

**REGIONAL CENTER CONTRACT LANGUAGE
FISCAL YEAR 2014-2015**

REGIONAL CENTER MASTER CONTRACT INDEX
(Revised December 8, 2014)

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ARTICLE I. STANDARD TERMS AND CONDITIONS

1. General Provisions

- The Contractor agrees to indemnify, defend and hold harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work services, materials or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this contract.
2. The Contractor, and the agents and employees of Contractor, in the performance of the agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.
 3. The State may terminate this contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the State may proceed with the contract work in any manner deemed proper by the State. The cost to the State shall be deducted from any sum due the Contractor under this contract, and the balance, if any, shall be paid by the Contractor upon written demand.
 4. Without the written consent of the State, this agreement is not assignable by Contractor either in whole or in part.
 5. Time is of the essence in this agreement.
 6. No alternation or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
 7. Subject to the provisions of Article VI, Section 1 herein, the consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

8. Amount of Contract

The total amount payable to Contractor under this contract shall not exceed \$XXXX for Fiscal Year 2014-2015 as reflected in Exhibit A, Page 1 of this contract.

Fiscal year funds identified above may not be used for any other fiscal year than the fiscal year specified unless authorized by the State.

9. Term of Contract

Subject to the provisions of Article VI, Section 1 and Article VIII, Section 1 herein, the period of this contract shall be for seven years as specified below. The term of the contract is from July 1, 2014 through June 30, 2021. The first five years of the term, from July 1, 2014 through June 30, 2019, is intended to meet the requirements specified in Welf. & Inst. Code Section 4629. The last two years of the term, from July 1, 2019 through June 30, 2021, is solely to provide for the claims period specified in Government Code section 16304, and to allow for adjustments to the regional centers' allocations and for the payment of claims up to two years after the close of each fiscal year, specifically FY 2019/2020 and FY 2020/2021.

10. Exhibits

- a. Exhibit A, entitled "Contract Budget Summary," is attached hereto and made a part of this contract.
- b. Exhibit B, entitled "Home and Community-Based Services Waiver Regional Center Fiscal Agent Responsibilities," is attached hereto and made a part of this contract.
- c. Exhibit C, entitled "Performance Plan," is incorporated by reference and made a part of this contract.
- d. Exhibit D, entitled "Early Start Statement of Assurances," is attached hereto and made a part of this contract.
- e. Exhibit E, entitled "Community Placement Plan Statement of Assurances," is attached hereto and made a part of this contract.
- f. Exhibit F, entitled "Privacy and Security Assurances," is attached hereto and made a part of this contract.
- g. Exhibit G entitled "Memorandum of Understanding, Foster Grandparent Program," is attached hereto and made a part of this contract.

- h. Exhibit H entitled "Memorandum of Understanding, Senior Companion Program," is attached hereto and made a part of this contract.

11. Definitions

- a. "Allocate" means to forward to the Contractor a contract or contract amendment which has been executed by the State and specifies an amount, or augmented amount, of money available to Contractor to effect the terms of this agreement.
- b. "ARCA" means the Association of Regional Center Agencies.
- c. "State" means the Department of Developmental Services and only the Department of Developmental Services.
- d. "Director" means the director of the Department of Developmental Services.
- e. "Lanterman Act" means Division 4.5 of the Welf. & Inst. Code, Section 4500, et seq., known and cited as the Lanterman Developmental Disabilities Services Act.
- f. "Operations Budget" means that portion of a Contractor's budget allocation set forth in Exhibit A, that is intended for the delivery of regional center "direct consumer services" and "administration."
- g. "Direct Consumer Services" means those direct services to persons with developmental disabilities delivered by Contractor. These services include but are not limited to case management, funds management for persons with developmental disabilities, rights assurance, diagnosis and assessment, intake, prevention, quality assurance, program development, and other services under the Lanterman Act provided directly by Contractor.
- h. "Administration" means those support activities required of Contractor that are essential to the efficient conduct of business.
- i. "Total Purchase of Service Budget" means that portion of Contractor's budget allocation set forth in Exhibit A which is intended to support the purchase of services (POS) and programs for persons with developmental disabilities.
- j. "Regional Center" means an agency operated by a nonprofit corporation chartered in the State of California (hereinafter referred to as "Contractor") that provides fixed points of contact in the community for persons with

developmental disabilities and their families, to the end that such persons may have access to the facilities and services best suited to them throughout their lifetimes.

- k. "GAP Funds" means that portion of the POS appropriation that is intended to pay for services to newly developed ICF-DD/H, ICF-DD/N, and DD/CNC (formerly known as ICF/DD-CN) health facilities for the period between licensure and certification of the facilities.

12. Control Requirements

The Contractor shall comply with all California statutes, laws, and regulations applicable to nonprofit corporations. Contractor shall also render services to persons with developmental disabilities in accordance with applicable federal and California statutes, regulations, ARC v. DDS (1985) 38 Cal.3d.384 and the terms of this contract.

13. Contractor Service Area or Counties:

Contractor's regional center serves the following area or counties: XXXX.

14. Copyrights/Patents

Except as provided in this agreement, the Contractor may seek patents or copyrights for inventions, copyrightable materials or other original work product which has been commissioned, funded or developed by the Contractor with funds provided by the State, or otherwise produced in performance of this contract, subject to the rights of the State as set forth in this Section. Inventions, for the purposes of this Section, may include, but not be limited to, prosthetic devices, auxiliary learning aids or any other professional aids of a mechanical nature. Copyrightable materials, for the purposes of this Section, may include, but not be limited to data, plans, drawings, specifications, reports, operating manuals, notes or other consultant work. The State shall have the right to manufacture, reproduce, publish, use and/or distribute all such inventions or copyrightable materials. Upon any such inventions or copyrightable materials shall be the statement: "COPYRIGHTED/PATENTED (as appropriate) DATE (insert date) BY (insert name of contractor); REPRODUCED WITH PERMISSION." No further manufacturing, reproduction, publication, use or distribution shall be made without permission of the Contractor. All copyrights or patents to which this clause is applicable shall be in the name of the Contractor. If any such inventions are patentable, or any such original work product or materials are copyrightable, the Contractor may patent or copyright same except that, whenever any such patents or copyrights are applied for or sought by the Contractor, or any employee or assignee thereof, the Contractor shall promptly and fully report such fact to the State, which reserves a royalty-free, nonexclusive and irrevocable license to manufacture, reproduce, publish, use and/or distribute

same. Any revenues derived from the sale of any such invention or copyrighted materials by the Contractor, or any employee or assignee thereof, shall be reported to the State and utilized by the Contractor for the benefit of persons with developmental disabilities.

The Contractor shall include the provisions of this section in all subcontracts to perform work which requires the invention or development of copyrightable materials under this contract. Subcontracts under this section shall specifically note the State's right to manufacture, reproduce, publish, use and/or distribute all inventions or copyrightable materials developed using funds provided by the State.

15. Nondiscrimination

- a. Contractor agrees to develop, implement, and maintain a nondiscrimination program as required pursuant to applicable State of California laws and regulations, including Title 2, California Code of Regulations (Cal. Code Regs., tit. 2), Section 8101 et seq.
- b. During the performance of this contract, the recipient, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of religion, color, ethnic-group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40), or sex. Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- c. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, Section 7285.0 et seq.), the provisions of Sections 11135-11139.5, Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code, and the regulations or standards adopted by the awarding state agency to implement such article.
- d. Contractor or recipient shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24-hours notice, to such of its books, records, accounts, other sources of information and its facilities as said State or agency shall require to ascertain compliance with this Section.

- e. Recipient, Contractor and its subcontractors shall give written notice of their obligations under this Section to labor organizations with which they have a collective bargaining or other agreement.
- f. The Contractor shall include the nondiscrimination and compliance provisions of this Section in all subcontracts to perform work under the contract.
- g. Contractor shall comply with pertinent provisions of other State of California and federal nondiscrimination laws.

16. Drug-free Workplace Certification

Contractor hereby certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-free Workplace Act of 1990 (Government Code, Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code, Section 8355(a).
- b. Establish a Drug-free Awareness Program as required by Government Code, Section 8355(b) to inform employees about all of the following:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available drug counseling, rehabilitation and employee assistance programs; and
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Provide, as required by Government Code, Section 8355(c), that every employee who works on the contract:
 - 1) receives a copy of the company's drug-free policy statement; and
 - 2) agrees to abide by the terms of the company's statement as a condition of employment on the contract.

17. Zero Tolerance Policy

- a. Contractor shall develop and post on its Internet Website by October 1, 2013, a Zero Tolerance Policy regarding consumer abuse and neglect. Contractor shall annually notify all its employees, and notify vendors and long-term health care facilities serving consumers of its Zero Tolerance Policy. The Zero Tolerance Policy shall specify:
 - 1) That all Contractor, vendor and long-term health care facility staff serving consumers are required to report, pursuant to Welf. & Inst. Code Section 15630, to the appropriate entities any incident or allegation of suspected abuse or neglect.
 - 2) The entities for reporting suspected abuse or neglect.
 - 3) That upon becoming aware of a reportable incident or allegation of abuse or neglect of a consumer, pursuant to Welf. & Inst. Code Section 15630, Contractor and the associated vendor or long-term health care facility shall take immediate action to ensure the health and safety of the involved consumer and all other consumers receiving services from the Contractor, associated vendor or long-term health care facility.
 - 4) That the Contractor, its vendors and long-term health care facilities serving consumers shall ensure its respective employees are fully informed upon hire and annually thereafter regarding the Contractor's Zero Tolerance Policy and mandatory abuse and neglect reporting laws. Each employee must be knowledgeable of their responsibility to protect consumers from abuse and neglect, the signs of abuse and neglect, the process for reporting suspected abuse or neglect, and the consequences of failing to follow the law and enforce the Zero Tolerance Policy.
- b. The Contractor's Zero Tolerance Policy shall be incorporated into any new or revised contract, vendorization or other agreement for consumer services. Existing vendors and long-term health care facilities serving consumers shall be informed of Contractor's Zero Tolerance Policy; the Contractor's expectation of compliance with its policy; and, the Contractor will utilize all remedies available to it in statute and regulations to protect the health and safety of consumers.

18. Whistleblower Policy

- a. Contractor shall institute a board approved regional center Whistleblower policy effective December 31, 2010, addressing the reporting of alleged improper regional center and, or vendor/contractor activities.
 - 1) An “improper regional center activity” is defined as an activity by a regional center, or an employee, officer, or board member of a regional center, in the conduct of regional center business, that is a violation of a state or federal law or regulation; violation of contract provisions; fraud or fiscal malfeasance; misuse of government property; or constitutes gross misconduct, incompetency, or inefficiency.
 - 2) An “improper vendor/contractor activity” means an activity by a vendor/contractor, or an employee, officer, or board member of a vendor/contractor, in the provision of State funded services, that is a violation of a state or federal law or regulation; violation of contract provisions; fraud or fiscal malfeasance; misuse of government property; or constitutes gross misconduct, incompetency, or inefficiency.
- b. This policy must be consistent with the State’s directive entitled “Department of Developmental Services Whistleblower Complaint Process,” dated July 28, 2010, and must:
 - 1) Allow for multiple employees within the regional center to be available to accept complaints,
 - 2) Also includes a process to access the Board of Directors for the purpose of filing complaints,
 - 3) Ensure that the policy clearly indicates that the regional center will not retaliate against any complainant,
 - 4) Ensure that a process is in place to investigate and take appropriate action on complaints, including complaints of retaliation.
 - 5) Address complainant confidentiality, consistent with the State’s Whistleblower Policy, including consumer health and safety, and;
 - 6) Include a process for ensuring notification of employees, board members, consumers/families, and vendor community of both the regional center and the State’s Whistleblower policy within in 30

days of the effective date of the regional center's policy and annually thereafter.

- c. In addition, Contractor shall ensure that the regional center's and the State's Whistleblower Policies are posted on the regional center's website by January 15, 2011.

19. Transparency and Access to Public Information

- a. Contractor shall adopt, maintain, and post on its Internet Web site a board-approved policy regarding transparency and access to public information. The transparency and public information policy shall provide for timely public access to information, including, but not limited to, information regarding requests for proposals and contract awards, service provider rates, documentation related to establishment of negotiated rates, audits, and IRS Form 990. The transparency and public information policy shall be in compliance with applicable law relating to the confidentiality of consumer service information and records, including, but not limited to, Welf. & Inst. Code Section 4514.
- b. To promote transparency, Contractor shall include on its Internet Web site, as expeditiously as possible, at least all of the following:
 - 1) Regional center annual independent audits.
 - 2) Biannual fiscal audits conducted by the State.
 - 3) Regional center annual reports pursuant to Welf. & Inst. Section 4639.5.
 - 4) Contract awards, including the organization or entity awarded the contract, and the amount and purpose of the award.
 - 5) POS policies.
 - 6) The names, types of service, and contact information of all vendors, except consumers or family members of consumers.
 - 7) Board meeting agendas and approved minutes of open meetings of the board and all committees of the board.
 - 8) Bylaws of the regional center governing board.
 - 9) The annual performance contract and year-end performance contract report entered into with the State pursuant to this division.

- 10) The biannual HCBS Waiver program review conducted by the State and the DHCS Services.
- 11) The board-approved transparency and public information policy.
- 12) The board-approved conflict-of-interest policy.
- 13) The Zero Tolerance Policy pursuant to Section 17 of this Article.
- 14) Regional center data pursuant to Welf. & Inst. Code Section 4519.5 and Article VII, Section 6 of this contract.

20. Conflict of Interest

For purposes of compliance with Welf. & Inst. Code Section 4626, the Conflict of Interest Statements required to be completed pursuant to California Code of Regulations, Title 17 (Cal. Code Regs., tit. 17), Section 54522 shall be used until such time as the State issues emergency regulations and develops and publishes a standard conflict of interest reporting statement pursuant to Welf. & Inst. Code Section 4626(e).

Following the State's issuance of emergency regulations and the standard conflict of interest reporting statement, all individuals identified in Welf. & Inst. Code Section 4626 shall have 60 days to complete, sign and file the conflict of interest reporting statement with the respective entity designated in Welf. & Inst. Code Section 4626.

21. Labor Relations/Contempt of Court

By executing this contract, Contractor, pursuant to Public Contract Code, Section 10296 swears under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against Contractor within the two-year period immediately preceding the commencement date of the contract because of Contractor's failure to comply with an order of a federal court ordering Contractor to comply with an order of the National Labor Relations Board.

The State may rescind any contract in which Contractor falsely swears to the truth of the above statement.

22. Rights and Privileges Limitation

No rights or privileges granted under this contract shall inure to the benefit of any person not a party to this agreement.

23. Contract Titles Statement

Both parties agree that contract articles and section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions herein.

24. Restricting Use of State Funds

During the duration of this contract, including any extensions or renewals of the contract, Contractor agrees to comply with Government Code Sections 16645 through 16649 and Welf. & Inst. Code section 4638 that prohibit Contractor's use of State funds to assist, promote or deter union organizing.

25. Payment of Accrued Benefits

If this contract is terminated, the State shall pay, as appropriate, accrued benefits pursuant to the contract of employment of each terminated employee. Accrued benefits shall include vacation, sick leave, and any other benefits submitted to and approved, in writing, by the State in advance of or at the time of the termination of this contract.

ARTICLE II: PROGRAM PROVISIONS

1. Utilization of Public Resources

Contractor shall utilize to the fullest extent reasonably feasible those public resources, as specified in Section 4659 of the Welf. & Inst. Code, which are available without additional cost to the Contractor to implement and coordinate the services identified by the Interdisciplinary Team as required to meet the goals and objectives in the Individual Program Plan for each person with a developmental disability and the outcomes on Individualized Family Service Plans (IFSPs) for children and families served through the Early Start Program.

2. Resource Development

a. For the 2013-2014 fiscal year, Contractor may use POS funds for developing new community resources to protect the consumers' health or safety or because of other extraordinary circumstances, and the State has granted prior written authorization for the expenditure. This provision does not apply to:

1) POS funds allocated as part of the State's Community Placement Plan (CPP) process.

b. Contractor shall institute a Board approved policy effective January 1, 2011 specifying the circumstances under which the regional center will issue requests for proposals to address a service need. This policy shall also address the applicable dollar thresholds for requiring the utilization of the request for proposals process; the request for proposals notification process; and, how submitted proposals will be evaluated and the applicant selected. Within 30 days of the effective date, Contractor shall post the Board approved policy on the regional center's website.

Contractor shall specify in its Board approved policy the requirements of WIC 4648.11, and post the policy on its website.

c. POS funds may be used to provide grants for reasonable start-up costs associated with resource development. Contractor shall develop and maintain a policy for the disbursement of start-up monies and shall keep accounting and other records to document the use of these monies. Such policy shall include provision for fair and equitable recoupment of start-up funds should the vendor and/or fund recipient cease to provide services to consumers after a specified period of time. This includes start-up funds to purchase real property. The policy must be approved by Contractor's Board of Directors and must ensure that the use of POS funds are:

- 1) Necessary for establishing a new or additional program, project or resource for providing services and supports to consumers.
- 2) Of direct benefit to consumers.
- 3) Supported by contracts with sufficient detail and measurable performance expectations and results.
- 4) Not used for routine maintenance of a provider's plant or facility or for the purchase, lease or maintenance of a provider's vehicle.
- 5) Not used for construction, renovation, alteration, improvement, or repair of real property that is not of direct medical or remedial benefit to the consumer.

3. Contracting Policy

Both parties to this contract recognize the specific requirements under law as stated in Welfare and Institutions Code (WIC) 4625.5 and California Code of Regulations (CCR), Section 54322.

4. Federal Funds

- a. Contractor shall implement mutually agreed to procedures for the administration of the Targeted Case Management (TCM) Program, and the Nursing Home Reform (NHR) Program. Any modifications to the existing procedures shall be mutually agreed to by the State and ARCA.
- b. Contractor shall ensure that costs that may be reimbursed with Federal Funds are claimed in accordance with the applicable cost principles set forth in Office of Management and Budget Circular (OMB), A-122 and requirements set forth in OMB A-110.
- c. HCBS Waiver Enrollment
 - 1) Contractor shall ensure willing and eligible consumers are enrolled on a flow basis on the HCBS Waiver through implementation of an aggressive enrollment effort that ensures enrollment at the earliest date possible in the fiscal year. By September 1, the State shall provide Contractor with semi-annual Waiver enrollment targets.
 - 2) Months of enrollments will be considered in the allocation of Contractor Operations funding.

d. For the Title XX program, the following information applies:

CFDA Title: Social Services Block Grant (SSBG)

CFDA Number: 93.667

Federal Agency Name: United States Department of Health and Human Services

e. Early Start Program

- 1) Contractor shall provide services for infants, birth through two years of age, and their families, at no cost to the family, who are eligible for regional center early intervention services in accordance with the provisions of Part C of the Individuals with Disabilities Education Act (20 USC Sec. 1471 et. seq.), its implementing regulations (34 CFR Part 303), the Education Department General Regulations (EDGAR) as specified in 34 CFR Section 305.5, and the California Government Code, Title 14, Section 95000 et. seq. and Cal. Code Regs., tit. 17, Section 52000 et. seq.
- 2) The Contractor shall use federal funds provided under Part C of the Individuals with Disabilities Education Act only to supplement and increase service and operations obligations and will in no way be used to supplant state or local funds allocated for infants birth through two years of age.
- 3) Contractor shall develop an annual Family Resource Center/Network Plan (FRCP) with input and concurrence from local agencies providing early intervention services. The plan shall include the following:
 - a) A description of how the Contractor provides family resource services, including but not limited to:
 - i) parent-to-parent support
 - ii) information dissemination and referral
 - iii) public awareness
 - iv) family-professional collaboration
 - v) transition assistance for families
- 4) Contractor shall submit an annual report prepared in accordance with the State's Early Start Program Memoranda (ESPM).

- 5) Contractor shall maintain, in the Uniform Fiscal System (UFS), separate accountability for all federal funds expended for family resource service activities.
- f. Foster Grandparent Program
 - 1) Contractor shall comply with provisions of the Foster Grandparent Program as specified in Exhibit G.
- g. Senior Companion Program
 - 1) Contractor shall comply with provisions of the Senior Companion Program as specified in Exhibit H.

5. Service Standards

In carrying out its obligations under Article I, Section 12 of this contract, the Contractor shall maintain standards for the purchase of services for persons with developmental disabilities. Within one hundred-twenty (120) days, the State shall review all new or amended POS standards prior to Contractor's implementation of such standards to ensure compliance with statute and regulation.

6. Community Placement Plan

Contractor shall develop and implement an annual State approved CPP in accordance with Exhibit E and State CPP Guidelines.

Contractor utilizing CPP funds for the purpose of acquiring housing shall do so in accordance with Contractor's approved CPP, the State's CPP Housing Guidelines, and all conditions expressed in the State's approval of the CPP.

Upon release of amended State CPP Housing Guidelines, the State agrees to allow Contractor the option to modify their CPP to reflect any changes to the State's CPP Housing Guidelines.

7. Out-of-State Services

Both parties to this contract recognize the specific requirements under law as stated in WIC 4519.

8. Mental Health Facilities

Both parties to this contract recognize the specific requirements under law as stated in WIC 4648.

9. Specialized Resources

As required by Welf. & Inst. Code Section 4418.25(b)(2), Contractor shall provide information on Specialized Resources developed with the use of CPP funds since fiscal year 2005-2006 and shall make these resources available to other regional centers. This information shall be provided no later than September 1, 2012, and monthly thereafter, in a format agreed to by the State and regional centers.

- a. Contractor must consult with the State to determine whether a specialized resource is available in another regional center catchment area prior to placement in :
 - 1) The crisis program at Fairview Developmental Center (Welf. & Inst. Code §4418.7);
 - 2) A mental health facility ineligible for federal financial participation (FPP) [Welf. & Inst. Code §4648(a)(9)(B)(iii) & (C)]; or,
 - 3) Out of state (Welf. & Inst. Code §4519)
- b. Pursuant to Welf. & Inst. Code Section 4418.25(f)(4), commencing March 1, 2013 and annually thereafter on February 1 thereafter, Contractor shall provide to the State progress in the development of needed statewide specialty services and supports, including regional community crisis option, as provided in Welf. & Inst. Code Section 4418.25(b)(3).
- c. Contractor shall comply with all placement restrictions of Welf. & Inst. Code Section 4648.65 regarding ARFPSHNs.

10. Self-Determination Program

Both parties to this contract recognize the specific requirements under law as stated in WIC 4685.8.

ARTICLE III: FISCAL PROVISIONS

1. Budget Development Process

The State and Contractor agree to work together to build Contractor's budget using the best quality data and information available, including information on projected assessments, resource development and placements for the CPP. To that end, the State and ARCA agree to implement a process that will provide this data for building the Governor's January Budget and the May Revise. The process will include ARCA proposing policy changes for the State to consider as well as caseload, Medicaid Waiver and other federal funding initiatives, and expenditure trend data.

2. Allocation of Funding to Contractor

- a. By May 1 of each fiscal year, the State and ARCA shall review the existing allocation methodology and make any recommended changes for the Director's approval. As part of the recommended allocation methodology, the State and ARCA shall mutually agree to a process that would allocate and/or reallocate funds necessary to address individual and/or system wide POS deficits identified pursuant to paragraph "d" of this Section. The state agrees to provide the regional centers with a quarterly report that shows the estimated amount available for Operations, POS, and CPP, and the amount allocated to regional centers.
- b. If ARCA and the State do not reach mutual agreement on an approved allocation process or if the Director does not approve same, no less than ninety-nine percent (99%) of Operations and POS shall be allocated by January 15. The State shall, on August 15, of each fiscal year, or not later than fifteen (15) days following the enactment of the annual Budget Act, whichever is later, allocate to all regional centers Operations and POS funds consistent with the approved allocation methodology. On or before January 15 of each fiscal year, the State shall allocate to all regional centers the remaining funds unless specified in the approved allocation methodology or agreed to by ARCA. The parties agree that it will be necessary to amend this contract at least two additional times in order to allocate funds made available from budget augmentations, if any, and to move funds among regional centers.
- c. Notwithstanding paragraphs a. and b. of this section, the final decision regarding the methodology used to determine the amount of allocations shall rest with the Director.
- d. By October 4, the Contractor shall notify the State and ARCA in writing of the POS sufficiency of the amount of Article I, Section 8. The Contractor's report shall be for the full fiscal year. Contractor shall provide a written

report on whether the amount is sufficient or insufficient, and shall describe in the report the basis on which the determination of sufficient or insufficient funds were made. The format of the report shall be mutually agreed to by the State and ARCA and jointly reviewed by September 15th of each year. Nothing in this section shall preclude the Contractor from notifying the State earlier that they are projecting a deficit or submitting a report after the thirty (30) day notification period notifying the State of a projected deficit.

- e. By January 1 of each fiscal year, the State and ARCA, shall review all such reports and supporting data. Based on that review, the State shall prepare a summary analysis that determines whether sufficiency or insufficiency of funds is believed to exist in each Contractor's POS budget, specifically, and in the regional center system overall.
- f. If a POS insufficiency of funds is identified in the summary analysis report, then the analysis shall suggest such actions, consistent with statutory and case law, which may be adopted separately or collectively by individual regional centers, by the system of regional centers as a whole, by the State, or by other groups or agencies, for the purpose of reducing or eliminating such believed deficiency. Such analysis shall be made available to ARCA.
- g. Contractor shall assure that services to eligible persons with developmental disabilities are provided within the funds identified in Exhibit A of this contract.
- h. In the event the State determines that Contractor has insufficient funds to meet its contractual obligations, the State shall make best efforts to secure additional funds and/or provide Contractor with regulatory and statutory relief.
- i. Not more than 15 percent of all funds appropriated through Contractor's operations budget shall be spent on administrative costs. For purposes of this section, "direct services" includes, but is not limited to, service coordination, assessment and diagnosis, monitoring of consumer services, quality assurance, and clinical services. Funds spent on direct services shall not include any administrative costs. For purposes of this section, administrative costs include, but are not limited to, any of the following:
 - 1) Salaries, wages, and employee benefits for managerial personnel whose primary purpose is the administrative management of the regional center, including, but not limited to, directors and chief executive officers.

- 2) Salaries, wages, and benefits of employees who perform administrative functions, including, but not limited to, payroll management, personnel functions, accounting, budgeting, auditing, and facility management.
- 3) Facility and occupancy costs, directly associated with administrative functions.
- 4) Maintenance and repair.
- 5) Data processing and computer support services.
- 6) Contract and procurement activities, except those performed by direct service employees.
- 7) Training directly associated with administrative functions.
- 8) Travel directly associated with administrative functions.
- 9) Licenses directly associated with administrative functions.
- 10) Taxes.
- 11) Interest.
- 12) Property insurance.
- 13) Personal liability insurance directly associated with administrative functions.
- 14) Depreciation.
- 15) General expenses, including, but not limited to, communication costs and supplies directly associated with administrative functions.

3. Advance Payment Provisions

The State shall make available to the Contractor funds for the provision of services under this contract in advance of the Contractor's actual performance therefore, as authorized by Welf. & Inst. Code, Section 4621, subject to the following conditions:

- a. Requests for advance payment shall be in accordance with format and procedures requested by the State. The amount to be advanced shall be twenty-five (25) percent of the total contract amount as set forth in the preliminary allocation and in any subsequent contract amendment.

- b. All amounts advanced under this provision shall be deposited by the Contractor in an interest-bearing bank account(s), in a bank legally authorized to engage in the banking business in California and which account(s) is established solely for operation of the regional center. The account(s) shall be in the name of both the State and the Contractor for the purpose of clarifying the State's rights, title and interest to the State funds in said account(s) as stated in "c" of this Section, in the event that a judgment creditor of the Contractor seeks to levy against the funds by means of attachment or execution.

Each withdrawal from said bank account(s) shall be made only by written instrument or electronic transfer of funds performed by the bank as part of an available service. Upon request of the State in writing, the Contractor shall repay to the State such parts of the unliquidated balance of advance payment as shall be in excess of the current requirements. No part of the funds in said bank account(s) shall be commingled with other funds of the Contractor.

- c. Amounts advanced in accordance with this provision when withdrawn from said bank account(s) shall be used only for pending expenditures in accordance with the attached Exhibit A. Except as provided in "b" of this Section, the Contractor has access to the funds placed in said bank account(s) for administrative convenience only, and hereby agrees that it has no right, title or interest therein, and shall make no withdrawals except for those made solely for the purpose of satisfying claims against or expenses of the Contractor incurred pursuant to and in the performance of this agreement.
- d. All interest earned on these funds shall be reported on the next monthly reimbursement claim to the State.
- e. The State shall have a lien upon any balance in said bank account(s) paramount to all other liens, which lien shall secure the repayment of any advance payments made hereunder.
- f. All bank accounts and any investment vehicles containing funds from this contract and used for regional center operations, employee salaries and benefits or for consumers' services and supports, shall be in the name of the State and Contractor. Properly established trust accounts that are approved by the Regional Center Board of Directors for the purpose of administering standard employee benefits do not have to be in the name of the State provided the State has the authority to review the financial transactions of the trust or financial reports prepared by independent auditors. "Standard employee benefits" are those commonly provided to employees in the course of business in private companies.

- g. For the bank account(s) above referenced, there shall be prepared three (3) alternative signature cards with riders attached to each indicating their use. In addition to the preparation of signature cards and riders, Contractor and the bank(s) shall enter into a written agreement specifying the bank(s)' responsibilities relative to said bank account(s). The signature cards, riders and agreement specified herein shall be prepared and administered in accordance with the format and procedures specified by the State.
- h. If Contractor cannot comply with "f" of this Section, alternative arrangements mutually agreeable to the parties shall be utilized.

4. Payment Provisions

In consideration of the services rendered by the Contractor pursuant to this contract, the State shall reimburse the Contractor, for cash expenditures, monthly in arrears. Reimbursement claims shall be submitted in accordance with the claiming procedures requested by the State.

All funds received pursuant to this contract shall be deposited and retained in a bank account(s) set forth in Article III, Section 3.

All funds expended by the Contractor and reimbursed by the State during the term of this contract shall be for the purposes specified and in conformity with Exhibit A.

Any funds which have not been encumbered for services provided or purchased during the term of the contract, shall revert to the State.

5. Budget Category Transfers

In accordance with the annual Budget Act, a contract amendment shall be required if funds are to be transferred from one budget category to another. This provision shall apply to those budget categories that are listed in Exhibit A.

6. Contract Funding Stipulations

- a. This agreement is subject to the appropriation of funds by the Legislature for the purpose of this contract. If funds are not appropriated in any fiscal year into which this agreement extends, it is mutually agreed that this agreement shall be of no further force and effect. In this event, except as provided in Article I, Section 25, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this agreement, and Contractor shall not be obligated to perform

any provisions of this Agreement. Contractor shall ensure that all POS contracts initiated by Contractor include notification of this condition.

- b. Except as provided in Welf. & Inst. Code Section 4635, if funding for any fiscal year for this program is reduced or deleted by the Budget Act, except as provided in Article 1, Section 25, the State or Contractor shall have the option to either cancel this agreement without liability or agree to an amendment to reflect the reduced amount.

7. Travel and Per Diem

The Contractor shall establish and maintain procedures that assure the State that reimbursements to regional center employees and board members for necessary travel and per diem are equitable, reasonable, and properly documented.

8. Year-End Closing

Immediately following the February 1 amendment to this contract as specified in Article VI, Section 1.c. hereof, the State may disencumber any or all funds unexpended and uncommitted by the Contractor out of the total amount available under this contract at the close of the contracting period. For the purposes of this Section, such total amount available shall be defined as the amount originally specified in Article I, Section 8, modified by any changes made pursuant to Article III, Section 2, and/or as modified by any executed contract amendment.

9. Independent Financial Audit

Both parties to this contract recognize the specific requirements under law as stated in WIC 4639 and the Single Audit Act of 1984, 31 U.S.C. 7501, et seq., and applicable Office of Management and Budget Circulars (A-122 and A-133 or as revised).

10. Vendor Fiscal Monitoring

- a. Contractor shall monitor the expenditure of public funds by monitoring vendor fiscal claims.
- b. The Contractor shall be responsible for auditing: 1) vendors with prior year annual payments made by the contractor to a vendor of less than \$100,000, 2) consumer's personal and incidental funds, and 3) residential facilities with licensed capacity of six or fewer beds regardless of the payment amount. The DDS shall be responsible for auditing vendors with prior year annual payments from regional centers of \$100,000 or more. The contractor may audit other vendors if prior approval is received from the State. The vendor audits shall be conducted in accordance with the provisions of Cal. Code Regs., tit. 17, Section 50606, Regional Center

Auditing Requirements and in compliance with audit protocols mutually agreed to by the State and Association of Regional Center Agencies.

- c. The Contractor shall meet or exceed the following minimum requirements and will be evaluated based on the results achieved. In evaluating the results of the contractor's efforts, consideration will be given to the fact that funding for fiscal monitors was reduced in FY 2004-05.

The minimum number of audits conducted by Contractor shall be 4% of the total number of separately vendored services for the following service categories: community care facilities with licensed capacity of six or fewer beds, transportation, day programs, in-home respite agencies and respite facilities. The vendors included in the base for establishing the minimum number of audits, shall be those vendors that receive total prior year POS payments from the contractor of \$100,000 or less and those residential facilities with licensed capacity for six or fewer consumers. Prior to June 1 of each year the State will provide the Contractor with the total number of vendors that will be used to calculate the minimum number of audits to be conducted. Contractor shall ensure that the minimum number of audits conducted includes at least 35% billing audits and 20% cost verification and staffing audits. Cost verification audits are audits of cost statements, State authorized rate increases, or verification of costs used by regional centers to set rates as provided for in Cal. Code Regs., tit. 17. Staffing audits are audits conducted to verify compliance with staffing levels as specified in Cal. Code Regs., tit. 17 or by contract with a service provider as allowed by Cal. Code Regs., tit. 17. Procedures for staffing audits may also include verification that staffing levels are appropriate for the consumer's assessed level of care and are in compliance with the vendor's program design narrative. The billing audits conducted shall include vendors serving consumers eligible for the HCBS Waiver. At least one of the vendors audited must be a program that serves children under the age of three. The Contractor shall make a good faith effort and exhaust all reasonable methods of collection to recover all fiscal adjustments identified as a result of the Contractor's vendor audits. Documentation of collection efforts shall be maintained by the Contractor for future review.

By October 1 of each year, Contactor shall submit to the State a listing of all vendor audits conducted during the prior fiscal year and a list of recoveries. The list of recoveries shall identify the vendor, the date of the audit report, the amount recovered during the prior fiscal year and the method of recovery which may be either collection of cash or off-set of vendor billings.

- d. This provision does not negate the requirement that regional centers submit vendor audit reports to the State pursuant to Cal. Code Regs., tit. 17, Section 50606(g)(1)(F). Completed reports are to be submitted at least quarterly.

11. Consumer Trust Accounts

Contractor shall ensure that the consumer benefits directly from all interest earned on trust accounts. Guided by prudent business practices, all trust funds must be placed in a separate bank account that earns at least the prevailing rate of monetary interest for a "Business Savings" account, or equivalent account. This account shall be in the name of both the State and Contractor in accordance with the provisions of Article III, Section 3. All interest must be allocated to the individual consumer accounts. Bank charges (net after applying bank credits, if any), that are specifically identifiable to the trust account may be offset against the consumers' interest. In no case shall the amount of bank charges allocated to the individual consumer accounts exceed the amount of interest earned.

12. Insurance Coverage

Contractor shall maintain insurance coverage for the entire period of this contract that will protect the financial assets provided to Contractor from the State to fulfill the terms and obligations of this contract. Insurance coverage shall include, but not be limited to: workers' compensation insurance; non-owned automobile insurance including personal injury and property damage; property insurance including personal injury, supplies, equipment and other property furnished by or acquired under or allocatable to this contract; employment practices liability insurance to cover discrimination complaints and other similar employment claims; and, Directors', Trustees' and Officers' liability insurance. Contractor shall maintain Fidelity Bonding.

Contractor shall immediately notify the State, in writing, when Contractor is unable to obtain any of the required insurance coverage or any of the required policies are cancelled.

13. Foundation Support

After July 1, 2002, the following provisions shall apply:

- a. Contractor may provide funds to a foundation or similar entity where the purpose of the funds is to provide direct benefits to regional center consumers subject to prior review and written approval by the State in consultation with Contractor.

Contractor may not provide funds or personnel to a foundation or similar entity for fundraising purposes.

- b. Through a written agreement between the Contractor and a foundation, or similar entity, Contractor may provide in-kind administrative services to a foundation, or similar entity, provided such agreement requires reimbursement from the foundation to the Contractor for any services performed by the Contractor or its employees on behalf of the foundation or similar entity. In-kind reimbursement shall be in the form of specifically identifiable, non-monetary benefits for persons with developmental disabilities.
- c. Nothing shall preclude a foundation, or similar entity, from competing for funding from the Contractor or another regional center on the same basis as any member of the general public. Contractor shall, however, comply with sections 54520 and 54521 of Cal. Code Regs., tit. 17, with respect to any conflict of interest issues arising between the Contractor and a foundation, or similar entity.

14. Monthly Purchase of Services Sufficiency of Allocation Reports (SOAR)

- a. Subsequent to the written report of POS funding sufficiency required in Section 2(d) of this Article and as part of the monthly Sufficiency of Allocation reporting process, the Contractor shall submit reports, in a format specified by the State, by the 10th of each month beginning in November, or as required by the State. Each report shall include sufficient documentation to explain any significant month to month changes in projected expenditures.
- b. As part of the monthly expenditure projection analysis, the State may request and the Contractor shall provide (in a format approved by the State) additional information to explain the expenditure projection.
- c. The State shall provide technical assistance, as deemed necessary.

ARTICLE IV: CONTRACTOR OPERATIONS

1. Electronic Data Processing and Data Integrity

- a. The State and Contractor agree to ensure the integrity and confidentiality of the State's data bases that reside on the System i and the Office of Technology Services (OTech). Accordingly, Contractor shall not engage in any activity that threatens their integrity and shall develop and implement an operational recovery plan consistent with the requirements of this section. Contractor agrees to adhere to the most current version of the State's 'Security Policy for Regional Centers' as developed by the State and ARCA.
- b. Contractor, using the electronic billing and payment software provided by the State, agrees to comply with the most current version of the State's 'Security Policy for Electronic Billing' as developed by the State and ARCA.
- c. Contractor shall make available accurate and complete UFS and SANDIS information to the State. Accordingly Contractor shall:
 - 1) Update changes to all mandatory items of the Client Master File at least annually except for the following elements, which must be updated within thirty (30) days of Contractor being aware of any of the following events:
 - a) The death of a consumer;
 - b) The change of address of a consumer; or
 - c) The change of residence type of a consumer.
 - 2) Review the information required in the Client Development Evaluation Report (CDER) whenever an IPP is completed, and update if there is a change.
 - 3) Upon notification by the State of errors in the State's databases that reside on the System i and OTech, Contractor shall rectify those errors within thirty (30) days.
- d. To improve the accuracy of information reported to the State, as well as to reduce the need for surveys of the regional centers to obtain needed information, all regional centers shall use the SANDIS Consumer Information and Resource Information Modules.
- e. As required by the State Administrative Manual Management Memo 01-10 issued June 4, 2001, Contractor certifies that appropriate systems and

controls are in place to ensure that State funds are not used to acquire, operate, or maintain computer software in a manner that does not comply with applicable copyrights.

2. Personnel

- a. Contractor agrees to hold the State harmless from any administrative or legal actions occurring because of the failure of the Contractor to maintain personnel records and practices in accordance with the provisions of this contract and State of California or federal laws or regulations.
- b. Contractor shall comply with the provisions of Public Contract Code, Section 10353 as required.
- c. Contractor acknowledges the policy in Public Contract Code, Section 7110 (a) and (b) and shall comply with all applicable State of California and federal laws relating to child and family support enforcement.

3. Records Maintenance

In accordance with Welf. & Inst. Code Section 4631 (b), Contractor shall be held strictly accountable for reporting all revenues and expenditures, and the effectiveness of the Contractor in carrying out of its programs and fiscal responsibilities. Contractor shall keep records, as follows:

- a. The Contractor shall maintain books, records, documents, case files, and other evidence pertaining to the budget, revenues, expenditures, and consumers served under this contract (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect net costs (direct and indirect) of labor, materials, equipment, supplies and services, overhead and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract in accordance with mutually agreed to procedures and generally accepted accounting principles.
- b. The Contractor shall make available at the office of the Contractor at any time during the term of this agreement during normal working hours, and for a period of three years after final payment under this annual contract, any of its records (personnel records excepted) for the inspection, audit, examination or reproduction by an authorized representative of the State, federal auditor, the State Auditor of the State of California, or any other appropriate State agency, which shall be conducted with the minimum amount of disruption to Contractor's program. The examination and audit shall be confined to those matters connected with the performance of this contract, including but not limited to, the cost of administering the contract.

- c. In addition to the requirements of Subsection b., Contractor shall retain records which pertain to consumer eligibility determinations and redeterminations for the Medicaid Waiver Program for a minimum of five years from the date of an eligibility determination or redetermination.
- d. Contractor may, in fulfillment of its obligation to retain the records as required by this Section, utilize a scanned, digitalized, or other electronic true representation of the original record consistent with Title 17, Section 50602(h) and (i); Title 17, Section 50604(d); Title 17 Section 50605(a) and (c); Title 17, Section 50612(a) and (f).
- e. Contractor shall comply with the most current version of the State's 'Requirements for Electronic Storage of Records', as developed by the State and ARCA.

4. State Property

- a. All equipment, material, supplies, or property of any kind furnished by the State, or purchased from funds received under the terms of this contract, shall be the property of the State of California and used for the performance of this contract, unless specifically exempted in the State's Equipment Management System Guidelines.

Contractor shall maintain and administer, in accordance with sound business practice, a program for the utilization, care, maintenance, protection and preservation of State of California property so as to assure its full availability and usefulness for the performance of this contract. Contractor shall comply with the State's Equipment Management System Guidelines for regional center equipment and appropriate directions and instructions which the State may prescribe as reasonably necessary for the protection of State of California property.

- b. Except as authorized in Welf. & Inst. Code section 4669.2, subd. (a)(8), Contractor is prohibited from expending any state funds that result in the State of California owning, or incurring a liability for, real property.

5. Public Disclosure of Contracts

In accordance with Welf. & Inst. Code Section 4640.6(k), Contractor shall make available to the public for review, all employment contracts with regional center staff or contractors (entered into on or after January 1, 2003) upon request. No employment contract, or portion thereof, may be deemed confidential or unavailable for public review except the social security number of the contracting party.

- a. The term of an employment contract between Contractor and an employee or contractor shall not exceed five years or the term of the State's contract with the regional center.
- b. When reporting the information to the State, as required by Welf. & Inst. Code Sections 4639.5 and 4640.6(k), Contractor shall include any information regarding Executive Director current annual compensation as defined by IRS Code for completion of the IRS Form 990, and associated detail. This information shall be provided in a format with instructions agreed to by the State and regional centers.

6. Consumer Information Security

- a. The Contractor agrees to adhere to the most current version of the State's 'Statement of Assurances for Protection of Personal Information' (Exhibit F) which sets forth the security and notification requirements and best practices for, but not limited to, the protection of all confidential, sensitive, and/or personal information collected and stored on behalf of the State regardless of format or media type.
- b. Contractor, agrees to adhere to State policy regarding incident reporting, requiring privacy breaches and/or security incidents involving paper and other formats to immediately notify the Department's Information Security Officer, via email at iso@dds.ca.gov in the event of any loss or theft of personal, sensitive, or confidential information in any format, including but not limited to flash drives, cell phones, personal digital assistants (i.e. blackberry), tablets, computers, and laptops within 72 hours.

The notification to the Department must be reported on form SIMM 5340-C or other online submission form as directed by the Department. DDS is mandated by law to notify other entities of disclosure of information; the timelines are extremely short for many of these reports; therefore it is essential that DDS is notified immediately, within 72 hours, when a suspected privacy breach or security incident is discovered by the Contractor.

Reference: SIMM 5340-C <http://www.cio.ca.gov/OIS/Government/incident.asp>

ARTICLE V: EVALUATION

1. Contractor Evaluation

- a. The Contractor's performance under this contract will be evaluated. Accordingly, the State, through its authorized representatives, reserves the right to use evaluation methods, including observations, inspections, interviews and other assessment techniques selected by the State.
- b. The State shall notify the Contractor, at least thirty (30) days in advance unless mutually agreed upon otherwise, that an evaluation will take place. It is the State's intent that the on-site portion of any evaluation shall occur during Contractor's normal working hours, unless mutually agreed otherwise, and with the least amount of disruption of day-to-day services, and should last no longer than three (3) weeks.
- c. The State shall prepare a written report specifying the findings of any evaluation performed by the State under this Section. Said report shall not be limited to a description of the areas of Contractor's deficiencies, but shall include a description of Contractor's strengths and outstanding achievements, if any. Except as required by law, public release of the State's final evaluation report shall not be made until the report has been reviewed by the Contractor and the Contractor has had thirty (30) days to respond. Contractor's responses will be included within the final report to be published within thirty (30) days from the receipt of said responses.

2. Information Requests

During the term of this contract, the State may require Contractor to furnish program and fiscal information, as the State deems necessary to assess Contractor's status or performance relative to Contractor's fiscal and/or program operations. Prior to requesting such information, the State shall confer with ARCA as to the most efficient and effective means for collecting the information.

ARTICLE VI: CONTRACT AMENDMENT/CANCELLATION/REOPENING

1. Contract Amendments

- a. Either party may reopen and enter into negotiations on any provision(s) of this contract as deemed necessary to contract or respond to 1) any legislative and/or budgeting actions taken by the Legislature; 2) executive order of the Governor; 3) declared state of emergency; 4) action taken by a court of law; or 5) the need for special language.

Contractor shall immediately notify the State in writing if, as a result of the above, it is unable to comply with any provision of this contract.

- b. Pursuant to Article III, Section 2 hereof, this agreement shall be amended on or before August 15 of each year and again on or before January 15, and before June 30, if needed, in order to ensure that one hundred percent (100%) of all funds identified by the annual Budget Act for regional center programs as revised by the Governor's Budget and May Revision are made available as early as possible to the Contractor and the other regional centers.

- c. The parties agree that it will be necessary to amend this contract at least two additional times in order to allocate funds made available from budget augmentations, if any, and to move funds among regional centers.

Accordingly, this agreement shall be amended further on or before April 1 of each year and on or before February 1 of each succeeding year.

- d. Should any change in the regulations promulgated by the State, State policies, or provisions of this contract result in increased costs to the Contractor, the State in consultation with the Contractor shall determine the amount of this cost and shall, consistent with state law and subject to the availability of funds appropriated to the State for developmental services, augment Contractor's budget by this amount.

2. Severability Clause

Subject to review and approval of the Department of General Services, in the event this contract is terminated or not renewed pursuant to Article I, Section 3 or Article VIII, Section 4, the State shall negotiate reasonable closing costs with the Contractor.

3. Entire Agreement

This writing, including its attachments and references, is intended both as final expression of the agreement between the parties and as a complete exclusive statement of the agreement.

ARTICLE VII: MISCELLANEOUS

1. Lease/Rental Agreements

The contract shall include in all new leases or rental agreements for real property a clause that holds the State harmless for such leases.

2. Emergency Response System

Contractor shall implement an emergency response system that ensures that a regional center staff person will respond to a consumer, or individual acting on behalf of a consumer, within two hours of the time an emergency call is placed. This emergency response system shall be operational 24 hours per day, 365 days per year.

3. Emergency and Disaster Preparedness

Contractor shall develop and annually review an emergency and disaster preparedness plan.

4. Collection of Parental Information

In accordance with Welf. & Inst. Code Section 4657, Contractor shall collect the following for each new case and each review of all clients in out-of-home placement:

- a. The social security number of the parents of the client;
- b. The birthday of the parents of the client;
- c. The disability status of the parents of the client; and,
- d. Whether the parents of the client are deceased or not.

5. Registered Sex Offenders

Effective April 1, 2005, Contractor shall, for every newly eligible consumer over 16 years of age, review Megan's Law website (www.meganslaw.ca.gov) to determine if the consumer is required to register as a sex offender pursuant to Penal Code 290. If the consumer is required to register as a sex offender, the Contractor shall appropriately note this information in the consumer's electronic record and case file.

6. Data Compilation

Contractor and the State shall annually collaborate on the method and format to compile the data specified in Welf. & Inst. Code Section 4519.5.

- a. Contractor shall post the data specific to the regional center on its website by March 31, 2013, and December 31, 2013, and annually thereafter.
- b. Within three months of compiling the data, and annually thereafter, Contractor shall meet with stakeholders in a public meeting regarding the data.
 - i. Contractor shall provide a report to the State by August 15, 2013 and annually thereafter by April 1, that includes issues identified by the data; the results of the public stakeholder meeting; and proposed strategies.

7. Shared Vendors and Case Management Responsibility

- a. For the purposes of this section, “community living vendor” includes community care facilities, supported living services, independent living services, Family Home Agency and Foster Family Agency.
- b. When Contractor is not the vendoring regional center but is the regional center with case management responsibility and chooses to place a consumer with another regional center’s community living vendor or long-term health care facility, Contractor shall:
 - 1) Prior to the provision of services, notify the vendoring regional center of services to be provided to Contractor’s consumer by the vendor or long-term health care facility.
 - 2) When a special incident occurs, ensure the vendor or long-term health care facility submits a special incident report to both Contractor and the vendoring regional center. [Cal. Code Regs, tit. 17, § 54327 (d)]
 - 3) Upon becoming aware of a special incident, notify the vendoring regional center.
 - 4) Work collaboratively with the vendoring regional center to follow up and investigate special incidents, as needed.
 - 5) Work collaboratively with the vendoring regional center to enforce a Zero Tolerance Policy regarding abuse or neglect of consumers.

- c. When Contractor is the vendoring regional center but is not the regional center with case management responsibility, Contractor shall notify the regional center utilizing Contractor's community living vendor or long-term health care facility upon becoming aware the following:
 - 1) Unusual type or frequency of special incidents that would impact the health and safety of consumers while receiving services from Contractor's community living vendor or long-term health care facility.
 - 2) Issues that may affect the ability of Contractor's community living vendor or long-term health care facility to provide services, or to provide services in an environment that ensures the health and safety of consumers during the provision of services.
 - 3) If a situation specified in subparagraphs (1) or (2) or this paragraph places a consumer(s) in immediate risk or danger, Contractor shall notify the regional center(s) immediately, and not later than 24 hours.
- d. For all vendor types other than community living vendors and long-term health care facilities, upon becoming aware of a situation specified in subparagraphs (1) or (2) of paragraph (c) of this section, Contractor shall notify all regional centers of the following:
 - 1) Vendor name and number(s).
 - 2) Request to contact Contractor if a regional center is currently utilizing the vendor in question.
 - 3) The name(s) and telephone number(s) of the individual(s) to contact for relevant information.
- e. For the purposes of paragraph (d) of this section, Contractor shall notify the regional center(s) as soon as possible, but not later than two working days, if the situation places a consumer(s) in immediate risk or danger, Contractor shall notify the regional center(s) immediately, and not later than 24 hours.
- f. By December 15, 2013, and ongoing as warranted by personnel changes, Contractor shall maintain and provide to the other regional centers, a primary contact person and a backup contact person and their contact information for purposes of making and receiving the notifications specified in paragraph (d) of this section.

8. Program Development Funds – Parental Fee Program

Both parties to this contract recognize the specific requirements under law as stated in WIC 4782 and California Code of Regulations 50225.

ARTICLE VIII: PERFORMANCE

1. Contract Development

Contractor agrees to perform in accordance with the goals and objectives set forth in Exhibit C, "Performance Plan," which was developed in accordance with Welf. & Inst. Code Section 4629. Notwithstanding Article I, Section 9 herein the Performance Plan shall be for a period of five years as specified in Exhibit C. The Performance Plan may be modified during the term of this period by mutual written consent of Contractor and the State.

2. Annual Progress Report

By January 31 of each year, Contractor shall prepare and submit a report to the State on Contractor's progress in meeting its performance contract goals and objectives. The report shall include the goals, objectives, baseline data for each objective, and progress on each objective.

3. Incentives

By July 1 of each year, ARCA and the State shall mutually agree on incentives and flexibility as required to ensure that Contractor meets or exceeds its performance standards and to facilitate the achievement of performance objectives. Once agreed to, these incentives and flexibility shall become part of the Contract.

4. Contract Compliance

Based upon Contractor's performance, the State may take corrective action against Contractor, including placing the Contractor on probationary status. If it is found that a Contractor does not meet or is at risk of not meeting performance standards, due to the failure to meet performance objectives or requirements under the Lanterman Act or the terms of the contract, the State may take any or all of the following actions independently or in combination: the provision of technical assistance; loss of fiscal incentives; mandated consultation with designated representatives of ARCA or a management team designated by the State, or both; issuance of a letter of noncompliance; pursuit of legal or equitable remedies for enforcement of specified obligations; or contract termination or contract nonrenewal subject to Section 4635 of the Welf. & Inst. Code. Nothing in this paragraph shall limit the State's authority to take any other appropriate action under the Lanterman Act or the terms of the contract at any time during the term of this contract.

ARTICLE IX: STAFFING, MONITORING AND REPORTING

1. Specialized Personnel and Monitoring

Contractor shall expend not less than the specific amounts allocated for the following provisions unless there is reduction in funding, and/or the State imposes a transfer from Operations to POS.

a. Clinical Staff

Contractor shall either hire, or contract for, clinical expertise in the areas of pharmacology, behavioral psychology, and special medical assistance in order to provide assistance in the use of special medications, to monitor complex medical cases, and to be proactive to improve access to preventive health care resources.

b. Quarterly Monitoring

Contractor shall have face-to-face contact with all individuals living in community out-of-home settings (licensed community care facilities, health facilities, supported living and independent living settings, and adult family homes) at least quarterly. These contacts shall be for the purpose of monitoring the health, safety and well-being of each individual, gathering information to assess the effectiveness of services provided to meet the individual's needs and monitoring progress in meeting identified goals.

c. Specialized Expertise

1) Contractor shall have, or contract for, all of the following:

- a) Criminal justice expertise to assist Contractor in providing services and support to consumers involved in the criminal justice system as a victim, defendant, inmate or parolee.
- b) Special education expertise to assist Contractor in providing advocacy and support to families seeking appropriate educational services from a school district.
- c) Family support expertise to assist Contractor in maximizing the effectiveness of support and services provided to families.
- d) Housing expertise to assist Contractor in accessing affordable housing for consumers in independent or supported living arrangements.

- e) Community integration expertise to assist consumers and families in accessing integrated services and supports and improved opportunities to participate in community life.
 - f) Quality assurance expertise to assist Contractor in providing the necessary coordination and cooperation with the area board in conducting quality-of-life assessments and coordinate Contractor quality assurance efforts.
- 2) Contractor shall employ at least one consumer advocate who is a person with developmental disabilities.
 - 3) Contractor shall hire, maintain, and designate one full-time equivalent federal program coordinator position, and shall ensure that the monies appropriated for this position will only be used for that purpose.
 - a) This position shall address issues pertaining to federally funded programs serving individuals with developmental disabilities as appropriate, including the HCBS Waiver.
 - b) In collaboration with the State, this position, when appropriate, shall seek increased FFP.

d. Federal Programs Compliance Review

Contractor shall use funds budgeted for Federal Programs Compliance Review to establish, maintain, and implement an ongoing internal review process to ensure compliance with federal and state program requirements related to the HCBS Waiver, TCM, and the NHR programs. The internal review process shall assess Contractor's compliance with statutory/regulatory/contractual requirements in, at minimum, the following areas:

- HCBS Waiver eligibility certification/recertification
- Special incident reporting and risk management
- Consumer choice
- Provider Agreement Forms
- Notice of action
- Fair hearings
- IPPs/IFSPs
- Periodic and quarterly reviews of services and progress
- Quality assurance (quarterly reviews, corrective action plans, annual and tri-annual reviews of community care facilities)
- Service coordinator caseload ratios
- TCM documentation of activity and units

- NHR documentation of referrals and evaluations

Contractor shall use the results from the internal review as part of a continuous quality improvement process to enhance performance. The State shall develop and provide Contractor a self-evaluation protocol to assist Contractor in performing the internal review. The results of this internal review shall be made available to the State during the State's monitoring visits.

- e. Contractor shall use funds allocated in the Budget Act of 2005 and each budget year thereafter for complying with the HCBS Waiver requirements solely for the specific purposes budgeted for the 2005-06 fiscal year and each fiscal year thereafter. The State may take any disciplinary action necessary in the event Contractor expends these allocated funds for any purpose other than for complying with these requirements.
- f. Using all funds allocated to the Contractor in accordance with the Settlement Agreement for Capitol People First, et al. v. Department of Developmental Services, et al, (hereafter referenced as Settlement Agreement) as originally authorized in the Budget Act of 2009 and as authorized in subsequent Budget Acts, Contractor shall provide service coordination on behalf of residents of Developmental Centers as set forth in the Settlement Agreement Section IV.A.1. Service coordination may be provided directly by the Contractor or through documented arrangements with another regional center. The Contractor shall make diligent efforts to participate in annual IPP meetings as agreed to in Section IV.A.3. of the Settlement Agreement. Nothing in this contract provision shall be construed to expand Contractor's obligations pursuant to the Settlement Agreement beyond those expressly described in the Settlement Agreement. If any inconsistency exists between the terms of the Settlement Agreement and this contract provision, the terms of the Settlement Agreement shall prevail.

2. Caseload Ratios

- a. Contractor shall maintain service coordinator-to-consumer ratios, as follows:
 - 1) An average service coordinator-to-consumer ratio of one to 62 for all consumers who have not moved from the developmental centers to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 79 consumers for more than 60 days.
 - 2) An average service coordinator-to-consumer ratio of one to 45 for all consumers who have moved from a developmental center to the community since April 14, 1993. In no case shall a service coordinator for these consumers have an assigned caseload in excess of 59 consumers for more than 60 days.
 - 3) Commencing January 1, 2004, the following service coordinator-to-consumer ratios shall apply:
 - a) All consumers three years of age and younger and for consumers enrolled on the HCBS Waiver for persons with developmental disabilities, an average service coordinator-to-consumer ratio of 1:62.
 - b) All consumers who have moved from a developmental center to the community since April 14, 1993, and have lived continuously in the community for at least 12 months, an average service coordinator-to-consumer ratio of 1 to 62.
 - c) All consumers who have not moved from the developmental centers to the community since April 14, 1993, and who are not described in subparagraph (a), an average service coordinator-to-consumer ratio of 1 to 66.
 - 4) For purposes of paragraph (3), service coordinators may have a mixed caseload of consumers three years of age and younger, consumers enrolled on the HCBS Waiver program for persons with developmental disabilities, and others if the overall average caseload is weighted proportionately to ensure that overall regional center average service coordinator-to-consumer ratios as specified in paragraph (3) are met. For purposes of paragraph (3), in no case shall a service coordinator have an assigned caseload in excess of 84 for more than 60 days.

- 5) For purposes of this contract requirement, "service coordinator" means a regional center employee whose primary responsibility includes preparing, implementing, and monitoring consumers'IPPs, securing and coordinating consumer services and supports, and providing placement and monitoring activities.
- 6) One or more of the requirements of this subsection shall not apply if the regional center has a waiver approved pursuant to Welf. & Inst. Code, Section 4640.6(h).

3. Reporting

Contractor shall provide service coordinator caseload data, as of March 1st, to the State annually by March 10th. The data shall be submitted in a format prescribed by the State that shall meet, but not exceed, the data collection requirements imposed by Welf. & Inst. Code, Section 4640.6(e).

HOME AND COMMUNITY-BASED SERVICES WAIVER REGIONAL CENTER FISCAL AGENT RESPONSIBILITIES

1. BACKGROUND

The Department of Health Care Services (hereinafter referred to as DHCS) is the single California agency responsible for administering the California Medical Assistance Program (hereinafter referred to as Medi-Cal), for which federal grants in aid are received pursuant to Title XIX of the federal Social Security Act (hereinafter referred to as Medicaid).

The Department of Developmental Services (hereinafter referred to as Department) is responsible for providing services to persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act, California Welfare and Institutions Code, Section 4500 et seq.

Section 1915 (c) of the federal Social Security Act provides for home and community based services as a benefit of the Medicaid program, subject to approval by the Department of Health and Human Services (hereinafter referred to as DHHS) thereby enabling Title XIX coverage of home and community based services for persons with developmental disabilities.

The Department has entered into a contract with DHCS under which the Department shall act as the fiscal agent for Medi-Cal payments and related systems for administering home and community based services for persons with developmental disabilities.

Contractor is one of 21 private non-profit, locally based agencies under contract with the Department to obtain services for persons with developmental disabilities including home and community based services.

2. CONTRACT PRACTICES

For the purposes of this contract, the Department and Contractor agree to conform to the requirements of 45 CFR Part 74, Appendix G and to the requirements of the DHHS approved Home and Community-Based Services Waiver (Medicaid Waiver) Program.

3. SUBCONTRACTS

Contractor agrees that contracts, other than small purchases contracts, shall contain provisions or conditions which allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

4. POPULATION COVERED BY THIS CONTRACT

The population covered by this exhibit are those Medi-Cal eligible persons who qualify for participation in the Medicaid Waiver Program and/or who would be eligible for Medi-Cal due to eligibility for the Medicaid Waiver Program and those who are enrolled in the Medicaid Waiver Program.

5. PROCEDURES FOR ENROLLMENT AND RE-ENROLLMENT

Contractor shall adhere to the enrollment and re-enrollment assurances and procedures as specified in the Medicaid Waiver Program. All participants shall meet the appropriate level of care criteria, shall sign the federally required "Consumer choice of services/living arrangement statement" (form DS 2200); shall have a choice among qualified providers; shall be notified of their right to a fair hearing if choice is denied; services are reduced and Medicaid Waiver Program eligibility is terminated unless the consumer voluntarily disenrolls from the Medicaid Waiver Program; and, shall have a written plan of care which addresses the health, safety, and well-being of the individual participant in a community setting.

Contractor shall maximize federal financial participation by identifying and enrolling all eligible persons, unless the operations (OPS) costs of enrollment exceed the reimbursement to the State of California as determined by a formula which is mutually agreed to by the State and the ARCA. Any child who would become eligible for Medi-Cal benefits through institutional deeming shall be enrolled. Contractor shall redetermine the eligibility of persons enrolled in the Title XIX Home and Community-Based Services Waiver Program (Medicaid Waiver) annually. In consideration for such enrollment and redetermination, the Department shall, in addition to all other allocations, allocate in Contractor's preliminary operations budget their proportionate share of the full amount budgeted for this purpose. The Department and Contractor shall mutually agree to the amount of federal reimbursement that shall be used for the contract budget summary.

Contractor shall implement the mutually agreed to procedures for the administration of the Medicaid Waiver Program. Modifications to the existing procedures shall be mutually agreed to by the Department and ARCA and approved by DHCS.

6. SERVICES TO BE PROVIDED

The written plan of care prepared for each Medicaid Waiver participant shall prescribe the amount, duration and scope of services necessary to safely maintain the participant in the community rather than an institution. The written plan of care shall be in accordance with the requirements set forth in the DHHS approved home and community-based services waiver and tailored to meet the specific needs of each individual participant to ensure the person's health and well-being.

7. THIRD PARTY LIABILITY RESPONSIBILITIES

In compliance with 42 CFR Chapter IV, Part 433, Subpart D-Third Party Liability, Contractor shall perform the activities required by the Department.

8. HOME AND COMMUNITY-BASED SERVICES WAIVER APPROVAL TERMINATION

This exhibit shall continue so long as CMS approves the Medicaid Waiver Program or until the agreement between DHCS and the Department upon which this exhibit is based is terminated.

9. PAYMENT TO PROVIDERS

The Contractor and the Department agree that payment to providers of home and community-based waiver services shall be made in accordance with 42 CFR Chapter IV, Part 447.

10. NONCOMPETITIVE NEGOTIATION JUSTIFICATION

The Contractor and the Department agree that this exhibit is consistent with subsection 11 d (1) of 45 CFR SUBTITLE A, Subpart T, §74., APPENDIX G - ATTACHMENT O, "PROCUREMENT STANDARDS" OF OMB CIRCULAR A - 102 "UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS," for the following reasons:

- a. The California Legislature has found that, "the service provided to individuals and their families by regional centers is of such a special and unique nature that it cannot be satisfactorily provided by state agencies" (Welfare and Institutions Code, Section 4620).

- b. The Legislature has mandated that the Department contract only with private non-profit community agencies which meet the criteria of Welfare and Institutions Code, Section 4620 et seq. for the purpose of operating regional centers.

- c. The Legislature requires that contracts between the Department and regional centers specify the service areas to be served thereby resulting in one regional center per service area (Welfare and Institutions Code, Section 4640).

EARLY START STATEMENT OF ASSURANCES

July 1, 2014

1. PURPOSE

This exhibit sets forth the terms and conditions under which the Contractor shall administer the Early Start Program activities.

2. EARLY START REPORT

Contractor agrees to prepare and submit Early Start Reports for all children under age three in accordance with reporting instructions distributed by the State.

3. USE OF PART C FUNDS

Funds received under Part C will only be used in support of the Early Start Program.

4. ACCOUNTING PROCEDURES

Part C funds will not be commingled with regional center general funds, and fiscal control and fund accounting procedures will be followed as may be necessary to assure proper disbursement of, and accounting for the Part C funds.

5. FEDERAL SINGLE AUDIT ACT

Contractor agrees to comply with the federal Single Audit Act requirements.

6. EARLY START PROGRAM COMPLIANCE

Contractor agrees the Early Start Program is in compliance with the provisions of Part C of the Individuals with Disabilities Education Act (20 USC Section 1471 et. seq.) its implementing regulations (34 CFR Part 303), the Education Department General Regulations (EDGAR) as specified in 34 CFR Section 303.5, and the California Government Code, Title 14, Section 95000 et. seq. and Title 17 California Code of Regulations, Section 52000 et. seq. Contractor agrees to provide appropriate early intervention services, as defined under 34 CFR 303.12 and delineated on the individualized family service plan in accordance with 17 CCF 52108 (a)(1) to eligible children and families at no cost.

7. PAYROLL RECORDS

Contractor agrees to maintain payroll records which identify personnel employed in the Early Start Program and make the records available for review by the States' monitoring staff pursuant to 34 CFR Section 303.501.

CFDA Title: Infant and Toddlers with Disabilities

CFDA Number: 84.181A

Award Name: Annual State Application Under Part C of the Individuals with Disabilities Education Act as Amended in 2004, Federal Fiscal Year 2006

Federal Agency Name: Office of Special Education Programs, United States
Department of Education

Community Placement Plan Statement of Assurances

1. Community Placement Plan

Contractor shall develop and submit an approved Community Placement Plan in accordance with Welf. & Inst. Code §§ 4418.25 and 4418.3; and consistent with Welf. & Inst. Code §§ 4418.7, 4519 and 4648. Contractor's Community Placement Plan shall, where appropriate, include budget requests for regional center operations, consumer assessments, resource development, deflections and ongoing placement costs.

2. Dedicated Funding

- a. Contractor shall use funds allocated for the regional center's approved Community Placement Plan only for the purposes allocated and in compliance with the State's Community Placement Plan and Housing Guidelines. Funds will be allocated through the following categories: Operations, Purchase of Service Placement, Purchase of Service Deflection, Purchase of Service Assessment, and Purchase of Service Start Up. The State shall reduce the contract in the amount of any unspent funds allocated for the Community Placement Plan that are not used for that purpose. Any unspent funds shall revert to the State or be transferred to another regional center for Community Placement Plan activities. All changes to the approved CPP allocation must be approved in writing by the Department.
- b. Within 30 days of the enactment of the budget, the State shall notify Contractor of any changes to Contractor's approved Community Placement Plan.

3. Reports

Contractor agrees to report, as required by the State, on the status and outcomes of their plans at a minimum of quarterly.

4. Accounting Procedures

Contractor shall submit a detailed quarterly claim; this claim form shall be mutually agreed to by ARCA and the State.

Privacy and Security Assurances
45 C.F.R. §164.502(e)(2)
45 C.F.R. §164.308(b)(4)
Welfare and Institutions Code § 4514

1. Background

The Health Insurance Portability and Accountability Act of 1996 Privacy Regulation (45 C.F.R. Subpart A, Subchapter C, Part 164, Subpart E) establishes standards to protect the security and privacy of individually identifiable health information created, maintained, or transmitted for the purpose of providing or paying for health care. Under this regulation, it is necessary that the State establish written agreements with contractors who create, receive, maintain or transmit individually identifiable health information on behalf of the State to assure that said contractors will safeguard such information in accordance with the requirements of the 45 C.F.R. Subpart A, Subchapter C, Part 164, Subpart C and Subpart E (hereinafter the Security and Privacy Regulations).

2. Contract Practices

For purposes of this Agreement, Contractor agrees to carry out the requirements set forth by the Security and Privacy Regulations for business associates. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 C.F.R Part 160 and Part 164 of the implementing regulations of the Health Insurance Portability and Accountability Act of 1996 (hereinafter HIPAA).

3. Uses and Disclosures of Confidential Information

Except as otherwise provided in this Agreement, Contractor may use or disclose confidential information to perform functions, activities or services for, or on behalf of, the State as specified in the Regional Center contract, provided that such use or disclosure does not violate the Privacy Regulation if done by the State or the minimum necessary policies and procedures of the State. [45 C.F.R. §164.504(e)(2)(i); California Welfare and Institutions Code §4514]

Except as otherwise limited in this Agreement, Contractor may disclose confidential information for the proper management and administration of the Contractor provided that disclosures are required by law, or Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached. [45 C.F.R. §164.504(e)(4); California Welfare and Institutions Code §4514]

Contractor may use confidential information to report violations of law to the appropriate federal and state authorities consistent with 45 C.F.R. §164.502(j) and California Welfare and Institutions Code §4514.

4. Further Disclosure of Confidential Information

Contractor shall not use or further disclose confidential information other than as permitted or required by this Agreement, or as required by law. [45 C.F.R. §164.504(e)(2)(ii)(A); California Welfare and Institutions Code §4514]

5. Safeguarding Confidential Information

Contractor shall use appropriate safeguards to prevent use or disclosure of confidential information other than as provided for by this Agreement. [45 C.F.R. §164.504(e)(2)(ii)(B); California Welfare and Institutions Code §4514]

Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic confidential information it creates, receives, maintains, or transmits in an electronic format on behalf of the State. [45 C.F.R. §164.314(a)(2)(i)(A); California Welfare and Institutions Code §4514]

By October 1, 2008, Contractor shall ensure the security of confidential information through the use of encryption when it is stored on any computer, handheld device, and/or portable electronic media (including but not limited to laptops, flash drives, CD/DVDs, diskettes and any portable media storage devices). Contractor shall use the State's enterprise solution or an alternative encryption product that meets the minimum for the State's enterprise solution.

6. Uses and Disclosures of Confidential Information Not Provided for by this Agreement.

Contractor shall report to the State any use, or disclosure or security incident involving confidential information of which it becomes aware that is not provided for by this Agreement. [45 C.F.R. §164.504(e)(2)(ii)(C); 45 C.F.R. §164.314(a)(2)(i)(C); California Welfare and Institutions Code §4514 et seq.]

Contractor shall mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of confidential information by the contractor in violation of the requirements of this Agreement. [45 C.F.R. §164.530(f)]

7. Agents and Subcontractors

Contractor shall ensure that any agent, including a subcontractor, to whom the Contractor provides confidential information received from, or created or received by the Contractor on behalf of the State, agrees to the same restrictions and conditions that apply through this Agreement to the Contractor with respect to such information. [45 C.F.R. §164.504(e)(2)(ii)(D)]

Contractor shall ensure that any agent, including a subcontractor, to whom it provides confidential information received from, or created or received by the Contractor on behalf of the State in electronic format, agrees to implement reasonable and appropriate safeguards to protect the electronic health information. [45 C.F.R. §164.314(a)(2)(i)(B)]

8. Access To Confidential Information

Contractor shall provide access, at the request of the State, and in the time and manner designated by the State, to confidential information in a designated record set to the State or, as directed by the State, to an Individual in order to meet the requirements of 45 C.F.R. §164.524. [45 C.F.R. §164.504(e)(2)(ii)(E); California Welfare and Institutions Code §4514]

9. Amendments To The Designated Record Sets

Contractor shall make any amendment(s) to confidential information in a designated record set that the State directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of the State or an Individual, and in the time and manner designated by the State. [45 C.F.R. §164.504(e)(2)(ii)(F)]

10. Documentation and Accounting of Disclosures

Contractor shall document disclosures of confidential information and information related to such disclosures as would be required for the State to respond to a request by an Individual for an accounting of disclosures of confidential information in accordance with 45 C.F.R. §164.528. [45 C.F.R. §164.504(e)(2)(ii)(G)]

Contractor shall provide to the State or an Individual, in the time and manner designated by the State, information collected in accordance with 45 C.F.R. §164.528, to permit the State to respond to a request by the Individual for an accounting of disclosures of confidential information in accordance with 45 C.F.R. §164.528. [45 C.F.R. §164.504(e)(2)(ii)(G)]

11. Records Available To The State and Secretary

Contractor shall make its internal practices, books and records relating to the use and disclosure of confidential information received from the State, or created or received by the Contractor on behalf of the State, to the State or to the Secretary of the United State Department of Health and Human Services for purposes of investigating or auditing the State's compliance with the privacy requirements, in the time and manner designated by the State or the Secretary. [45 C.F.R. §164.504(e)(ii)(2)(H)]

12. Personnel Designation

Contractor shall designate a compliance official to be responsible for developing and implementing procedures necessary to carry out the contractor's obligations under this agreement, subject to funding for such position by the State.

13. Breach or Violation

Upon the State's knowledge of a pattern of activity or practice by the Contractor that constitutes a material breach or violation of this agreement by the Contractor, State shall either: (1) take reasonable steps to provide an opportunity for the Contractor to

cure the breach or end the violation, or (2) report the violation to the Secretary if such cure is not possible. [45 C.F.R. §164.504(e)(1); 45 C.F.R. §164.314(a)(1)(ii)]

14. Termination

Upon termination of the Regional Center contract for any reason and to the extent feasible, Contractor shall return all confidential information received from the State, or created or received by the Contractor on behalf of the State. This provision shall apply to protected health information in possession of subcontractors or agents of the Contractor. Contractor, its agents or subcontractors shall retain no copies of the confidential information.

15. Miscellaneous

Any reference in this Agreement to the HIPAA Security and Privacy Regulations and the California Welfare and Institutions Code §4514 et seq. means as in effect or as amended.

The parties agree to take such action as is necessary to amend this Agreement from time to time as necessary for the State to comply with the requirements of the HIPAA Security and Privacy Regulations and the California Welfare and Institutions Code §4514 et seq.

The respective rights and obligations of the Contractor under 14 Termination of this agreement, shall survive the termination of this Agreement.

Any ambiguity in this Agreement shall be resolved to permit the State to comply with the Security and Privacy Regulations.

MEMORANDUM OF UNDERSTANDING FOSTER GRANDPARENT PROGRAM

This Memorandum of Understanding (MOU) is between the Department of Developmental Services (DDS) and Tri-Counties Regional Center (Contractor), to clarify the relationship and obligations of the parties for the Foster Grandparent Program (FGP).

The FGP provides meaningful community service opportunities for low-income seniors 55 years or older. They must be willing to work with physically, mentally and emotionally disabled children, adolescents, and teenagers, in environments conducive to and under the direction of teachers and staff who are dedicated to promoting independence, normalization, and community integration for each individual to the best of their ability.

This MOU sets forth the relationship and obligations of the parties with respect to the FGP.

- I. DDS is responsible for:
 - A. Administering the statewide Program of satellite Volunteer Projects.
 - B. Formulating, designing, and maintaining the necessary data and statistics on the FGP.
 - C. Writing the annual grant application, overseeing its administration or application at each volunteer site, and negotiating the specifics of the statewide contracts.
 - D. Allocating resources, and reviewing and authorizing reimbursements for local Project expenditures.
 - E. Communicating and advising local projects on federal guidelines and requirements.
 - F. Making periodic on-site visits to local projects.
 - G. Providing oversight consultation and technical assistance to the local FGP Project Director and the local administration.
- II. DDS and Contractor have joint responsibility for:
 - A. Planning for project changes in size, emphasis, or areas of involvement.
 - B. Ensuring that expenditures are in compliance with federal guidelines and in accordance with general accounting procedures.

- C. Conformity to the Corporation for National and Community Services Program guidelines and Title 45 Code of Federal Regulations, Part 2552.
- D. Furnishing adequate accident and liability insurance coverage as required by federal guidelines.
- E. Assuring adequate health and safety precautions for the Foster Grandparents (FG).
- F. Implementation of DDS FGP National Performance Measures.

III. Contractor Responsibilities

DDS delegates to the Contractor's Executive Director and the FGP Project Director responsibility for:

- A. Day-to-day operation of the Project.
- B. Maintenance of an active recruitment plan.
- C. Interviewing prospective FGs, selecting and orienting FGs, and responsibility for assuring that Corporation-required monthly training objectives are achieved.
- D. Providing direct supervision, support, and disciplinary action as necessary to the FGs. FGs are volunteers who are subject to the disciplinary procedures included in the local Project's FGP policy and procedure manual.
- E. Making FG assignments and evaluating FG services in cooperation with local administration.
- F. Maintaining records and preparing reports as required by DDS. They will be submitted to DDS' FG Program Director or designee.
 - 1. Monthly: Hours, number of volunteers and fiscal information (FG Program Monthly Report form DS 2541).
 - 2. Quarterly: Hours, number of volunteers, in-service, training (FG Program Quarterly Report form DS 2542).

3. Annual Project Profile/Volunteer Activity Survey: to be received no later than the date requested on the cover memo forwarding forms to the FGP Project Director.

G. Maintaining and filling vacancies on the FGP Advisory Council. Insuring that the Advisory Council meets regularly and is actively involved in the Program, and that the meetings' minutes are sent to the FGP Director.

In cooperation with the Program Advisory Council, arrange for a FGs' appeals procedure to resolve problems arising between the FG and the Volunteer Project.

H. Ensuring daily meal reimbursement for FGs for each day of service.

I. Preparing an annual evaluation, or more often as needed, of each FG.

J. Arranging for an annual physical examination, both initially and on a staggered schedule for the FGs.

K. Arranging for fingerprint and background clearances for FGs prior to enrollment in FGP.

L. Ensuring daily transportation reimbursement for FGs for each day of service.

M. Assuring that the FGs and the children engage only in activities that are appropriate to the objectives of the Program.

N. Periodically review each consumer's continuing need for a FG and recommend phase-out or reassignment of the assigned FG as necessary.

O. Contractor will maintain the volunteers' assigned programs and activities to be accessible to persons with disabilities (including mobility, hearing, vision, mental, and cognitive impairments or addictions and diseases) and/or limited English language proficiency. Contractor to provide reasonable accommodations to allow persons with disabilities to participate in the programs and activities.

P. Contractor will not discriminate in the operation of its program, or against FGs, on the basis of race; color; national origin, including limited English proficiency; sex; age; political affiliation; sexual orientation; religion; or on the basis of disability, if the volunteer is a qualified individual with a disability.

IV. Contractor shall maintain separate records and accounts for the FGP as deemed necessary by DDS (including property, personnel, and financial records) to enable it to meet DDS' fiscal responsibilities to the Corporation for National and Community

Services, and to assure a proper accounting for all Program funds, both federal and non-federal shares. These records will be made available for audit purposes to the Corporation for National and Community Services or the Comptroller General of the United States or their authorized representative, and be retained for three years after the expiration of the contract, unless permission to destroy them is granted by the Corporation for National and Community Services.

**MEMORANDUM OF UNDERSTANDING
SENIOR COMPANION PROGRAM**

This Memorandum of Understanding (MOU) is between the Department of Developmental Services (DDS) and the Contractor, to clarify the relationship and obligations of the parties for the Senior Companion Program (SCP).

The SCP provides meaningful community service opportunities for low income seniors 55 years or older, who are willing to volunteer to work with physically, mentally and emotionally disabled adults 22 years old and over. SCP participants provide continued education toward achieving independence, providing companionship, mentoring, work training, crafts and leisure activities. They are under the supervision of program and site managers.

This MOU sets forth the relationship and obligations of the parties with respect to the SCP.

- I. DDS is responsible for:
 - A. Administering the statewide Program of satellite Volunteer Projects.
 - B. Formulating, designing, and maintaining the necessary data and statistics on the SCP.
 - C. Writing the annual grant application, overseeing its administration or application at each volunteer site, and negotiating the specifics of the statewide contracts.
 - D. Allocating resources, and reviewing and authorizing reimbursements for local Project expenditures.
 - E. Communicating and advising local projects on federal guidelines and requirements.
 - F. Making periodic on-site visits to local projects.
 - G. Providing oversight consultation and technical assistance to the local SCP Project Director and the local administration.
- II. DDS and Contractor have joint responsibility for:
 - A. Planning for project changes in size, emphasis, or areas of involvement.
 - B. Ensuring that expenditures are in compliance with federal guidelines and in accordance with general accounting procedures.

- C. Conformity to the Corporation for National and Community Services Program guidelines and Title 45 Code of Federal Regulations, Part 2551.
- D. Furnishing adequate accident and liability insurance coverage as required by federal guidelines.
- E. Assuring adequate health and safety precautions for the protection of the Senior Companions (SC).
- F. Implementation of DDS SCP National Performance Measures.

III. Contractor Responsibilities

DDS delegates to the Contractor's Executive Director and the SCP Project Director responsibility for:

- A. Day-to-day operation of the Project.
- B. Maintenance of an active recruitment plan.
- C. Interviewing prospective SCs, selecting and orienting SCs, and responsibility for assuring that Corporation-required monthly training objectives are achieved.
- D. Providing direct supervision, support, and disciplinary action as necessary to the SCs. SCs are volunteers who are subject to the disciplinary procedures included in the local Project's SCP policy and procedure manual.
- E. Making SC assignments and evaluating SC services in cooperation with local administration.
- F. Maintaining records and preparing reports as required by DDS. They will be submitted to DDS' SC Program Director or designee.
 - 1. Monthly: Hours, number of volunteers and fiscal information (SC Program Monthly Report form DS 2541).
 - 2. Quarterly: Hours, number of volunteers, in-service, training (SC Program Quarterly Report form DS 2542).
 - 3. Annual Project Profile/Volunteer Activity Survey: to be received no later than the date requested on the cover memo forwarding forms to the SCP Project Director.

- G. Maintaining and filling vacancies on the SCP Advisory Council. Insuring that the Advisory Council meets regularly and is actively involved in the Program, and that the meetings' minutes are sent to the SCP Director.

In cooperation with the Program Advisory Council, arrange for a SCs' appeals procedure to resolve problems arising between the SC and the Volunteer Project.

- H. Ensuring daily meal reimbursement for SCs each day of service.
 - I. Preparing an annual evaluation, or more often as needed, of each SC.
 - J. Arranging for an annual physical examination, both initially and on a staggered schedule for the SCs.
 - K. Arranging for fingerprint and background clearances for SCs prior to enrollment in SCP.
 - L. Ensuring daily transportation reimbursement for SCs each day of service.
 - M. Assuring that the SCs and the consumers engage only in activities that are appropriate to the objectives of the Program.
 - N. Periodically review each consumer's continuing need for a SC and recommend phase-out or reassignment of the assigned SC as necessary.
 - O. Contractor will maintain the volunteers' assigned programs and activities to be accessible to persons with disabilities (including mobility, hearing, vision, mental, and cognitive impairments or addictions and diseases) and/or limited English language proficiency. Contractor to provide reasonable accommodations to allow persons with disabilities to participate in the programs and activities.
 - P. Contractor will not discriminate in the operation of its program, or against SCs, on the basis of race; color; national origin, including limited English proficiency; sex; age; political affiliation; sexual orientation; religion; or on the basis of disability, if the volunteer is a qualified individual with a disability.
- IV. Contractor shall maintain separate records and accounts for the SCP as deemed necessary by DDS (including property, personnel, and financial records) to enable it to meet DDS' fiscal responsibilities to the Corporation for National and Community Services, and to assure a proper accounting for all Program funds, both federal and non-federal shares. These records will be made available for audit purposes to the

Corporation for National and Community Services or the Comptroller General of the United States or their authorized representative, and be retained for three years after the expiration of the contract, unless permission to destroy them is granted by the Corporation for National and Community Services.