioral Health network management, quality improvement, utilization management and credentialing activities.
 - 2.3.1.1.4.1.3. Provide clinical oversight, expertise and leadership to ensure the establishment of a comprehensive continuum of Behavioral Health services and the delivery of coordinated, cost-effective behavioral health services and supports for Members.
 - 2.3.1.1.4.1.4. Participate in strategic development and implementation of the State of Colorado’s vision for Behavioral Health, in collaboration with the Department and the Behavioral Health Administration.

- 2.3.1.1.4.2. The Behavioral Health Director shall have the following qualifications:
 - 2.3.1.1.4.2.1. Be a licensed Behavioral Health provider or board-certified psychiatrist.
 - 2.3.1.1.4.2.2. Be licensed to practice in the State of Colorado.
 - 2.3.1.1.4.2.3. Have a minimum of two years of experience within the last five year working at a management level in managed behavioral health care.
 - 2.3.1.1.4.2.4. Have experience in integration of care across medical and Behavioral Health Providers
- 2.3.1.1.5. Quality Improvement Director One full-time employee. The Quality Improvement Director shall be a management level position.
 - 2.3.1.1.5.1. The Quality Improvement Director shall:
 - 2.3.1.1.5.1.1. Be accountable for development and implementation of quality improvement programs, and all aspects of measuring and assessing program outcomes.
 - 2.3.1.1.5.1.2. Direct and coordinate all quality improvement activities.
 - 2.3.1.1.5.1.3. Ensure alignment with federal and state guidelines.
 - 2.3.1.1.5.1.4. Set internal performance goals and objectives.
 - 2.3.1.1.5.2. The Quality Improvement Director shall have the following qualifications:
 - 2.3.1.1.5.2.1. Minimum of a bachelor’s degree in nursing, public health or strongly related field. Master’s level preferred.
 - 2.3.1.1.5.2.2. Minimum of five years of professional experience in healthcare quality improvement within the last ten years.
 - 2.3.1.1.5.2.3. Knowledge and Experience in the following areas:
 - 2.3.1.1.5.2.3.1. Accreditation standards, including National Committee on Quality Accreditation (NCQA).
 - 2.3.1.1.5.2.3.2. Outcomes and performance measurement, including HEDIS and HEDIS-like behavioral health measures.
 - 2.3.1.1.5.2.3.3. Compliance and regulation enforcement.
- 2.3.1.1.6. Health Information Technology (Health IT) and Data Director – One full-time employee.
 - 2.3.1.1.6.1. The Health IT and Data Director shall:
 - 2.3.1.1.6.1.1. Facilitate data sharing among Contractor, the State, and Network Providers.
 - 2.3.1.1.6.1.2. Ensure the implementation and operation of technological tools required to perform the Work.
 - 2.3.1.1.6.1.3. Identify opportunities to reduce redundancy in workflows and data systems.
 - 2.3.1.1.6.1.4. Assist Network Providers to maximize the use of EHRs and Health Information Exchange.
 - 2.3.1.1.6.1.5. Develop the organization’s strategy and be accountable for operations related to the receipt and processing of:

- 2.3.1.1.6.1.5.1. Client enrollment spans
- 2.3.1.1.6.1.5.2. Capitation payments
- 2.3.1.1.6.1.5.3. Encounter Data
- 2.3.1.1.6.1.5.4. Health needs survey information
- 2.3.1.1.6.1.5.5. Admission, discharge, and transfer data
- 2.3.1.1.6.1.5.6. EDW and PPQM System data
- 2.3.1.1.6.1.5.7. S-HIE System data
- 2.3.1.1.6.2. The Health IT and Data Director shall have the following qualifications:
 - 2.3.1.1.6.2.1. Experience directing a health information technology program.
 - 2.3.1.1.6.2.2. Experience supporting health care practices.
 - 2.3.1.1.6.2.3. Expertise in health data analytics.
- 2.3.1.1.7. Utilization Management Director – One full-time employee.
 - 2.3.1.1.7.1. The Utilization Management Director shall:
 - 2.3.1.1.7.1.1. Lead and develop the utilization management program and manage the medical review and authorization process.
 - 2.3.1.1.7.1.2. Oversee the medical appropriateness and necessity of services provided to Members.
 - 2.3.1.1.7.1.3. Analyze and monitor utilization trends, identify problem areas and recommend action plans for resolution.
 - 2.3.1.1.7.2. The Utilization Management Director shall have the following qualifications:
 - 2.3.1.1.7.2.1. Registered Nurse or equivalent health care professional with necessary behavioral health clinical experience and medical knowledge.
 - 2.3.1.1.7.2.2. Minimum of five years’ cumulative experience in utilization management and managed care within the past ten years.
 - 2.3.1.1.7.2.3. Knowledge of quality improvement, disease management, and case management.
- 2.3.1.1.8. EDIA Officer – Equity, Diversity, Inclusion, and Acceptance (EDIA) Officer. One full-time employee. The EDIA Officer shall be a senior leadership position.
 - 2.3.1.1.8.1. The EDIA Officer shall :
 - 2.3.1.1.8.1.1. Be accountable for Contractor’s programming, staff training, and related activities regarding EDIA, including disability accessibility.
 - 2.3.1.1.8.1.2. Serve as Contractor’s point of contact on health equity for region with the Department.
 - 2.3.1.1.8.1.3. Represent region in Department-led meetings regarding equity, as well as attend any other Department requested meetings.

- 2.3.1.1.8.1.4. Design, implement, and operate Contractor’s health equity programs by setting milestones, goals, and priorities. Examples of these shall include, but not be limited to the following:
- 2.3.1.1.8.1.5. Program metrics and analytics.
- 2.3.1.1.8.1.6. Strategic and tactical short and long-term plans.
- 2.3.1.1.8.1.7. Communications.
- 2.3.1.1.8.1.8. Monitor Data trends and demographics data via Contractor’s health equity dashboard.
- 2.3.1.1.8.1.9. Perform research into programs, operations, and best practices to develop and execute a plan to integrate EDIA practices into Contractor daily business with the goal of helping Contractor’s employees improve the health of Contractor’s members, while simultaneously closing healthcare disparities.
- 2.3.1.1.8.1.10. Coordinate, connect and facilitate training opportunities for Contractor staff.
- 2.3.1.1.8.2. The EDIA Officer shall have the following qualifications:
 - 2.3.1.1.8.2.1. Experience within the last five years of professional experience in the public/community health education or engagement, health disparity research, and/or equity, diversity and inclusion planning, programming, and facilitation.
 - 2.3.1.1.8.2.2. At least a Bachelor’s degree in health sciences, human resources, or in a closely related field/focus that has prepared the candidate for work with health disparities and EDIA work. Masters level preferred.
 - 2.3.1.1.8.2.3. Knowledge and experience in the following areas:
 - 2.3.1.1.8.2.3.1. Complex practices, issues, and theoretical principles related to EDIA.
 - 2.3.1.1.8.2.3.2. Contemporary EDIA and multiculturalism concepts and issues within the healthcare field.
 - 2.3.1.1.8.2.3.3. Principles and practices related to developing and implementing health improvement strategies to address health related social needs.
 - 2.3.1.1.8.2.3.4. Medicaid programs, entitlement programs, and related regulations.
 - 2.3.1.1.8.2.3.5. Ability to act as an internal resource and consultant, working collaboratively with multiple stakeholders in a politically sensitive context complicated by competing perspectives and interests
- 2.3.1.1.9. Director of Collaborative Care Coordination– One full-time employee.
 - 2.3.1.1.9.1. The Director of Collaborative Care Coordination shall:
 - 2.3.1.1.9.1.1. Oversee and facilitate effective communication, collaboration, and coordination between Contractor and, at a minimum, Partner CMAs, BHASOs, and D-SNPs with the goal of ensuring comprehensive, effective and efficient coordination of care for jointly managed Members.
 - 2.3.1.1.9.1.2. Manage processes and staff to respond to CMA, BHASO, and D-SNP inquiries, questions, resource requests, and member triage.

- 2.3.1.1.9.1.3. Build and nurture trusted and cooperative working relationships with all Partner CMAs, BHASOs, and D-SNPs.
- 2.3.1.1.9.1.4. Foster an environment of mutual respect and collaboration between Contractor and the CMAs, BHASOs, and D-SNPs to ensure the success of the partnerships.
- 2.3.1.1.9.1.5. Create proactive processes and policies to prevent the exacerbation of Member conditions and the escalation of Member situations.
- 2.3.1.1.9.2. The Director of Collaborative Care Coordination shall have the following qualifications:
 - 2.3.1.1.9.2.1. Registered Nurse, master’s level social worker or equivalent health care professional with necessary clinical experience.
 - 2.3.1.1.9.2.2. Minimum of five years’ cumulative experience in Care Coordination and case management within the past ten years.
 - 2.3.1.1.9.2.3. Knowledge of Medicare and coordinating care for individuals with disabilities.
- 2.3.1.1.10. Regional Contract Manager – One full-time employee.
 - 2.3.1.1.10.1. The Regional Contract Manager shall:
 - 2.3.1.1.10.1.1. Serve as the primary point of contact for all day-to-day operational issues.
 - 2.3.1.1.10.1.2. Report directly to the Program Officer
 - 2.3.1.1.10.1.3. Oversee operational procedures, business processes, and reporting.
 - 2.3.1.1.10.1.4. Participate in Department-led meetings to discuss operational issues and solutions.
 - 2.3.1.1.10.1.5. Work collaboratively with the Program Officer to perform program analysis and implement enhancements.
 - 2.3.1.1.10.1.6. Work out of an office within Contractor’s Region.
 - 2.3.1.1.11. The Regional Contract Manager shall have the following qualifications:
 - 2.3.1.1.11.1. Experience in management, contract management, and operations of health programs.
 - 2.3.1.1.11.2. Experience managing the operations of projects or contracts of similar scope and size.
 - 2.3.1.1.11.3. Knowledge of and experience with Medicaid programs.
- 2.3.1.2. Contractor shall ensure appropriate administrative expertise in behavioral health among its Key Personnel.
- 2.3.1.3. Contractor shall require Department approval to fill a Key Personnel position with an individual(s) not directly employed by the Contracted entity.
- 2.3.2. Contractor is responsible for maintaining a significant local presence within the State of Colorado. Positions performing functions related to this Contract must have a direct reporting relationship to the local Program Officer. The local Program Officer shall have the authority to direct, implement and prioritize work to ensure compliance with Contract requirements.

The local Program Officer shall have the authority and ability to prioritize and direct work performed by Contractor staff and work performed under this Contract through a management service agreement or through a delegated agreement.

2.3.3. Contractor shall not allow for any individual to fill more than one of the roles defined as Key Personnel.

2.4. Other Personnel Responsibilities

2.4.1. Contractor shall use its discretion to determine the number of Other Personnel necessary to perform the Work in accordance with the requirements of this Contract. If the Department determines that Contractor has not provided sufficient Other Personnel to perform the Work in accordance with the requirements of this Contract, Contractor shall provide all additional Other Personnel necessary to perform the Work in accordance with the requirements of this Contract at no additional cost to the Department.

2.4.1.1. Contractor shall have sufficient staff dedicated specifically to and working exclusively on the following Colorado Medicaid activities:

2.4.1.1.1. Provider contracting.

2.4.1.1.2. Provider support regarding processing of claims.

2.4.1.1.3. Responding to and resolving provider grievances.

2.4.2. Contractor shall ensure that all Other Personnel have sufficient training and experience to complete all portions of the Work assigned to them. Contractor shall provide all necessary training to its Other Personnel, except for State-provided training specifically described in this Contract.

2.4.3. Contractor shall ensure that all Personnel receive training at least one time annually on EDIA topics that must include but are not limited to: implicit bias, working with members of different abilities, and working with members who speak English as a second language.

2.4.4. Contractor may subcontract to complete a portion of the Work required by the Contract. The conditions for using a Subcontractor or Subcontractors are as follows:

2.4.4.1. Contractor shall not subcontract more than 40% of the Work.

2.4.4.2. Contractor shall provide the organizational name of each Subcontractor and all items to be worked on by each Subcontractor to the Department.

2.4.4.2.1. DELIVERABLE: Name of each Subcontractor and items on which each Subcontractor will shall work

2.4.4.2.2. DUE: The later of 30 days prior to the Subcontractor beginning work or the Effective Date

2.4.4.3. Contractor shall not subcontract responsibility for responding to and resolving provider complaints.

2.4.4.4. Contractor shall require all Subcontractors who have direct contact with Members or Network Providers to follow the Department branding standards and to use the same organizational name as Contractor when directly communicating with Members and Network Providers to prevent confusion.

2.4.4.5. Contractor shall obtain prior consent and written approval for any use of Subcontractor(s).

3. ADMINISTRATIVE REPORTING REQUIREMENTS

- 3.1. Contractor shall provide all reports listed in this section in the format directed by the Department and containing the information requested by the Department.
- 3.2. Administrative Reporting
 - 3.2.1. Contractor shall provide an Administrative Report to the Department, upon the Department's request, covering the period directed by the Department.
 - 3.2.1.1. The Administrative Report shall contain all information regarding Contractor's staffing, expenses and revenues relating to the Work, as directed by the Department for the period that the report covers. This information may include, but is not limited to, all of the following:
 - 3.2.1.1.1. Number of Full Time Equivalent per position category, as determined by the Department, and total salary expenditure for that position category.
 - 3.2.1.1.2. Operating expenses broken out by category, as determined by the Department.
 - 3.2.1.1.3. Number of staff that were newly hired and separated and number of vacant positions, broken out by position category, as determined by the Department.
 - 3.2.1.1.4. Administrative revenues, such as payments by debt and interest revenues, broken out by source as directed by the Department.
 - 3.2.1.1.5. Administrative expenditures, such as payments to Subcontractors and Providers, broken out by source as directed by the Department.
 - 3.2.1.1.6. Remaining cash-on-hand at the end of the period.
 - 3.2.1.2. Contractor shall deliver the Administrative Report to the Department within 10 Business Days following the request by the Department for that report. The Department may create a fixed schedule for Contractor's submission of the Administrative Report by delivering the schedule to Contractor in writing. The Department may change or terminate any fixed schedule it creates by notifying Contractor in writing of the change or termination.
 - 3.2.1.2.1. DELIVERABLE: Administrative Report
 - 3.2.1.2.2. DUE: Within 10 Business Days after the Department's request. If the Department has delivered a fixed schedule to Contractor, then Contractor shall deliver the report as described in the most recent version of that schedule.

4. INFORMATION TECHNOLOGY RELATED REQUIREMENTS

- 4.1. Protection of System Data
 - 4.1.1. In addition to the requirements of the main body of this Contract, if Contractor or any Subcontractor is given access to State Records by the State or its agents in connection with Contractor's performance under the Contract, Contractor shall protect all State Records in accordance with this Exhibit. All provisions of this Exhibit that refer to Contractor shall apply equally to any Subcontractor performing work in connection with the Contract.
 - 4.1.2. For the avoidance of doubt, the terms of this Exhibit shall apply to the extent that any of the following statements is true in regard to Contractor access, use, or disclosure of State Records:
 - 4.1.2.1. Contractor provides physical or logical storage of State Records.

- 4.1.2.2. Contractor creates, uses, processes, discloses, transmits, or disposes of State Records.
- 4.1.2.3. Contractor is otherwise given physical or logical access to State Records in order to perform Contractor's obligations under this Contract.
- 4.1.3. Contractor shall, and shall cause its Subcontractors, to do all of the following:
 - 4.1.3.1. Provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this Contract.
 - 4.1.3.2. Maintain network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or enhancements consistent with evolving industry standards.
 - 4.1.3.3. Comply with State and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing.
 - 4.1.3.4. Provide that security is not compromised by unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments.
 - 4.1.3.5. Promptly report all Incidents, including Incidents that do not result in unauthorized disclosure or loss of data integrity, to the State.
- 4.1.4. Colorado Information Security Policy (CISP) Compliance
 - 4.1.4.1. Contractor shall assess its compliance with the CISPs, in effect at the time of the assessment, issued by the Governor's Office of Information Technology ("OIT") posted at www.oit.state.co.us/about/policies under Information Security.
 - 4.1.4.2. For the purposes of reviewing and assessing compliance with the CISPs, Contractor shall consider itself to be both the Information Technology Service Provider (ITSP) and Business Owner.
 - 4.1.4.3. Contractor shall deliver to the State the signed CISP Attestation, on a form provided by the Department, indicating that Contractor has assessed its compliance with the CISPs and has developed a plan to correct, in a timely manner, any security vulnerabilities identified during the assessment.
 - 4.1.4.3.1. DELIVERABLE: CISP Attestation
 - 4.1.4.3.2. DUE: Within 30 Business Days after the Effective Date
 - 4.1.4.4. Contractor shall assess its compliance with the CISPs on an annual basis and deliver to the State the signed CISP Attestation, on a form provided by the Department.
 - 4.1.4.4.1. DELIVERABLE: Annual CISP Attestation
 - 4.1.4.4.2. DUE: Annually, by June 30th of each year
 - 4.1.4.5. Contractor shall cause its Subcontractors to comply with the CISPs and to assess their compliance on at least an annual basis. If any Subcontractor's assessment determines that the Subcontractor is not in compliance, then Contractor shall ensure that Subcontractor corrects, in a timely manner, any security vulnerabilities identified during the assessment.
- 4.1.5. Health and Human Services HIPAA Security Rule Risk Assessments
 - 4.1.5.1. Contractor shall deliver to the State a signed Initial HHS Attestation, on a form provided by the Department, indicating that Contractor has conducted a risk assessment of its

operations related to the services provided under this Contract that satisfies the requirement of 45 CFR. §164.308(a)(1)(ii)(A) (the “HIPAA Security Rule”), and that Contractor has developed a plan to correct, in a timely manner, any vulnerabilities in administrative, technical, or physical safeguards identified during the assessment.

- 4.1.5.1.1. DELIVERABLE: Initial HHS Attestation
- 4.1.5.1.2. DUE: Within 30 Business Days after the Effective Date
- 4.1.5.2. Contractor shall conduct an annual risk assessment of its operations related to the services provided under this Contract that satisfies the requirement of the HIPAA Security Rule and deliver to the State the signed Annual HHS Attestation, on a form provided by the Department.
- 4.1.5.2.1. DELIVERABLE: Annual HHS Attestation
- 4.1.5.2.2. DUE DATE: Annually, by June 30th of each year
- 4.1.5.3. Contractor shall cause its Subcontractors to comply with the HIPAA Security Rule and assess their compliance on at least an annual basis. If any Subcontractor’s assessment determines that the Subcontractor is not in compliance, then Contractor shall ensure that Subcontractor corrects, in a timely manner, any vulnerabilities in administrative, technical, or physical safeguards identified during the assessment.
- 4.1.6. Subject to Contractor’s reasonable access security requirements and upon reasonable prior notice, Contractor shall provide the State with scheduled access for the purpose of inspecting and monitoring access and use of State Records, maintaining State systems, and evaluating physical and logical security control effectiveness.
- 4.1.7. Contractor shall perform background checks on all of its respective employees and agents performing services or having access to State Records provided under this Contract. A background check performed during the hiring process shall meet this requirement. Contractor shall perform a background check on any employee if Contractor becomes aware of any reason to question the employability of an existing employee. Contractor shall require all Subcontractors to meet the standards of this requirement.
- 4.1.7.1. Contractor shall deliver to the State the signed Background Check Attestation, on a form provided by the Department, indicating that background checks have been completed on employees participating in operations related to this Contract.
- 4.1.7.1.1. DELIVERABLE: Background Check Attestation
- 4.1.7.1.2. DUE: Within 30 Business Days of the Effective Date
- 4.1.7.2. If Contractor will have access to Federal Tax Information under the Contract, Contractor shall agree to the State’s requirements regarding Safeguarding Requirements for Federal Tax Information and shall comply with the background check requirements defined in IRS Publication 1075 and §24-50-1002, C.R.S.

4.2. Data Handling

- 4.2.1. The State, in its sole discretion, may securely deliver State Records directly to Contractor. Contractor shall maintain these State Records only within facilities or locations that Contractor has attested are secure, including for the authorized and approved purposes of backup and disaster recovery purposes. Contractor may not maintain State Records in any

data center or other storage location outside the United States for any purpose without the prior express written consent of the State.

- 4.2.2. Contractor shall not allow remote access to State Records from outside the United States, including access by Contractor's employees or agents, without the prior express written consent of OIS. Contractor shall communicate any request regarding non-U.S. access to State Records to the Security and Compliance Representative for the State. The State shall have sole discretion to grant or deny any such request.
- 4.2.3. Upon request by the State made any time prior to 60 days following the termination of this Contract for any reason, whether or not the Contract is expiring or terminating, Contractor shall make available to the State a complete and secure download file of all data that is encrypted and appropriately authenticated. This download file shall be made available to the State within 10 Business Days of the State's request, and shall contain, without limitation, all State Records, Work Product, and system schema and transformation definitions, or delimited text files with documents, detailed schema definitions along with attachments in its native format. Upon the termination of Contractor's provision of data processing services, Contractor shall, as directed by the State, return all State Records provided by the State to Contractor, and the copies thereof, to the State or destroy all such State Records and certify to the State that it has done so. If legislation imposed upon Contractor prevents it from returning or destroying all or part of the State Records provided by the State to Contractor, Contractor shall guarantee the confidentiality of all State Records provided by the State to Contractor and will not actively process such data anymore.
- 4.2.4. The State retains the right to use the established operational services to access and retrieve State Records stored on Contractor's infrastructure at its sole discretion and at any time. Upon request of the State or of the supervisory authority, Contractor shall submit its data processing facilities for an audit of the measures referred to in this Exhibit in accordance with the terms of this Contract.

EXHIBIT F, SAMPLE OPTION LETTER

OPTION LETTER

State Agency Department of Health Care Policy and Financing	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Contractor Insert Contractor's Full Legal Name, including "Inc.", "LLC", etc...	Original Contract Number Insert CMS number or Other Contract Number of the Original Contract
Current Contract Maximum Amount Initial Term State Fiscal Year 20xx \$0.00 Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 Total for All State Fiscal Years \$0.00	Option Contract Number Insert CMS number or Other Contract Number of this Option Contract Performance Beginning Date The later of the Effective Date or Month Day, Year Current Contract Expiration Date Month Day, Year

1. Options

- A. Option to extend for an Extension Term.
- B. Option to change the quantity of Goods under the Contract.
- C. Option to change the quantity of Services under the Contract.
- D. Option to modify the Contract rates.
- E. Option to initiate next phase of the Contract.

2. Required Provisions

- A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current contract expiration date shown above, at the rates stated in the Original Contract, as amended.
- B. **For use with Options 1(B and C):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Contract, as amended.
- C. **For use with Option 1(D):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to modify the Contract rates specified in Exhibit/Section Number/Letter. The Contract rates attached to this Option Letter replace the rates in the Original Contract as of the Option Effective Date of this Option Letter.
- D. **For use with Option 1(E):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.
- E. **For use with all Options that modify the Contract Maximum Amount:** The Contract Maximum Amount table on the Contract's Signature and Cover Page is hereby deleted and replaced with the Current Contract Maximum Amount table shown above.

3. Option Effective Date

- a. The Effective Date of this Option Letter is upon approval of the State Controller or the Effective Date of this Option Letter, whichever is later.

STATE OF COLORADO
Jared S. Polis, Governor
Department of Health Care Policy and Financing
Kim Bimestefer, Executive Director

By: Kim Bimestefer, Executive Director

Date: _____

In accordance with C.R.S. §24-30-202, this Option is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: Jerrod Cotosman, Controller,
Department of Health Care Policy and Financing

Option Effective Date: _____

EXHIBIT G, FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Contract to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Contract, or any attachments or exhibits incorporated into and made a part of the Contract, the provisions of these Federal Provisions shall control.

2. FFATA AND UNIFORM GUIDANCE REQUIREMENTS

2.1. Definitions.

- 2.1.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.

- 2.1.1.1. “Award” means an award of Federal financial assistance, and the Contract setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.

- 2.1.1.1.1. Awards may be in the form of:

- 2.1.1.1.1.1. Grants;

- 2.1.1.1.1.2. Contracts;

- 2.1.1.1.1.3. Cooperative Contracts, which do not include cooperative research and development Contracts (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);

- 2.1.1.1.1.4. Loans;

- 2.1.1.1.1.5. Loan Guarantees;

- 2.1.1.1.1.6. Subsidies;

- 2.1.1.1.1.7. Insurance;

- 2.1.1.1.1.8. Food commodities;

- 2.1.1.1.1.9. Direct appropriations;

- 2.1.1.1.1.10. Assessed and voluntary contributions; and

- 2.1.1.1.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

- 2.1.1.1.1.12. Any other items specified by OMB in policy memoranda available at the OMB website or other source posted by the OMB.

- 2.1.1.1.2. Award *does not* include:

- 2.1.1.1.2.1. Technical assistance, which provides services in lieu of money;

- 2.1.1.1.2.2. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;

- 2.1.1.1.2.3. Any award classified for security purposes; or

- 2.1.1.1.2.4. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).
- 2.1.1.2. “Contract” means the Contract to which these Federal Provisions are attached and includes all Award types in §2.1.1.1.1 of this Exhibit.
- 2.1.1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.
- 2.1.1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.
- 2.1.1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;
- 2.1.1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
- 2.1.1.5.2. A foreign public entity;
- 2.1.1.5.3. A domestic or foreign non-profit organization;
- 2.1.1.5.4. A domestic or foreign for-profit organization; and
- 2.1.1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 2.1.1.6. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.1.7. “Federal Award Identification Number (FAIN)” means an Award number assigned by a Federal agency to a Prime Recipient.
- 2.1.1.8. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR §200.37
- 2.1.1.9. “FFATA” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 2.1.1.10. “Federal Provisions” means these Federal Provisions subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.
- 2.1.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.1.12. “Prime Recipient” means a Colorado State agency or institution of higher education that receives an Award.
- 2.1.1.13. “Subaward” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow

down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR §200.38. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

- 2.1.1.14. “Subrecipient” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.1.15. “Subrecipient Parent DUNS Number” means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 2.1.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 2.1.1.17. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 2.1.1.17.1. Salary and bonus;
 - 2.1.1.17.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.1.17.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.1.17.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.1.17.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.1.17.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.1.18. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 2.1.1.19. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular

A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

2.1.1.20. “Vendor” means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2.2. Compliance

2.2.1. Contractor shall comply with all applicable provisions of the Transparency Act, all applicable provisions of the Uniform Guidance, and the regulations issued pursuant thereto, including but not limited to these Federal Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

2.3. System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.

2.3.1. SAM. Contractor shall maintain the currency of its information in SAM until Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.

2.3.2. DUNS. Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor’s information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor’s information.

2.4. Total Compensation.

2.4.1. Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:

2.4.1.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and

2.4.1.2. In the preceding fiscal year, Contractor received:

2.4.1.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

2.4.1.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

2.4.1.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the

Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

2.5. Reporting.

2.5.1. Contractor shall report data elements to SAM and to the Prime Recipient as required in this Exhibit if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in this Exhibit are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract.

2.6. Effective Date and Dollar Threshold for Reporting.

2.6.1. Reporting requirements in §2.7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.

2.6.2. The procurement standards in §2.8 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §2.10 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

2.7. Subrecipient Reporting Requirements.

2.7.1. If Contractor is a Subrecipient, Contractor shall report as set forth below.

2.7.1.1. **To SAM.** A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

2.7.1.1.1. Subrecipient DUNS Number;

2.7.1.1.2. Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

2.7.1.1.3. Subrecipient Parent DUNS Number;

2.7.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

2.7.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

2.7.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

2.7.1.2. **To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

2.7.1.2.1. Subrecipient's DUNS Number as registered in SAM.

- 2.7.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
- 2.8. Procurement Standards.
- 2.8.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.
- 2.8.2. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 2.9. Access to Records
- 2.9.1. A Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 2.10. Single Audit Requirements
- 2.10.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 2.10.1.1. **Election.** A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 2.10.1.2. **Exemption.** If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit

requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.

2.10.1.3. **Subrecipient Compliance Responsibility.** A Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

2.11. Contract Provisions for Subrecipient Contracts

2.11.1. If Contractor is a Subrecipient, then it shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Contract.

2.11.1.1. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

2.11.1.1.1. During the performance of this contract, Contractor agrees as follows:

2.11.1.1.1.1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2.11.1.1.1.2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

- 2.11.1.1.1.3. Contractor will send to each labor union or representative of workers with which he has a collective bargaining Contract or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of Contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 2.11.1.1.1.4. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 2.11.1.1.1.5. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 2.11.1.1.1.6. In the event of Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 2.11.1.1.1.7. Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Contractor may request the United States to enter into such litigation to protect the interests of the United States.”
- 2.11.1.2. **Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to

laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- 2.11.1.3. **Rights to Inventions Made Under a Contract or Contract.** If the Federal Award meets the definition of “funding Contract” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding Contract,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts,” and any implementing regulations issued by the awarding agency.
- 2.11.1.4. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 2.11.1.5. **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 2.11.1.6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an

officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

2.12. Certifications.

2.12.1. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

2.13. Exemptions.

2.13.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization the individual may own or operate in their name.

2.13.2. A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

2.13.3. There are no Transparency Act reporting requirements for Vendors.

2.14. Event of Default.

2.14.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

3. NONDISCRIMINATION UNDER FEDERAL AND STATE AUTHORITY

3.1. In addition to the statutes described in section 2.11 above, Contractor shall also at all times during the term of this Contract strictly adhere to, and comply with, all applicable Federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended, which are incorporated herein by this reference as terms and conditions of this Contract. Contractor shall also require compliance with these statutes and regulations in subcontracts and subgrants permitted under this Contract. Applicable Federal and State law and regulations include:

Age Discrimination Act of 1975, as amended	42 U.S.C. 6101, et seq., 45 CFR 90, 45 CFR 91
Age Discrimination in Employment Act of 1967	29 U.S.C. 621-634
Americans with Disabilities Act of 1990 (ADA)	42 U.S.C. 12101, et seq., 28 CFR Part 35
Equal Pay Act of 1963	29 U.S.C. 206(d)
Federal Water Pollution Control Act, as amended	33 U.S.C. 1251, et seq.
Immigration Reform and Control Act of 1986	8 U.S.C. 1324b
Section 504 of the Rehabilitation Act of 1973, as amended	29 U.S.C. 794, 45 CFR 84, 45 CFR 85
Section 508 of the Rehabilitation Act of 1973	29 USC 794, 36 CFR 1194
Title VI of the Civil Rights Act of 1964, as amended	42 U.S.C. 2000d, 45 CFR 80
Title VII of the Civil Rights Act of 1964	42 U.S.C. 2000e, 29 CFR 1606.2
Title IX of the Education Amendments of 1972, as amended	20 U.S.C. 1681
Civil Rights Division	Section 24-34-301, CRS, <i>et seq.</i>

- 3.2. Contractor also shall comply with any and all laws and regulations prohibiting discrimination in the specific program(s) which is/are the subject of this Contract. In consideration of and for the purpose of obtaining any and all federal and/or state financial assistance, Contractor makes the following assurances, upon which the State relies.
- 3.2.1. Contractor shall not discriminate against any person on the basis of race, color, ethnic or national origin, ancestry, age, sex, gender, sexual orientation, gender identity and expression, religion, creed, political beliefs, or disability, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions, in performance of Work under this Contract
- 3.2.2. At all times during the performance of this Contract, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs, or activities performed by Contractor, or be subjected to any discrimination by Contractor.
- 3.2.3. All websites and web content must meet Web Content Accessibility Guidelines (WCAG) 2.1 Level AA standards, as issued by the World Wide Web Consortium.
- 3.3. Procurement Provisions

- 3.3.1. Contractor shall take all necessary affirmative steps, as required by 45 C.F.R. 92.36(e), Colorado Executive Order and Procurement Rules, to assure that small and minority businesses and women's business enterprises are used, when possible, as sources of supplies, equipment, construction, and services purchased under this Contract.

4. FEDERAL FINANCIAL PARTICIPATION RELATED INTELLECTUAL PROPERTY OWNERSHIP

- 4.1. In addition to the intellectual property ownership rights specified in the Contract, the following subsections enumerate the intellectual property ownership requirements Contractor shall meet during the term of the Contract in relation to federal financial participation under 42 CFR §433.112 and 45 CFR §95.617.
 - 4.1.1. Contractor shall notify the State before designing, developing, creating or installing any new data, new software or modification of a software using Contract Funds. Contractor shall not proceed with such designing, development, creation or installation of data or software without express written approval from the State.
 - 4.1.2. If Contractor uses Contract Funds to develop necessary materials, including, but not limited to, programs, products, procedures, data and software to fulfill its obligations under the Contract, Contractor shall document all Contract Funds used in the development of the Work Product, including, but not limited to the materials, programs, procedures, and any data, software or software modifications.
 - 4.1.2.1. The terms of this Contract will encompass sole payment for any and all Work Product and intellectual property produced by Contractor for the State. Contractor shall not receive any additional payments for licenses, subscriptions, or to remove a restriction on any intellectual property Work Product related to or developed under the terms of this Contract.
 - 4.1.3. Contractor shall provide the State comprehensive and exclusive access to and disclose all details of the Work Product produced using Contract Funds.
 - 4.1.4. Contractor shall hereby assign to the State, without further consideration, all right, interest, title, ownership and ownership rights in all work product and deliverables prepared and developed by Contractor for the State, either alone or jointly, under this Contract, including, but not limited to, data, software and software modifications designed, developed, created or installed using Contract Funds, as allowable in the United States under 17 U.S.C.S. §201 and §204 and in any foreign jurisdictions.
 - 4.1.4.1. Such assigned rights include, but are not limited to, all rights granted under 17 U.S.C.S §106, the right to use, sell, license or otherwise transfer or exploit the Work Product and the right to make such changes to the Work Product as determined by the State.
 - 4.1.4.2. This assignment shall also encompass any and all rights under 17 U.S.C.S §106A, also referred to as the Visual Artists Rights Act of 1990 (VARA), and any and all moral rights to the Work Product.
 - 4.1.4.3. Contractor shall require its employees and agents to, promptly sign and deliver any documents and take any action the State reasonably requests to establish and perfect the rights assigned to the State or its designees under these provisions.

- 4.1.4.4. Contractor shall execute the assignment referenced herein immediately upon the creation of the Work Product pursuant to the terms of this Contract.
- 4.1.5. The State claims sole ownership and all ownership rights in all copyrightable software designed, developed, created or installed under this contract, including, but not limited to:
 - 4.1.5.1. Data and software, or modifications thereof created, designed or developed using Contract Funds.
 - 4.1.5.2. Associated documentation and procedures designed and developed to produce any systems, programs, reports and documentation.
 - 4.1.5.3. All other Work Products or documents created, designed, purchased, or developed by Contractor and funded using Contract Funds.
- 4.1.6. All ownership and ownership rights pertaining to Work Product created in the performance of this Contract will vest with the State, regardless of whether the Work Product was developed by Contractor or any Subcontractor.
- 4.1.7. Contractor shall fully assist in and allow without dispute, both during the term of this Contract and after its expiration, registration by the State of any and all copyrights and other intellectual property protections and registrations in data, software, software modifications or any other Work Product created, designed or developed using Contract Funds.
- 4.1.8. The State reserves a royalty-free, non-exclusive and irrevocable license to produce, publish or otherwise use such software, modifications, documentation and procedures created using Contract Funds on behalf of the State, the Federal Department of Health and Human Services (HHS) and its contractors. Such data and software includes, but is not limited to, the following:
 - 4.1.8.1. All computer software and programs, which have been designed or developed for the State, or acquired by Contractor on behalf of the State, which are used in performance of the Contract.
 - 4.1.8.2. All internal system software and programs developed by Contractor or subcontractor, including all source codes, which result from the performance of the Contract; excluding commercial software packages purchased under Contractor's own license.
 - 4.1.8.3. All necessary data files.
 - 4.1.8.4. User and operation manuals and other documentation.
 - 4.1.8.5. System and program documentation in the form specified by the State.
 - 4.1.8.6. Training materials developed for State staff, agents or designated representatives in the operation and maintenance of this software.

EXHIBIT H, PII CERTIFICATION

THIRD PARTY INDIVIDUAL CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I hereby certify under the penalty of perjury that I have not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

Signature: _____

Printed Name: _____

Date: _____

EXHIBIT H, PII CERTIFICATION

STATE OF COLORADO THIRD PARTY ENTITY / ORGANIZATION CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of entity / organization) (the "Organization"), hereby certify under the penalty of perjury that the Organization has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order. I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Organization.

Signature: _____
Printed Name: _____
Title: _____
Date: _____

EXHIBIT I, CARE COORDINATION TIERS

Tier	Activities at a Minimum Must Include	Minimum Populations that Must Be in This Tier (RAEs have discretion to add more but not to remove)		
		Adults	Children	Both
Tier 3: Complex Health Management	<ul style="list-style-type: none"> Comprehensive needs assessment Comprehensive care plan Minimum monthly coordination with member and treatment team Long-term monitoring/support 	<ul style="list-style-type: none"> Chronic Over-Utilization Program Individuals involved in Complex Solutions Meetings Deemed ITP in previous year 	<ul style="list-style-type: none"> CANS Assessment indicating high needs Individuals involved in Creative Solutions Meetings Child welfare and foster care emancipation 	<ul style="list-style-type: none"> 2+ uncontrolled physical and/or behavioral health conditions Multi-system involvement (e.g., child welfare, juvenile justice) Denied Private Duty Nursing Utilization (in previous 6 months): <ul style="list-style-type: none"> 2+ Hospital Readmissions 30+ days inpatient 3+ Crisis Contacts 3+ ED Visits
Tier 2: Condition Management	<ul style="list-style-type: none"> Assessment based on population/need Condition-based care plan (may pull from a provider as appropriate) Minimum quarterly meeting with member and treatment team Condition management Long-term monitoring/support 	Value-based payment identified conditions not already listed under “Both” category	<ul style="list-style-type: none"> CANS Assessment indicating moderate needs Obesity Pervasive Developmental Disorder 	<ul style="list-style-type: none"> Diabetes Asthma Pregnancy (peri- & post-natal) Substance Use Disorder Depression/Anxiety
Tier 1: Prevention	<ul style="list-style-type: none"> Brief needs screen Short-term monitoring/support Prevention outreach and education 	<ul style="list-style-type: none"> Adult preventative screenings 	<ul style="list-style-type: none"> Well child visits Child immunizations 	<ul style="list-style-type: none"> Dental visits

EXHIBIT J, PEER SPECIALIST CORE COMPETENCIES

1. COMBINED CORE COMPETENCIES FOR COLORADO'S PEER SPECIALISTS / RECOVERY COACHES AND FAMILY ADVOCATES / FAMILY SYSTEMS NAVIGATORS

Knowledge of Mental Health/Substance Use Conditions and Treatments <ul style="list-style-type: none">- Recognize signs and coping strategies, including the grief process- Know when to refer to a clinician- Know when to report to a supervisor- Understand interactions of physical and behavioral health
Clients Rights/Confidentiality/Ethics/Roles <ul style="list-style-type: none">- Understand scope of duties and role- Understand HIPAA / protected health information / confidentiality- Maintain professional boundaries- Recognize potential risks- Advocate when appropriate
Interpersonal Skills <ul style="list-style-type: none">- Communication- Diversity and cultural competency- Relationship development- Use guiding principles pertinent to population served- Model appropriate use of personal story and self-advocacy- Goal-setting, problem-solving, teamwork, & conflict resolution
Resiliency, Recovery and Wellness <ul style="list-style-type: none">- Understand principles and concepts of resiliency, recovery, and a wellness oriented lifestyle - Assist others with their own resiliency and recovery- Encourage options and choices- Understand impacts of labels, stigma, discrimination, and bullying- Understand person-centered resiliency and recovery planning for all ages and stages - Promote shared decision-making

<p>Resources</p> <ul style="list-style-type: none"> - Knowledge of community resources and those specific to behavioral health and physical Health and how to navigate the benefits system - Help individuals and families recognize their natural supports * Knowledge of public education and special education system and other child-serving systems
<p>Self-care</p> <ul style="list-style-type: none"> - Recognize when health may compromise the ability to work - Acknowledge that personal wellness is a primary responsibility - Set boundaries between work and personal life
<p>Teaching Skills</p> <ul style="list-style-type: none"> - Demonstrate wellness and teach life skills - Encourage the development of natural supports - Assist people to find and use psycho-education materials
<p>Basic Work Competencies</p> <ul style="list-style-type: none"> - Seek supervision and/or ask for direction - Accept feedback - Demonstrate conflict resolutions skills - Navigate complex work environments
<p>Trauma-Informed Support</p> <ul style="list-style-type: none"> - Understand impact of trauma and responses to trauma - Demonstrate sensitivity and acceptance of individual experiences - Practice cultural sensitivity - Promote shared decision-making

* Item pertains specifically to Family Advocates / Family Systems Navigators

Combined Core Competencies for Colorado – Updated and Approved by Behavioral Health Transformation Council 01-25-2013

Sources of Information and Input:

1. Advocates for Recovery – Colorado *Core Competencies for Recovery Coaches*, (2010)
2. Blanch, A., Filson, B., & Penney, D. *Engaging Women in Trauma-Informed Peer Support: A Guidebook* (2012)

3. *Colorado Mental Health Advocates' Forum Peer Specialist Core Competencies*, as adopted by the Colorado Department of Health Care Policy and Financing (HCPF) in its *Medicaid Community Mental Health Services Program Request for Proposals* released December 2008.
4. *Colorado Mental Health Advocates' Forum Consensus Statement on Resiliency* (2012)
5. *Colorado Mental Health Advocates' Forum Consensus Statement on Trauma-Informed Care* (2012)
6. National Federation of Families for Children's Mental Health *Certified Parent Support Specialist Self-Assessment Training Checklist*, Sept. 2011, from the National Federation website.
7. *SAMHSA's Working Definition of Recovery* (Dec. 2011), retrieved from the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration website
8. House Bill 1193 – Concerning Integrated System-of-Care Family Advocacy Programs for Mental Health Juvenile Justice Populations. (2011)

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**Exhibit I-9, CAPITATED BEHAVIORAL HEALTH BENEFIT
COVERED SERVICES & DIAGNOSES**

Reimbursed under the behavioral health capitation, when the service is for a covered behavioral health diagnosis and is billed by a Behavioral Health Specialty Provider, non-physician practitioner group, or an FQHC or RHC using revenue code 0900.

A covered diagnosis is not required for services with a primary category of Assessment, Screening, Crisis, or Prevention/Intervention, as indicated in the State Behavioral Health Services billing manual.

Starting January 1, 2024, the Contractor shall be responsible for covering psychotherapy services (90785, 90832, 90833, 90834, 90836, 90837, 90838, 90846, 90847, 90849, and 90853) with a primary diagnosis of Autism Spectrum Disorder ((F84.0-F84.9) for Members under the age of 21.

Specialty Behavioral Health Codes

00104	Anesthesia for ECT	H0039	Assertive Comm treatment per15min
90785	InteractiveComplexity*	H0035	MH Partial Hospitalization less 24hr.
90832	Psychotherapy-30 minutes	H0036	Comm psych treatment per 15 min
90833	Psytx pt &/or family w/e&m 30 mins	H0037	Comm psych treatment, per diem
90834	Psychotherapy-45 minutes	H0038	Self-help/peer services per 15 min
90836	Psytx pt &/or family w/e&m 45 mins	H0040	Assertive Comm treatment, per diem
90837	Psychotherapy-60 minutes	H0043	Supported housing, per diem
90838	Psytx pt &/or family w/e&m 60 mins	H0044	Supported housing, per month
90839	Psychotherapy for crisis, first 60 mins	H0045	Respite not-in-home per diem
90840	Psychotherapy for crisis add-on, each add'l 30 mins	H2001	Rehab program 1/2 day
90846	Family psychotherapy (w/o patient)	H2012	BH day treatment, per hour
90847	Family psychotherapy (with patient)	H2014	Skills train and dev, 15 min
90849	Multiple family group psytx	H2015	Comprehen comm support per 15 min
90853	Group psychotherapy	H2016	Comprehen comm support, per diem
90870	ECT	H2017	Psysoc rehab svc, per 15 min
90875	Indv psychotherapy biofeedback 30min	H2018	Psysoc rehab svc, per diem
90876	Indv Psychotherapy biofeedback 45min	H2021	Com wrap-around sv, 15 min
96372	Ther/proph/diag inj, sc/im	H2022	Com wrap-around sv, per diem
97535	Self-care management training	H2023	Supported employ, per 15 min
97537	Community/work reintegration	H2024	Supported employ, per diem
G0176	Activity therapy 45 min or more	H2025	Supp maint employ, 15 min
G0177	Training re: care of mh problem	H2026	Supp maint employ, per diem
H0004	Behavioral Health counseling and therapy, per 15 mins	H2027	Psycho ed service, per 15 min
H0005	Alcohol and/or drug services; group counseling by a clinician	H2030	MH clubhouse per 15 min
H0006	Alcohol/Drug case management	H2031	MH clubhouse per diem
H0010	Clinically managed residential withdrawal management: ASAM level 3.2WM, per diem	H2032	Activity therapy per 15 min
H0011	Clinically managed residential withdrawal management:	H2033	Multisys ther/juvenile 15 min
		H2036	Alcohol and/or other drug treatment program, per diem
		S5150	Unskilled respite care, per 15m

	ASAM level 3.7WM, per diem	S5151	Unskilled respite care, per diem
H0015	Alcohol/Drug intensive outpatient	S9445	Patient ed non-phys, indiv
H0017	BH residential w/o room/board	S9480	Intens Outpatient psych per diem
H0018	BH short term res w/o room/board	S9485	Crisis Interv MH per diem
H0019	BH long term red w/o room/board	T1005	Respite care service 15 min
H0020	Methadone admin/service	T1017	Targeted case management
H0033	Oral med admin observation		* must be billed with psychotherapy code
H0034	Med training/support per 15 min		** listed separately in addition to primary procedure code

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Reimbursed under the behavioral health capitation, when the service is for an appropriate diagnosis that supports medical necessity and is billed by a Behavioral Health Specialty Provider, non-physician practitioner group or an FQHC or RHC using revenue code 0900.			
<i>Behavioral health codes</i>			
90791	Diagnostic Eval w/o Medical Services	H0023	BH outreach/Drop in
90792	Diagnostic Eval with Medical Service	H0025	BH prevention education
90887	Interpretation/explanation of psych/medical exam/data	H0031	MH assessment by non-phys
96116	Neurobehavioral status exam; first hr	H0032	MH service plan devel bynon-phys
96121	Neurobehavioral status exam; add'lhrs**	H0046	Drop-in Center
96130	Psych testing eval services; first hr	H2000	Comprehensive multidiscipline edu
96131	Psych testing eval services; add'l hrs**	H2011	Crisis intervention per 15 min
96132	Neuropsych testing eval services; firsthr	S9453	Smoking cess class, non-phys, per ses
96133	Neuropsych testing eval services; add'lhrs**	S9454	Stress manage, non-phys, per ses
96136	Psych or neuropsych test admin & scoring; 30min	A0999	BHST One-way trip
96137	Psych or neuropsych test admin; add'l 30 min**	A0425	BHST ground mileage, per mile
96138	Psych or neuropsych test admin, by tech; first 30min		
96139	Psych or neuropsych test admin, by tech; add'l 30min**		
96146	Psych or neuropsych test - automated		
98966	Hc pro phone call 5-10 min		
98967	Hc pro phone call 11-20 min		
98968	Hc pro phone call 21-30 min		
H0001	Alcohol and/or drug assessment		
H0002	Alcohol and/or drug screening		

Reimbursed under the behavioral health capitation when the service is provided for a covered behavioral health diagnosis, regardless of the billing provider.			
<i>Evaluation & Management Consultation Codes</i>			
99242	Outpatient Consultation, at least 20 minutes	99252	Hospital Consultation, at least 35 minutes
99243	Outpatient Consultation, at least 30 minutes	99253	Hospital Consultation, at least 45 minutes
99244	Outpatient Consultation, at least 40 minutes	99254	Hospital Consultation, at least 45 minutes
99245	Outpatient Consultation, at least 55 minutes	99255	Hospital Consultation, at least 80 minutes
<i>Evaluation & Management Emergency Department Codes</i>			
99281	Emergency department visit for problem that may not require health care professional	99284	Emergency department visit with moderate level of medical decision making
99282	Emergency department visit with straightforward medical decision making	99285	Emergency department visit with high level of medical decision making
99283	Emergency department visit with low level of medical decision making		

Reimbursed through the behavioral health capitation for a covered behavioral health diagnosis when the service is billed by a Behavioral Health Specialty Provider.

<i>Evaluation & Management Codes</i>			
99202	Office or OP – New, 15 – 29 mins	99307	Subseq nursing facility, 10m
99203	Office or OP – New, 30 – 44 mins	99308	Subseq nursing facility, 15m
99204	Office or OP – New, 45 – 59 mins	99309	Subseq nursing facility, 30m
99205	Office or OP – New, 60 – 74 mins	99310	Subseq nursing facility, 45m
99211	Office or OP – other	99315	Nursing facility discharge, 30m
99212	Office or OP – Est, 10 – 19 mins	99316	Nursing facility discharge, 30+m
99213	Office or OP – Est, 20 – 29 mins	99341	Residence visit – New, at least 15 minutes
99214	Office of OP – Est, 30 – 39 mins	99342	Residence visit – New, 30m
99215	Office or OP – Est, 40 – 45 mins	99344	Residence visit – New, 60m
99221	Initial hospital care at least 40 minutes	99345	Residence visit – New, 75m
99222	Initial hospital care at least 55 minutes	99347	Residence visit – Est, 15m
99223	Initial hospital care at least 75 minutes	99348	Residence visit – Est, 30m
99231	Subsequent hospital care at least 25 minutes	99349	Residence visit – Est, 40m
99232	Subsequent hospital care at least 35 minutes	99350	Residence visit – Est, 60m
99233	Subsequent hospital care at least 50 minutes	99366	Team conf w/patient by hc pro
99234	Same day admit/DC, at least 45 minutes	99367	Team conf w/o patient byphys.
99235	Same day admit/DC, at least 70 minutes	99368	Team conf w/patient by hc pro
99236	Same day admit/DC, at least 85 minutes	99441	Telephone by phys 5-10 min
99238	Hospital discharge day 30 minutes or less	99442	Telephone by phys 11-20 min
99239	Hospital discharge more than 30 minutes	99443	Telephone by phys 21-30 min
99304	Initial nursing facility, 25m		
99305	Initial nursing facility, 35m		
99306	Initial nursing facility, 45m		

Evaluation & Management Add-On Codes- Reimbursed under the behavioral health capitation when billed with an Evaluation & Management code covered under the behavioral health capitation.

90836	Psychotherapy, 45 min with pt and /or family mbr when performed with anE&M	90838	Psychotherapy, 60 min with pt and /or family mbr when performed with an E&M
90833	Psychotherapy, 30 min with pt and /or family mbr when performed with anE&M		

The following revenue codes (in addition to those represented in Appendix Q on the Department’s website) may be covered under the capitated behavioral health benefit:

0510	CLINIC PSYCHIATRIC CLINIC PSYCH CLINIC
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0513	CLINIC PSYCHIATRIC CLINIC PSYCH CLINIC
0902	BEHAVIORAL HEALTH TREATMENTS/SERVICES (ALSO SEE 091X – AN EXTENSION OF 090X) MILIEU THERAPY BEHAVIORAL HEALTH/MILIEU THERAPY
0903	BEHAVIORAL HEALTH TREATMENTS/SERVICES (ALSO SEE 091X – AN EXTENSION OF 090X) PLAY THERAPY BEHAVIORAL HEALTH/PLAY THERAPY
0904	BEHAVIORAL HEALTH TREATMENTS/SERVICES (ALSO SEE 091X – AN EXTENSION OF 090X) ACTIVITY THERAPY BEHAVIORAL HEALTH/ACTIVITY THERAPY
0905	BEHAVIORAL HEALTH TREATMENTS/SERVICES (ALSO SEE 091X – AN EXTENSION OF 090X) INTENSIVE OUTPATIENT SERVICES – PSYCHIATRIC BEHAVIORAL HEALTH/INTENS OP/PSYCH*
0906	BEHAVIORAL HEALTH TREATMENTS/SERVICES (ALSO SEE 091X - AN EXTENSION OF 090X) INTENSIVE OUTPATIENT SERVICES - CHEMICAL DEPENDENCY BH/INTENS OP/CHEM DEP**
0907	BEHAVIORAL HEALTH TREATMENTS/SERVICES (ALSO SEE 091X - AN EXTENSION OF 090X) COMMUNITY BEHAVIORAL HEALTH PROGRAM (DAY TREATMENT) BH/COMMUNITY
0911	BEHAVIORAL HEALTH TREATMENT/SERVICES – EXTENSION OF 090X***
0912	BEHAVIORAL HEALTH TREATMENTS/SERVICES - EXTENSION OF 090X PARTIAL HOSPITALIZATION - LESS INTENSIVE BH/PARTIAL HOSP
0913	BEHAVIORAL HEALTH TREATMENTS/SERVICES - EXTENSION OF 090X PARTIAL HOSPITALIZATION - INTENSIVE BH/PARTIAL INTENS
0916	BEHAVIORAL HEALTH TREATMENTS/SERVICES - EXTENSION OF 090X FAMILY THERAPY BH/FAMILY RX
0917	BEHAVIORAL HEALTH TREATMENTS/SERVICES - EXTENSION OF 090X BIO FEEDBACK BH/BIOFEED
0918	BEHAVIORAL HEALTH TREATMENTS/SERVICES - EXTENSION OF 090X TESTING BH/TESTING
0919	BEHAVIORAL HEALTH TREATMENTS/SERVICES - EXTENSION OF 090X OTHER BEHAVIORAL HEALTH TREATMENTS/SERVICES BH/OTHER
0960	PROFESSIONAL FEES (ALSO SEE 097X AND 098X) GENERAL CLASSIFICATION PRO FEE
0961	PROFESSIONAL FEES (ALSO SEE 097X AND 098X) PSYCHIATRIC PRO FEE/PSYCH
1000	BEHAVIORAL HEALTH ACCOMMODATIONS GENERAL CLASSIFICATION
1001	BEHAVIORAL HEALTH ACCOMMODATIONS RESIDENTIAL - PSYCHIATRIC
1003	BEHAVIORAL HEALTH ACCOMMODATIONS SUPERVISED LIVING*
1005	BEHAVIORAL HEALTH ACCOMMODATIONS GROUP HOME***

* For mental health diagnoses only

** For Substance Use Disorder (SUD) diagnoses only

*** For members under the age of 2

Behavioral Health Specialty Provider Types		
<i>Provider Type (PT)</i>	<i>Specialty Type</i>	<i>Provider Type Description</i>
35	360	Community Mental Health Center

37	520	Licensed Psychologist
38	521	Licensed Behavioral Health Clinician
63	399	Substance Use Disorder Individual*
64	477	Outpatient Substance Use Disorder Clinics
64	871	Residential SUD ASAM level 3.1 Programs
64	872	Residential SUD ASAM level 3.3 Programs
64	873	Residential SUD ASAM level 3.5 Programs
64	874	Residential SUD ASAM level 3.7 Programs
64	875	Residential SUD ASAM level 3.2WM Programs
64	876	Residential SUD ASAM level 3.7WM Programs

*This provider type is no longer available for new enrollments

Behavioral Health ICD-10-CM Code Ranges	
<i>Substance Use Disorder</i>	
<i>Start Value</i>	<i>End Value</i>
F10.10	F10.26
F10.28	F10.96
F10.98	F13.26
F13.28	F13.96
F13.98	F18.159
F18.18	F18.259
F18.28	F18.959
F18.980	F19.16
F19.18	F19.26
F19.28	F19.99
<i>Mental Health Disorders</i>	
<i>Start Value</i>	<i>End Value</i>
F20.0	F42.3
F42.8	F48.1
F48.9	F51.03
F51.09	F51.12
F51.19	F51.9

F53.0	F53.1
F60.0	F64.9
F68.10	F69
F90.0	F98.4
F98.8	F99
R45.1	R45.2
R45.5	R45.82

DRAFT