

## **SETTLEMENT AGREEMENT**

This Settlement Agreement (the "Agreement") is made by and among (1) the Centers for Medicare & Medicaid Services ("CMS"), an agency of the United States Department of Health & Human Services ("DHHS"); (2) the California Health and Human Services Agency ("CHHS"), the California Department of Developmental Services ("CDDS"), the California Department of Health Care Services ("CDHCS"), the California Department of Social Services ("CDSS") and the Porterville Developmental Center ("PDC") (collectively, the "California Parties"); and (3) the California Department of Public Health ("CDPH"). This Agreement is entered into to further the objectives of Title XIX of the Social Security Act and to facilitate the delivery of quality health care and rehabilitative services to the Medicaid beneficiaries ("clients") residing in the Medicaid-certified units of PDC ("Certified Units") during their transition from PDC.

WHEREAS, CMS is the Federal agency with pertinent responsibilities and authority for the Medicaid program pursuant to Title XIX of the Social Security Act (hereinafter, the "Act");

WHEREAS, CHHS is the agency for the State of California that oversees CDHCS and CDDS, among other departments and offices;

WHEREAS, CDHCS is the California State Medicaid agency that oversees California's Medicaid program, known as Medi-Cal;

WHEREAS, CDSS is the agency of the State of California that provides oversight, policy and systems functions for programs providing services to the aged, blind and disabled;

WHEREAS, CDDS is the agency for the State of California that provides services to individuals with significant intellectual and developmental disabilities in State-operated developmental centers, including PDC;

WHEREAS, CDPH is the agency of the State of California designated under 42 C.F.R. § 431.610 to conduct onsite surveys of CDDS facilities in accordance with Federal requirements, forms, and procedures;

WHEREAS, PDC maintains an Intermediate Care Facility for Individuals with Intellectual Disabilities ("ICF/IID") located in Porterville, California that provides services for which CMS provides Federal Financial Participation under Title XIX of the Act ("FFP") and that entered into a Medicaid Provider Agreement for its ICF/IID (the "ICF/IID Provider Agreement"), which requires compliance with Federal regulations, including, without limitation, the Conditions of Participation found at 42 C.F.R. Part 483, Subpart I (the "CoPs");

WHEREAS, on July 19, 2013, CDPH completed a Medicaid compliance survey at PDC which found noncompliance with two (2) of the applicable CoPs, including deficiencies negatively affecting the health and safety of PDC's clients;

Whereas, on October 25, 2013, CDPH completed a follow-up survey of PDC which found continued condition-level noncompliance with four (4) of the applicable CoPs, including deficiencies that posed immediate jeopardy to client health and safety and that were abated on August 16, 2013;

WHEREAS, on January 5, 2014, CDDS, on behalf of PDC, and CDPH entered into a Performance Improvement Plan ("PIP") pursuant to which CDPH allowed PDC a further opportunity to achieve and maintain compliance with the CoPs, PDC committed to undertaking comprehensive action to eliminate the underlying deficiencies and make sustainable improvements, and the State of California committed to providing financial and human resources to help PDC achieve compliance with all applicable CoPs and Medi-Cal requirements and, thereby, ensure the health and safety of PDC's clients;

WHEREAS, on July 1, 2015, CDPH completed a Medicaid compliance survey at PDC, which found noncompliance with three (3) of the applicable CoPs, including deficiencies negatively affecting the health and safety of PDC's clients;

WHEREAS, on August 3, 2015, CDPH gave notice to PDC that, pursuant to instructions from CMS, that the termination date for its ICF/IID Provider Agreement had been revised and, as amended, the ICF/IID Provider Agreement would be terminated effective November 1, 2015;

WHEREAS, on August 31, 2015, PDC appealed the termination of its ICF/IID Provider Agreement pursuant to the California Code of Regulations, title 22, sections 51048.1- 51048.8, the appeals procedures provided by the State of California in accordance with the requirements in 42 C.F.R. Part 431, Subpart D;

WHEREAS, on October 29, 2015, CDPH gave notice to PDC that, pursuant to instructions from CMS, its ICF/IID Provider Agreement would be terminated effective February 1, 2016; CDPH later extended the termination date to June 3, 2016;

WHEREAS, PDC's appeal, which is before the CDHCS, has been stayed pending discussions with CMS regarding the continuation of FFP;

WHEREAS, as of June 27, 2016, approximately 105 clients remained in the Certified Units;

WHEREAS, some of the clients remaining in the Certified Units may have enduring and complex medical needs, lack safety awareness, or have challenging behaviors, such as self-injurious behavior, and, therefore, would require extensive care and supervision while residing in the community;

WHEREAS, the California Parties state that they are committed to finding appropriate community or other placements for clients currently residing in the Certified Units;

WHEREAS, the California Parties state that they have made substantial and on-going efforts to reduce its reliance on developmental centers, and that they are committed to providing services to individuals with significant intellectual and developmental disabilities in home and community-based or other appropriate alternate settings;

WHEREAS, the State of California has placed a moratorium on admissions to developmental centers except pursuant to court order and, in its discretion, has decided to close the

general treatment area of PDC as it presently exists and transition its clients to home and community-based or other appropriate alternate settings;

WHEREAS, the highest priority of CMS, CDPH, and the California Parties (collectively, the "Parties") is the health, safety, and successful transition of each PDC client residing in a Certified Unit;

WHEREAS, the California Parties are reaffirming their commitment to meet the needs of each PDC client in compliance with the CoPs while they reside at PDC and through all phases of the clients' respective transitions to home and community-based or other appropriate alternate settings and will focus their efforts on identifying and developing services and supports to meet the specific needs of each client and on ensuring the quality of ongoing services at PDC, and CDPH and CDSS will continue their respective monitoring and oversight functions;

WHEREAS, the California Parties have each committed to undertake substantial efforts to develop new and enhanced infrastructure to assist in the transition and support of PDC clients in home and community-based or other appropriate alternate settings by developing a closure plan for PDC using priorities and recommendations learned from prior closures of California Developmental Centers;

WHEREAS, CMS believes that, provided the terms of this Agreement, including the provisions of Attachment A (Statement of Tasks) and Attachment B (Complaint and Incident Requirements for Clients Discharged from Porterville Developmental Center), are met, it is in the best interests of the clients currently residing in the Certified Units that FFP continue for the duration of this Agreement while the State of California strengthens its community care system and provides for choices and timely transition of these clients to home and community-based or other appropriate alternate settings;

NOW, THEREFORE, the Parties agree as follows:

**A. Revision of PDC's ICF/IID Provider Agreement Termination Date and Limited Continuation of FFP**

1. Within ten (10) business days after this Agreement has been executed by all Parties, CDPH shall issue a revised determination that modifies the effective termination date of PDC's ICF/IID Provider Agreement to December 31, 2016 (the "Final Termination Date"). In addition, in each year from 2016 through 2021, unless CMS determines that the California Parties and CDPH, or any of them, have failed to comply with this Agreement, and communicates such determination by 11:59 p.m. (Pacific Time) November 1 of that year, CDPH may also initiate a subsequent reconsideration that year to extend the termination date for an additional year. In no event will CDPH extend the termination date beyond October 31, 2021. Each November extension for the subsequent calendar year shall be referred to as the "[year] Final Termination Date." A copy of the notice of reconsideration and written affirmation of the termination with the Final Termination Date is attached to this Agreement as Attachment C. The Parties agree that at any time during the period covered by this Agreement CMS may terminate PDC's ICF/IID Provider Agreement prior to any Final Termination Date for any reason, including but not limited to, those listed in ¶A.7 below.

2. The California Parties and CDPH agree that within five (5) business days of the notice of reconsideration and written affirmation extending termination of PDC's ICF/IID Provider Agreement to December 31, 2016, as set forth in ¶ A.1. of this Agreement, PDC will withdraw its appeal of the termination of its ICF/IID Provider Agreement pending before CDHCS, and request dismissal of the appeal with prejudice. PDC will send a copy of its withdrawal of its appeal and request for dismissal of the appeal with prejudice to CMS within five (5) days of its withdrawal. Upon the extension of the termination of PDC's ICF/IID Provider Agreement to December 31, 2016, PDC further agrees to waive any and all right to contest the findings of noncompliance regarding the survey completed on July 1, 2015, or to appeal or otherwise seek further review of those findings in any judicial or administrative forum.

3. The California Parties and CDPH shall not attempt to impede, forestall, or otherwise attempt to extend, modify, or eliminate any Final Termination Date beyond the extensions granted under ¶ A.1 nor to challenge any CMS determination that the California Parties and CDPH, or any of them, have failed to comply with this Agreement.

4. The California Parties and CDPH further agree not to impede, forestall or otherwise seek to challenge in any court or administrative forum the terms or effect of this Agreement, except to enforce the terms of this Agreement.

5. Subject to the further limitations in Attachment A, the California Parties and PDC shall not seek, and CMS shall not provide, FFP for any individual who is not a client in one of the Certified Units on June 27, 2016. PDC shall provide a list of the clients residing in each of the Certified Units as of June 27, 2016, a total of approximately 105 clients, (the "Client List") within ten (10) business days of the execution of this Agreement. To ensure FFP is not sought for clients not on the Client List, on the first day of every month, beginning August 1, 2016, PDC shall provide an updated Client List to CMS documenting the clients residing in each of the certified units as of that date.

6. Consistent with the Final Termination Date for PDC's ICF/IID Provider Agreement, FFP for the Certified Units will cease effective 12:01 a.m. (Pacific Standard Time) on December 31, 2016, or, if applicable, consistent with a revised Final Termination Date set pursuant to ¶ A.1, above.

7. The Parties agree that CMS may, in its sole discretion and for any reason, terminate PDC's ICF/IID Provider Agreement prior to any Final Termination Date, with at least fifteen (15) days prior written notice, including, but not limited to, the occurrence of one of the following::

- i. CMS determines PDC fails to substantially meet the standards specified in the Medicaid CoPs at 42 C.F.R. 483 Subpart I;
- ii. CMS determines that immediate jeopardy to client health and safety occurred, as that term is defined by 42 C.F.R. § 488.301;
- iii. Any California Party to this Agreement substantially interferes with any survey or investigation conducted by CMS, CDPH, or any contractor acting on behalf of CMS;
- iv. Any California Party to this Agreement or CDPH fails to comply with the terms and conditions of this Agreement, including but not limited to, meeting the milestones set forth in the Attachment A (Statement of Tasks) or the requirements set forth in

- Attachment B (Complaint and Incident Requirements for Clients Discharged from Porterville Developmental Center);
- v. CDPH fails to timely and thoroughly conduct surveys and complaint investigations at PDC, pursuant to applicable Federal regulations and requirements.
  - vi. All individuals on the Client List as of June 27, 2016 have been discharged from PDC.
  - vii. Any California Party or CDPH fails to timely provide to CMS any required document as required by this Agreement, including, but not limited to, reports required as set forth in the Attachment A (Statement of Tasks) or the reporting requirements set forth in Attachment B (Complaint and Incident Requirements for Clients Discharged from Porterville Developmental Center).

8. In the event that (a) CMS exercises its discretion terminate PDC's ICF/IID Provider Agreement prior to any Final Termination Date, pursuant to ¶ A.7, above; or (b) CMS determines that the California Parties and CDPH, or any of them, have failed to comply with this Agreement and CMS has communicated that determination pursuant to ¶ A.1, above, the California Parties and CDPH, including, without limitation PDC, waive any right to appeal or challenge in any court or administrative forum, the termination of PDC's ICF/IID Provider Agreement, the discontinuation of FFP, and/or CMS's determination that the California Parties, or CDPH, failed to comply with this Agreement.

#### **B. Provision of Services to Clients at PDC**

1. PDC affirms its obligation to comply with all applicable laws, regulations, and requirements, including without limitation, the CoPs at 42 C.F.R. 483, Subpart I.

2. Throughout the term of this Agreement, the California Parties agree to take all steps within their authority under State or Federal law to ensure the health and safety of each client in the Certified Units, and CDPH affirms its obligation to conduct unannounced certification compliance surveys and complaint and entity-reported event investigations at PDC in accordance with Federal law. Furthermore, the Parties agree that during the term of this Agreement the provision of services to clients at PDC, including without limitation, efforts to transition these clients to home and community-based or other appropriate alternative settings, must also meet the performance milestones set forth in Attachment A (Statement of Tasks). The California Parties and CDPH agree that the completion dates for the milestones shall be binding and shall not be modified without prior written agreement by CMS. The California Parties and CDPH further agree that the decision to agree to a requested modification of the completion dates of any milestone is within CMS's sole discretion.

3. The California Parties agree that PDC will not admit any clients to the Certified Units following its execution of this Agreement, except as required by law or by court order. CDDS and CMS agree and understand that PDC may transfer an individual committed to PDC by court order from PDC's secure treatment program area (STP) to its general treatment program area (GTA) for purposes of transitioning the individual for community placement pursuant to California state law, including but not limited to Welfare & Institutions Code sections 6506, 6509, 7502.5 and 7505. However, PDC shall not seek, and CMS shall not provide, FFP for any individual moved from the STP to the GTA for transitional purposes who did not reside on one of the Certified Units, as of June 27, 2016, and is not identified on the Client List. This section shall not apply to readmissions at PDC. Further, the parties agree that the number of clients transferred

from the STP to the GTA for transitional purposes shall be included in the census of the facility described in Attachment A, Section D.8.

4. Consistent with the California Parties' decision to transition residents of PDC to home and community-based or other appropriate alternate settings, PDC agrees to engage with stakeholders in best efforts to transition clients who reside in the Certified Units to appropriate alternate settings where possible, consistent with the client protections in 42 C.F.R. § 483.420 and taking into account client and guardian preferences. PDC remains subject to all Federal and State requirements regarding the discharge and/or transfer of ICF/IID clients.

5. Consistent with obligations under 42 C.F.R. § 483.430, PDC will ensure adequate staffing in all disciplines and areas in the Certified Units to protect the health and safety of the clients residing there.

6. Throughout the term of this Agreement and consistent with obligations under the regulations, PDC must continue to protect clients from abuse, neglect, or mistreatment and provide continuous active treatment pursuant to 42 C.F.R. § 483.440 with particular emphasis on (a) the provision of daily programs and interactions as necessary to ensure that the client does not experience any avoidable decline in his or her current skills; and (b) the development and implementation of an active program to prepare each client for his or her identified post-discharge setting. Consistent with obligations under the regulations, PDC further agrees that the services it provides to clients must promote the following objectives: (1) the development and implementation of consistent behavior management plans; (2) the provision of on-going medical assessment and appropriate health services as indicated; and (3) the identification of each client's most appropriate post-discharge setting, and post-discharge needs.

7. The California Parties and CDPH agree that in the event PDC voluntarily ceases operations or is involuntarily terminated from participation as a Medicaid provider, PDC will comply with Federal and State requirements governing the discharge and/or transfer of ICF/IID clients, including federal regulations at 42 C.F.R. §§ 483.75(r), 483.440(b), and 488.426 and California Health and Safety Code, Division 2, Article 8.5 (§§ 1336-1336.4).

8. CMS, CDPH and the California Parties agree that in the event PDC voluntarily terminates its Medicaid ICF/IID Provider Agreement prior to the Final Termination Date or is involuntarily terminated from participation as a Medicaid provider pursuant to ¶ A.7 or as a result of CMS's determination pursuant to ¶ A.1, above, prior to the Final Termination Date, the Parties will comply with Federal requirements governing the termination of a Medicaid provider agreement found at 42 C.F.R. Part 489, Subpart E.

### **C. Monitoring the Welfare of Medicaid Clients at PDC**

1. CDPH affirms its obligation to conduct unannounced certification compliance surveys and complaint and entity reported event investigations at PDC in accordance with State and Federal law. Throughout the term of this Agreement, CDPH agrees to provide fifteen (15) business days' notice to CMS in advance of each certification survey. In addition, CDPH agrees to provide two (2) days' notice to CMS in advance of each entity-reported event investigation of PDC that involves an allegation of immediate jeopardy (as that term is defined in 42 C.F.R. § 489.3) and ten (10) days' notice to CMS in advance of each investigation that does not involve an allegation of

immediate jeopardy. CDPH further agrees to initiate the next certification compliance survey on or before a date specified in advance by CMS. CDPH shall report the results of each certification survey to CMS within ten (10) business days of the exit date of the survey. Consistent with its existing obligations pursuant to 42 C.F.R. § 483.420(d)(2), PDC shall immediately report to CDPH any allegations of mistreatment, neglect or abuse, as well as injuries of unknown source, in accordance with State law through established procedures. Further, as required by 42 C.F.R. § 483.420(d)(4), PDC must report the results of all investigations required by 42 C.F.R. § 483.420(d)(2) to CDPH in accordance with State law within five (5) working days of the incident. CDPH shall initiate an investigation within two (2) business days of receiving a report of possible immediate jeopardy. CDPH shall initiate each investigation within ten (10) business days of receiving a report that does not involve possible immediate jeopardy. CDPH shall complete the investigation and report the results of each complaint investigation to CMS within thirty (30) days of initiating its investigation. If CDPH has a reasonable belief that there is immediate jeopardy based on any survey or complaint investigation it has initiated, CDPH shall notify CMS within one (1) business day of identifying immediate jeopardy. In addition to the surveys and investigations to be performed by CDPH, PDC will retain an independent monitor as provided in Attachment A (Statement of Tasks).

2. The Parties agree that CMS and its contractors are entitled to independently conduct and participate in CDPH-initiated certification compliance surveys and complaint and entity reported event investigations, to carry out other investigations or authorized enforcement efforts and processes, and to otherwise perform its duties in accordance with Federal law. Nothing in this Agreement shall be construed to limit, interfere with, or forestall CMS from carrying out those duties.

3. On the fifteenth (15<sup>th</sup>) day of each month CDPH will provide copies of all complaints and entity-reported events made by, on behalf of, or related to clients residing in the Certified Units to CMS and the California Parties together with a summary report, in a format agreed to by CMS, CDPH, and the California Parties, that includes analysis of the types and outcomes of the complaints and entity reported events for the preceding month. The parties further agree that if CMS determines the summary report is insufficient for any reason, CMS may request additional information as needed from CDPH and CDPH must provide the requested information within ten (10) days of receipt of the request from CMS.

4. Beginning July 1, 2016, by the fifteenth (15<sup>th</sup>) day of each calendar quarter, PDC will submit a report to CMS and CDPH identifying the types of potential alternate settings that the California Parties are developing for PDC clients identified on the Client List, the number of potential placements available in each alternate setting for PDC clients on the Client List, and the current status of development efforts for each type of setting. In addition, PDC will include in the report the following information for each client on the Client List:

(a) The client's current residence;

(b) For each client residing in the Certified Units, the client's transition planning status, including:

(i) The date the Transition Review Meeting process was completed or, if not completed, the current status as required by § D.7 of Attachment A;

(ii) The date the Specialized Behavior Plan was completed or, if not completed, the current status as required by § D.6 of Attachment A; and

(iii) The date the Safety Plan was completed or, if not completed, the current status as required by § D.6 of Attachment A;

(c) For each discharged client on the Client List, the date of discharge, the type of alternate setting to which the individual was transitioned, and the address of the alternate setting.

(d) The information contained in the report will reflect status as of the first (1<sup>st</sup>) day of each calendar quarter.

#### **D. Monitoring the Welfare of PDC Clients Transitioned from PDC**

As a supplement to existing obligations of the California Parties, including, but not limited to, the obligations related to the Home and Community-Based Services (HCBS) Waiver Programs, throughout the term of this Agreement, the California Parties will ensure that oversight of PDC clients discharged from PDC complies with the provisions of Attachment B (Complaint and Incident Requirements for Clients Discharged from Porterville Developmental Center).

#### **E. Miscellaneous**

1. Failure by CMS to enforce any provision of this Agreement or CMS's decision to refrain from terminating this Agreement in the event of a breach or failure to meet one or more milestones by one or more of the California Parties or CDPH will not be deemed a waiver or consent to a subsequent breach or failure, unless such waiver is made in writing.

2. All documents, reports, and notices to be provided to CMS pursuant to this Agreement shall be sent via U.S. mail, or other delivery service, and e-mail to:

Steven Chickering  
Associate Regional Administrator  
Western Consortium Division of Survey and Certification  
Centers for Medicare & Medicaid Services  
90 Seventh Street, Suite 5-300  
San Francisco, CA 94103  
E-mail: [steven.chickering@cms.hhs.gov](mailto:steven.chickering@cms.hhs.gov)

and

Peggy Wilkerson  
Survey and Certification Group  
Centers for Medicare & Medicaid Services  
7500 Security Blvd  
Mailstop C2-21-16  
Baltimore, MD 21244  
E-mail: [Peggye.Wilkerson@cms.hhs.gov](mailto:Peggye.Wilkerson@cms.hhs.gov)

3. All documents, reports, and notices to be provided to CHHS pursuant to this Agreement shall be sent via U.S. mail, or other delivery service, and e-mail to:

Kristopher Kent  
Assistant Secretary

California Health and Human Services Agency  
1600 9<sup>th</sup> Street, Rm 460  
Sacramento, CA 95814  
E-mail: [kkent@chhs.ca.gov](mailto:kkent@chhs.ca.gov)

4. All documents, reports, and notices to be provided to CDDS pursuant to this Agreement shall be sent via U.S. mail, or other delivery service, and e-mail to:

John Doyle  
Chief Deputy Director  
California Department of Developmental Services  
1600 9<sup>th</sup> Street, Rm 240  
Sacramento, CA 95814  
E-mail: [john.doyle@dds.ca.gov](mailto:john.doyle@dds.ca.gov)

5. All documents, reports, and notices to be provided to CDPH pursuant to this Agreement shall be sent via U.S. mail, or other delivery service, and e-mail to:

T. Scott Vivona  
Assistant Deputy Director  
Center for Health Care Quality  
California Department of Public Health  
1615 Capitol Avenue  
P.O. Box 997377, MS 3500  
Sacramento, CA 95899-7377  
E-mail: [scott.vivona@cdph.ca.gov](mailto:scott.vivona@cdph.ca.gov)

6. All documents, reports, and notices to be provided to CDSS pursuant to this Agreement shall be sent via U.S. mail, or other delivery service, and e-mail to:

Pamela Dickfoss  
Deputy Director  
Community Care Licensing Division  
California Department of Social Services  
744 P Street  
MS 8-17-17  
Sacramento, CA 95814

7. All documents, reports, and notices to be provided to PDC pursuant to this Agreement shall be sent via U.S. mail, or other delivery service, and e-mail to:

Theresa Billeci  
Executive Director  
Porterville Developmental Center  
P.O. Box 2000  
26501 Avenue 140  
Porterville, CA 93258-2000  
E-mail: [theresa.billeci.dds.ca.gov](mailto:theresa.billeci.dds.ca.gov)

8. All time periods in this Agreement are to be measured by calendar days unless specified otherwise. If a deadline or date falls on a weekend or State or Federal holiday, the deadline or date is extended to the next working day.

9. The Parties each represent that they have entered into this Agreement voluntarily with knowledge of the facts and upon the advice of their legal counsel. Each Party agrees to bear its own costs, including attorney's fees and costs.

10. Each person executing this Agreement on behalf of a Party represents and warrants that he or she has been duly authorized by that Party to execute this Agreement.

11. The foregoing, which incorporates herein by reference Attachment A (Statement of Tasks), Attachment B (Complaint and Incident Requirements for Clients Discharged from Porterville Developmental Center), and Attachment C (Final Termination notice pursuant to ¶ A.1) to be fulfilled by the California Parties and CDPH, as though set forth in full, constitutes the entire agreement of the Parties and supersedes any prior agreements, representations, warranties, statements, promises and understandings, whether oral or written, with respect to the specific subject matter hereof, and cannot be varied or amended except pursuant to a writing signed by all the signatories hereto, or their successors or assigns.

12. The Parties agree nothing in this Agreement is binding on any other component of the United States government nor does it in any way define, limit, or circumscribe Federal civil or criminal authority.

13. The Parties agree that nothing in this Agreement limits, contradicts, or circumscribes CMS's existing authority, enforcement discretion, or activities pursuant to Title XIX of the Social Security Act and its implementing regulations at 42 C.F.R. Parts 430, 431, 441 and 442. The Parties agree that CMS retains all authority and discretion accorded to the Agency pursuant to existing regulations and statutes.

14. This Agreement shall not remove or alter any currently existing obligations under California's HCBS Waiver agreement or CMS's authority to enforce the terms of the HCBS Waiver agreement. If there is a conflict between the California Parties' obligations under this Agreement and the obligations under the HCBS Waiver agreement, the HCBS Waiver agreement shall prevail.

15. This Agreement may be executed in counterparts by facsimile copy, and facsimile signatures will be treated as original signatures.

16. If PDC's ICF/IID Provider Agreement is terminated for any reason, including, but not limited to, the reasons listed in ¶ A.7 above, or as a result of determinations made by CMS pursuant to ¶ A.1 above, FFP will be discontinued as of the date and time PDC's ICF/IID Provider Agreement is terminated. At such time that PDC no longer receives FFP pursuant to the provisions of this Agreement, the terms, and obligations established by the terms, of this Agreement shall cease at the same time that the provision of FFP for PDC ceases.

17. Each Party agrees that it fully participated in the drafting of this Agreement. Ambiguities shall not be construed against CMS in interpreting this Agreement and referenced Attachments and shall not be applicable to or used in resolving any dispute over the meaning or intent of this Agreement or any of its provisions.

18. This Agreement shall be exclusively governed and construed in accordance with the laws of the United States, and any and all claims relating to, in connection with, or arising out of this Agreement, or the breach thereof, and/or the transactions and relationships among the parties contemplated by this Agreement whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of the United States.

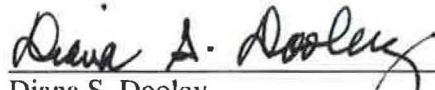
19. In the event of a dispute related to this Agreement, each Party agrees to submit to the jurisdiction of the United States Federal Courts, solely for actions as specified in this Agreement. For the avoidance of doubt, nothing in this Agreement is intended to be construed as a submission by a Party to the general jurisdiction of any court or other tribunal, nor as a submission for any purpose except as specified herein.

20. A Party's waiver of a term or breach of the Agreement will affect only that term or breach and is not to be deemed a waiver of any other term or breach. Likewise, the fact that a Party, at a given moment in time, does not enforce one or more terms is not be deemed a waiver by that Party of its right to enforce all terms at any other time.

21. If a provision of the Agreement is held invalid, void, unenforceable, or otherwise defective by a tribunal of competent jurisdiction; then all other provisions of the Agreement will remain enforceable in accordance with their terms.

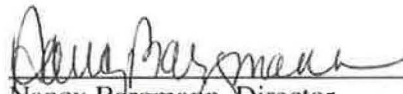
**On behalf of the California Health & Human Services Agency:**

July 1, 2016

  
Diana S. Dooley  
Secretary of Health & Human Services

**On behalf of the California Department of Developmental Services:**

July 1, 2016

  
Nancy Bargmann, Director

**On behalf of the California Department of Health Care Services:**

July 1, 2016

  
Jennifer Kent, Director

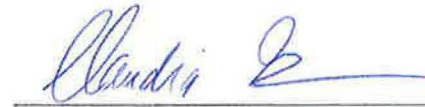
**On behalf of Porterville Developmental Center:**

July 1, 2016

  
Theresa Billeci, Executive Director

**On behalf of the California Department of Public Health:**

July 1, 2016

  
*For* Karen Smith, Director  
and State Public Health Officer

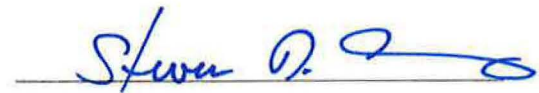
**On behalf of the California Department of Social Services:**

July 1, 2016

  
Will Lightbourne, Director

**On behalf of the U.S. Department of Health & Human Services  
Centers for Medicare & Medicaid Services**

July 1, 2016

  
Steven Chickering  
Associate Regional Administrator  
Western Consortium Division of Survey and  
Certification  
Centers for Medicare & Medicaid Services