STATE OF COLORADO CONTRACT

COVER PAGE

State Agency Department of Health Care Policy & Financing	**Contract Number** 20- 134777
Contractor Developmental Pathways, Incorporated	**Contract Performance Beginning Date** The later of the Effective Date or July 1, 2019
Contract Maximum Amount The maximum amount payable statewide for all CCB Contractors under this Contract for State Programs and Medicaid Programs is shown in the following table, as determined by the Department from available funds. The maximum amount payable by the Department statewide for multiple Contractors is: Initial Term State Program State Fiscal Year 2019-20: $23,302,027.00 Medicaid Program State Fiscal Year 2019-20: $5,831,152.00 Extension Terms State Fiscal Year 2021 $0.00 State Fiscal Year 2022 $0.00 State Fiscal Year 2023 $0.00 State Fiscal Year 2024 $0.00 Total for All State Fiscal Years $29,133,179.00	**Initial Contract Expiration Date** June 30, 2020 **Contract Authority** Pursuant to C.R.S. 25.5-10-209, the Department designates private corporations, for-profits, or not-for-profits as Community Centered Boards to perform specific administrative functions and to operate State General Fund programs.

Contract Purpose

Community Centered Board contract for providing administrative activities for specific Home and Community Based Services waivers and operating three State General Funded programs.

Exhibits and Order of Precedence

The following Exhibits and attachments are included with this Contract:

1. Exhibit A – Statement of Work
2. Exhibit B – Sample Option Letter
3. Exhibit C, Federal Provisions
4. Exhibit D, Supplemental Provisions for Federal Awards
5. Exhibit E, Information Technology Provisions for Municipal or Non-Commercial State Partner Entities

In the event of a conflict or inconsistency between this Contract and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

6. Colorado Special Provisions in §17 of the main body of this Contract
7. The provisions of the other sections of the main body of this Contract
8. Exhibit A, Statement of Work
9. Exhibit B, Sample Option Letter
10. Exhibit C, Federal Provisions
11. Exhibit D, Supplemental Provisions for Federal Awards
12. Exhibit E, Information Technology Provisions for Municipal or Non-Commercial State Partner Entities

Principal Representatives

For the State:
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SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

Each person signing this Contract represents and warrants that the signer is duly authorized to execute this Contract and to bind the Party authorizing such signature.

CONTRACTOR Developmental Pathways, Incorporated By: Melanie Worley, Chief Executive Officer Date: 06/06/19	**STATE OF COLORADO** Jared S. Polis, Governor Department of Health Care Policy & Financing Kim Bimestefer, Executive Director By: Kim Bimestefer, Executive Director Date: 6-26-19
	LEGAL REVIEW Phil Weiser, Attorney General By: _____ Assistant Attorney General Date: _____

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

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Department of Health Care Policy & Financing

Effective Date: 6/30/19

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1. PARTIES

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

2. TERM AND EFFECTIVE DATE

A. Effective Date

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

B. Initial Term

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

C. Extension Terms - State's Option

The State, at its discretion, shall have the option to extend the performance under this Contract beyond the Initial Term for a period, or for successive periods, of 1 year or less at the same rates and under the same terms specified in the Contract (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to the Sample Option Letter attached to this Contract. Except as stated in **§2.D**, the total duration of this Contract, including the exercise

of any options to extend, shall not exceed 5 years from its Effective Date absent prior approval from the Chief Procurement Officer in accordance with the Colorado Procurement Code.

D. End of Term Extension

If this Contract approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Contractor as provided in **§14**, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an "End of Term Extension"), regardless of whether additional Extension Terms are available or not. The provisions of this Contract in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of this Contract.

E. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Contract by the State for breach by Contractor, which shall be governed by **§12.A.i.**

i. Method and Content

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

ii. Obligations and Rights

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

iii. Payments

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

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

A. **"Breach of Contract"** means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. The

institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Contractor is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.

B. "**Chief Procurement Officer**" means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202(6), C.R.S. to procure or supervise the procurement of all supplies and services needed by the state.

C. "**Contract**" means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.

D. "**Contract Funds**" means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Contract.

E. "**CORA**" means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.

F. "**End of Term Extension**" means the time period defined in **§2.D**

G. "**Effective Date**" means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Contract. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then the Effective Date of this Contract shall be the later of the date on which this Contract is approved and signed by the State's Chief Information Officer or authorized delegate or the date on which this Contract is approved and signed by the State Controller or authorized delegate, as shown on the Signature Page for this Contract.

H. "**Exhibits**" means the exhibits and attachments included with this Contract as shown on the Cover Page for this Contract.

I. "**Extension Term**" means the time period defined in **§2.C**

J. "**Goods**" means any movable material acquired, produced, or delivered by Contractor as set forth in this Contract and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.

K. "**Incident**" means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State's knowledge, instruction, or consent.

L. **"Initial Term"** means the time period defined in **§2.B**

M. "**Party**" means the State or Contractor, and "Parties" means both the State and Contractor.

N. "**PII**" means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth,

mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S.

O. "**PHI**" means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.

P. "**Services**" means the services to be performed by Contractor as set forth in this Contract, and shall include any services to be rendered by Contractor in connection with the Goods.

Q. "**State Confidential Information**" means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

R. "**State Fiscal Rules**" means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

S. "**State Fiscal Year**" means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.

T. "**State Records**" means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.

U. "**Subcontractor**" means third-parties, if any, engaged by Contractor to aid in performance of the Work.

V. "**Work**" means the Goods delivered and Services performed pursuant to this Contract.

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

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK

Contractor shall complete the Work as described in this Contract and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Contractor for the delivery of any goods or the performance of any services that are not specifically set forth in this Contract.

5. PAYMENTS TO CONTRACTOR

A. Maximum Amount

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

B. Payment Procedures

i. Invoices and Payment

a. The State shall pay Contractor in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.

b. Contractor shall initiate payment requests by invoice to the State, in a form and manner approved by the State.

c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Contractor and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Contractor shall make all changes necessary to correct that invoice.

d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under this Contract.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Contractor shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

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

iv. Available Funds-Contingency-Termination

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

6. REPORTING - NOTIFICATION

A. Litigation Reporting

If Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Contract or may affect Contractor's ability to perform its obligations under this Contract, Contractor shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in **§14**.

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

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

7. CONTRACTOR RECORDS

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the "Contractor Records"). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: **(i)** the date 3 years after the date this Contract expires or is terminated, **(ii)** final

payment under this Contract is made, **(iii)** the resolution of any pending Contract matters, or **(iv)** if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Contractor shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, in its discretion, may monitor Contractor's performance of its obligations under this Contract using procedures as determined by the State. The State shall monitor Contractor's performance in a manner that does not unduly interfere with Contractor's performance of the Work.

D. Final Audit Report

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

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

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

B. Other Entity Access and Nondisclosure Agreements

Contractor may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information

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

C. Use, Security, and Retention

Contractor shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Contractor shall provide the State with access, subject to Contractor's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Contract, Contractor shall return State Records provided to Contractor or destroy such State Records and certify to the State that it has done so, as directed by the State. If Contractor is prevented by law or regulation from returning or destroying State Confidential Information, Contractor warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Contractor becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Contractor can establish that none of Contractor or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may, in its sole discretion and at Contractor's sole expense, require Contractor to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Contractor shall provide the State with the results of such audit and evidence of Contractor's planned remediation in response to any negative findings.

E. Data Protection and Handling

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

F. Safeguarding PII

If Contractor or any of its Subcontractors will or may receive PII under this Contract, Contractor shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Contractor shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

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

B. Apparent Conflicts of Interest

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

C. Disclosure to the State

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

10. INSURANCE

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

A. Workers' Compensation

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

B. General Liability

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

i. $1,000,000 each occurrence;

ii. $1,000,000 general aggregate;

iii. $1,000,000 products and completed operations aggregate; and

iv. $50,000 any 1 fire.

C. Automobile Liability

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

D. Protected Information

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

i. $1,000,000 each occurrence; and

ii. $2,000,000 general aggregate.

E. Professional Liability Insurance

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

i. $1,000,000 each occurrence; and

ii. $1,000,000 general aggregate.

F. Crime Insurance

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

i. $1,000,000 each occurrence; and

ii. $1,000,000 general aggregate.

This section shall not apply to any subcontractors that do not have access to state funds.

G. Additional Insured

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

H. Primacy of Coverage

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

I. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with §14 within 7 days of Contractor's receipt of such notice.

J. Subrogation Waiver

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

K. Public Entities

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

of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

L. Certificates

Contractor shall provide to the State certificates evidencing Contractor's insurance coverage required in this Contract within 7 Business Days following the Effective Date. Contractor shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Contract within 7 Business Days following the Effective Date, except that, if Contractor's subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage required under this Contract within 7 Business Days following Contractor's execution of the subcontract. No later than 15 days before the expiration date of Contractor's or any Subcontractor's coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Contractor shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF CONTRACT

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

12. REMEDIES

A. State's Remedies

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

i. Termination for Breach

In the event of Contractor's uncured breach, the State may terminate this entire Contract or any part of this Contract. Contractor shall continue performance of this Contract to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do

so within this Contract's terms. At the request of the State, Contractor shall assign to the State all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor but in which the State has an interest. At the State's request, Contractor shall return materials owned by the State in Contractor's possession at the time of any termination. Contractor shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

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

c. Damages and Withholding

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

ii. Remedies Not Involving Termination

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

a. Suspend Performance

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

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

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

d. Removal

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

e. Intellectual Property

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

B. Contractor's Remedies

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

13. DISPUTE RESOLUTION

A. Initial Resolution

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

B. Resolution of Controversies

If the initial resolution described in **§13.A** fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of the State Agency named on the Cover Page of this Contract as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

14. NOTICES AND REPRESENTATIVES

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

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Contractor assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Contractor is under contract with the State at the time, Contractor shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. To the extent that Work Product would fall under the definition of "works made for hire" under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire.

i. Copyrights

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

ii. Patents

In addition, Contractor grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free,

irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Contractor that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Contract, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, "State Materials"). Contractor shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Contractor's obligations in this Contract without the prior written consent of the State. Upon termination of this Contract for any reason, Contractor shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Contractor

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

16. GENERAL PROVISIONS

A. Assignment

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

B. Subcontracts

Contractor shall not enter into any subcontract in connection with its obligations under this contract without providing notice to the State. The State may reject any such subcontract, and Contractor shall terminate any subcontract that is rejected by the State and shall not allow any Subcontractor to perform any work after that Subcontractor's subcontract has been rejected by the State. Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

C. Binding Effect

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

D. Authority

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

E. Captions and References

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

F. Counterparts

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

G. Entire Understanding

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

H. Digital Signatures

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

I. Modification

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

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

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

K. External Terms and Conditions

i. Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Contractor's

or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Contract.

L. Severability

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

M. Survival of Certain Contract Terms

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

N. Taxes

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

O. Third Party Beneficiaries

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

P. Waiver

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

Q. CORA Disclosure

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

R. Standard and Manner of Performance

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

S. Licenses, Permits, and Other Authorizations.

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

T. Indemnification

i. General Indemnification

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

ii. Confidential Information Indemnification

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

iii. Intellectual Property Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

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

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

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

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

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

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

C. **GOVERNMENTAL IMMUNITY.**

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity

Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. **INDEPENDENT CONTRACTOR**

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

E. **COMPLIANCE WITH LAW.**

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

F. **CHOICE OF LAW, JURISDICTION, AND VENUE.**

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

G. **PROHIBITED TERMS.**

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. **SOFTWARE PIRACY PROHIBITION.**

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State

determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

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

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

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

[*Not applicable to intergovernmental agreements*] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(i)** unpaid child support debts or child support arrearages; **(ii)** unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; **(iii)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(iv)** amounts required to be paid to the Unemployment Compensation Fund; and **(v)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

K. **PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.*, C.R.S.**

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor **(i)** shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Contract is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency or institution of higher education within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, **(iii)** shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and **(iv)** shall comply with reasonable

requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

L. **PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq.*, C.R.S.**

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq.*, C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

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HIPAA BUSINESS ASSOCIATES ADDENDUM

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

1. PURPOSE

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

2. DEFINITIONS

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

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

a. Business Associate. "Business Associate" shall have the same meaning as the term "business associate" at 45 C.F.R. 160.103, and shall refer to Contractor.

b. Covered Entity. "Covered Entity" shall have the same meaning as the term "covered entity" at 45 C.F.R. 160.103, and shall refer to the State.

c. Information Technology and Information Security. "Information Technology" and "Information Security" shall have the same meanings as the terms "information technology" and "information security", respectively, in §24-37.5-102, C.R.S.

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

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

a. Permitted Uses and Disclosures.

i. Business Associate shall use and disclose PHI only to accomplish Business Associate's obligations under the Contract.

i. To the extent Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with any and all requirements of Subpart E that apply to Covered Entity in the performance of such obligation.

ii. Business Associate may disclose PHI to carry out the legal responsibilities of Business Associate, provided, that the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that:

A. the information will remain confidential and will be used or disclosed only as Required by Law or for the purpose for which Business Associate originally disclosed the information to that person, and;

B. the person notifies Business Associate of any Breach involving PHI of which it is aware.

iii. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity. Business Associate may de-identify any or all PHI created or received by Business Associate under this Agreement, provided the de-identification conforms to the requirements of the HIPAA Rules.

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

e. Impermissible Uses and Disclosures.

i. Business Associate shall not disclose the PHI of Covered Entity to another covered entity without the written authorization of Covered Entity.

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

f. Business Associate's Subcontractors.

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

ii. Business Associate shall provide to Covered Entity, on Covered Entity's request, a list of Subcontractors who have entered into any such agreement with Business Associate.

iii. Business Associate shall provide to Covered Entity, on Covered Entity's request, copies of any such agreements Business Associate has entered into with Subcontractors.

g. Access to System. If Business Associate needs access to a Covered Entity Information Technology system to comply with its obligations under the Contract or this Agreement, Business Associate shall request, review, and comply with any and all policies applicable to Covered Entity regarding such system including, but not limited to, any policies promulgated by the Office of Information Technology and available at http://oit.state.co.us/about/policies.

h. Access to PHI. Business Associate shall, within ten days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.524.

i. Amendment of PHI.

i. Business Associate shall within ten days of receiving a written request from Covered Entity make any amendment to PHI in a Designated Record Set as directed by or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.

ii. Business Associate shall promptly forward to Covered Entity any request for amendment of PHI that Business Associate receives directly from an Individual.

j. Accounting Rights. Business Associate shall, within ten days of receiving a written request from Covered Entity, maintain and make available to Covered Entity the information necessary for Covered Entity to satisfy its obligations to provide an accounting of Disclosure under 45 C.F.R. 164.528.

k. Restrictions and Confidential Communications.

i. Business Associate shall restrict the Use or Disclosure of an Individual's PHI within ten days of notice from Covered Entity of:

A. a restriction on Use or Disclosure of PHI pursuant to 45 C.F.R. 164.522; or

B. a request for confidential communication of PHI pursuant to 45 C.F.R. 164.522.

ii. Business Associate shall not respond directly to an Individual's requests to restrict the Use or Disclosure of PHI or to send all communication of PHI to an alternate address.

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

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

m. Audit, Inspection and Enforcement.

i. Business Associate shall obtain and update at least annually a written assessment performed by an independent third party reasonably acceptable to Covered Entity, which evaluates the Information Security of the applications, infrastructure, and processes that interact with the Covered Entity data Business Associate receives, manipulates, stores and distributes. Upon request by Covered Entity, Business Associate shall provide to Covered Entity the executive summary of the assessment.

ii. Business Associate, upon the request of Covered Entity, shall fully cooperate with Covered Entity's efforts to audit Business Associate's compliance with applicable HIPAA Rules. If, through audit or inspection, Covered Entity determines that Business Associate's conduct would result in violation of the HIPAA Rules or is in violation of the Contract or this

Agreement. Business Associate shall promptly remedy any such violation and shall certify completion of its remedy in writing to Covered Entity.

n. Appropriate Safeguards.

i. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided in this Agreement.

ii. Business Associate shall safeguard the PHI from tampering and unauthorized disclosures.

iii. Business Associate shall maintain the confidentiality of passwords and other data required for accessing this information.

iv. Business Associate shall extend protection beyond the initial information obtained from Covered Entity to any databases or collections of PHI containing information derived from the PHI. The provisions of this section shall be in force unless PHI is de-identified in conformance to the requirements of the HIPAA Rules.

o. Safeguard During Transmission.

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

ii. Business Associate shall not transmit PHI over the internet or any other insecure or open communication channel unless the PHI is encrypted or otherwise safeguarded with a FIPS-compliant encryption algorithm.

p. Reporting of Improper Use or Disclosure and Notification of Breach.

i. Business Associate shall, as soon as reasonably possible, but immediately after discovery of a Breach, notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, including a Breach of Unsecured Protected Health Information as such notice is required by 45 C.F.R. 164.410 or a breach for which notice is required under §24-73-103, C.R.S.

ii. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach.

iii. Business Associate shall, as soon as reasonably possible, but immediately after discovery of any Security Incident that does not constitute a Breach, notify Covered Entity of such incident.

iv. Business Associate shall have the burden of demonstrating that all notifications were made as required, including evidence demonstrating the necessity of any delay.

q. Business Associate's Insurance and Notification Costs.

i. Business Associate shall bear all costs of a Breach response including, without limitation, notifications, and shall maintain insurance to cover:

A. loss of PHI data;

B. Breach notification requirements specified in HIPAA Rules and in §24-73-103, C.R.S.; and

C. claims based upon alleged violations of privacy rights through improper use or disclosure of PHI.

ii. All such policies shall meet or exceed the minimum insurance requirements of the Contract or otherwise as may be approved by Covered Entity (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status, and notice of cancellation).

iii. Business Associate shall provide Covered Entity a point of contact who possesses relevant Information Security knowledge and is accessible 24 hours per day, 7 days per week to assist with incident handling.

iv. Business Associate, to the extent practicable, shall mitigate any harmful effect known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of this Agreement.

r. Subcontractors and Breaches.

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

ii. Business Associate shall notify Covered Entity of any such report and shall provide copies of any such agreements to Covered Entity on request.

s. Data Ownership.

i. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.

ii. Upon request by Covered Entity, Business Associate immediately shall provide Covered Entity with any keys to decrypt information that the Business Association has encrypted and maintains in encrypted form, or shall provide such information in unencrypted usable form.

t. Retention of PHI. Except upon termination of this Agreement as provided in Section 5 below, Business Associate and its Subcontractors or agents shall retain all PHI throughout the term of this Agreement, and shall continue to maintain the accounting of disclosures required under Section 1.j above, for a period of six years.

4. OBLIGATIONS OF COVERED ENTITY

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

b. Notice of Changes.

i. Covered Entity maintains a copy of its Notice of Privacy Practices on its website. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission to use or disclose PHI, to the extent that it may affect Business Associate's permitted or required uses or disclosures.

ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. 164.522, to the extent that it may affect Business Associate's permitted use or disclosure of PHI.

5. TERMINATION

a. Breach.

i. In addition to any Contract provision regarding remedies for breach, Covered Entity shall have the right, in the event of a breach by Business Associate of any provision of this Agreement, to terminate immediately the Contract, or this Agreement, or both.

ii. Subject to any directions from Covered Entity, upon termination of the Contract, this Agreement, or both, Business Associate shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Business Associate in which Covered Entity has an interest.

u. Effect of Termination.

i. Upon termination of this Agreement for any reason, Business Associate, at the option of Covered Entity, shall return or destroy all PHI that Business Associate, its agents, or its Subcontractors maintain in any form, and shall not retain any copies of such PHI.

ii. If Covered Entity directs Business Associate to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

iii. If Business Associate believes that returning or destroying the PHI is not feasible, Business Associate shall promptly provide Covered Entity with notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of Section 3 of this Agreement to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

6. INJUNCTIVE RELIEF

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

7. LIMITATION OF LIABILITY

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

8. DISCLAIMER

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

9. CERTIFICATION

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

10. AMENDMENT

a. Amendment to Comply with Law. The Parties acknowledge that state and federal laws and regulations relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide procedures to ensure compliance with such developments.

i. In the event of any change to state or federal laws and regulations relating to data security and privacy affecting this Agreement, the Parties shall take such action as is necessary to implement the changes to the standards and requirements of HIPAA, the HIPAA Rules and other applicable rules relating to the confidentiality, integrity, availability and security of PHI with respect to this Agreement.

ii. Business Associate shall provide to Covered Entity written assurance satisfactory to Covered Entity that Business Associate shall adequately safeguard all PHI, and obtain written assurance satisfactory to Covered Entity from Business Associate's Subcontractors and agents that they shall adequately safeguard all PHI.

iii. Upon the request of either Party, the other Party promptly shall negotiate in good faith the terms of an amendment to the Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Rules, or other applicable rules.

iv. Covered Entity may terminate this Agreement upon 30 days' prior written notice in the event that:

A. Business Associate does not promptly enter into negotiations to amend the Contract and this Agreement when requested by Covered Entity pursuant to this Section; or

B. Business Associate does not enter into an amendment to the Contract and this Agreement, which provides assurances regarding the safeguarding of PHI sufficient, in Covered Entity's sole discretion, to satisfy the standards and requirements of the HIPAA, the HIPAA Rules and applicable law.

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

11. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS

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

12. INTERPRETATION AND ORDER OF PRECEDENCE

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

13. SURVIVAL

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

APPENDIX TO HIPAA BUSINESS ASSOCIATE AGREEMENT

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

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

1. PURPOSE

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

2. ADDITIONAL TERMS

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

   i. Reserved.

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

   i. Reserved.

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

   i. All Program Approved Service Agencies and subcontractors as provided to the Department through the subcontractors contract deliverable.

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

   i. Reserved.

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

   i. Reserved.

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

   i. Reserved.

EXHIBIT A, STATEMENT OF WORK

1. TERMINOLOGY

1.1. In addition to the terms defined in §3 of this contract, acronyms and abbreviations are defined at their first occurrence in this Exhibit A, Statement of Work. the following list of terms shall be construed and interpreted as follows:

1.1.1. Acronyms, abbreviations and other terminology are defined at their first occurrence in this Contract. The following list is provided to assist the reader in understanding acronyms, abbreviations and terminology used throughout this document.

1.1.1.1. Business Day - Any day in which the Department is open and conducting business, but shall not include weekend days or any day on which the Department observes one of the following holidays:

1.1.1.1.1. New Year's Day.

1.1.1.1.2. Martin Luther King, Jr. Day.

1.1.1.1.3. Washington-Lincoln Day (also referred to as President's Day).

1.1.1.1.4. Memorial Day.

1.1.1.1.5. Independence Day.

1.1.1.1.6. Labor Day.

1.1.1.1.7. Columbus Day.

1.1.1.1.8. Veterans' Day.

1.1.1.1.9. Thanksgiving Day.

1.1.1.1.10. Christmas Day.

1.1.1.2. Business Interruption - Any event that disrupts the Contractor's ability to complete the Work for a period of time, and may include, but is not limited to a Disaster, power outage, strike, loss of necessary personnel or computer virus.

1.1.1.3. Case Management - the assessment of an individual receiving long-term services and supports' needs, the development and implementation of a support plan for such individual, referral and related activities, the coordination and monitoring of long-term service delivery, the evaluation of service effectiveness, and the periodic reassessment of such individual's needs. Case Management under this Contract is for the State General Funded programs only and is funded with State General Funds.

1.1.1.4. Case Manager – a person who provides case management services and meets all regulatory requirements for case manager.

1.1.1.5. Children's Extensive Support Waiver (HCBS-CES) - The Home and Community-Based Services Children's Extensive Support waiver supports children with an intellectual and developmental disability or developmental delay and their families by providing services and supports that will help children remain in their community and avoid institutional placement.

1.1.1.6. Children's Habilitation Residential Program Waiver (HCBS-CHRP) – The Home and Community Based Services Children's Habilitation Residential Program Waiver provides

residential services and supports for children and youth, age birth through 20 years, with an intellectual and developmental disability or developmental delay and very high needs. Their needs for support put them at risk for institutional care. Waiver services help children and youth learn and maintain skills needed to live in their communities.

1.1.1.7. Client - Any individual eligible for the Colorado Medicaid program or State Programs identified in this Contract, as Determined by the Department.

1.1.1.8. Closeout Period - The period beginning on the earlier of ninety (90) calendar days prior to the end of the last renewal year of the Contract or notice by the Department of non-renewal and ending on the day that the Department has accepted the final deliverable for the Closeout Period and has determined that the final transition is complete.

1.1.1.9. Colorado Revised Statutes (C.R.S.) – The legal code of Colorado; the legal codified general and permanent statutes of the Colorado General Assembly.

1.1.1.10. Community Centered Board (CCB) - a private corporation, for-profit or not-for profit, that is designated pursuant to section 25.5-10-209.

1.1.1.11. Complaints and Grievances – Any complaint received by the Contractor as it relates to the services provided through this Contract to include, but not limited to, general business functions, administration, transparency, State General Fund program requirements, administrative case management functions. Complaints received outside of the scope of this Contract shall not be included.

1.1.1.12. Contractor – The individual, entity or subrecipient selected to complete the Work contained in the Contract. Contractor and subrecipient will be used interchangeably throughout this contract

1.1.1.13. Corrective Action Plan - A written plan, which includes the specific actions the agency shall take to correct non-compliance with regulations and contractual obligations, which stipulates the date by which each action shall be completed.

1.1.1.14. Critical Incident - An actual or alleged event that creates the risk of serious harm to the health or welfare of an individual receiving services; and it may endanger or negatively impact the mental and/or physical well-being of an individual. Critical Incidents include but are not limited to: Injury/illness; mistreatment; abuse/neglect/exploitation; damage/theft of property; medication mismanagement; lost or missing person; criminal activity; unsafe housing/displacement; or death.

1.1.1.15. Data – State Confidential Information and other State information resources transferred to the Contractor for the purpose of completing a task or project assigned in the Statement of Work.

1.1.1.16. Deliverable - Any tangible or intangible object produced by Contractor as a result of the work that is intended to be delivered to the Department, regardless of whether the object is specifically described or called out as a "Deliverable" or not.

1.1.1.17. Department – The Colorado Department of Health Care Policy and Financing

1.1.1.18. Developmental Delay Determination - a child meets one or more of the following: A child who is less than five (5) years of age at risk of having a developmental disability because of the presence of one or more conditions identified in 10 C.C.R 2505-10 Section 8.600.4.

1.1.1.19. Developmental Disability Determination (DD Determination) – a disability that: Is manifested before the person reaches twenty-two (22) years of age; B. Constitutes a

substantial disability to the affected individual, as demonstrated by the criteria identified in 10 C.C.R 2505-10 Section 8.600.4.

1.1.1.20. Developmental Disabilities Waiver (HCBS-DD) - The Home and Community-Based Services Waiver for Persons with Developmental Disabilities (DD) provides access to 24-hour, seven days a week supervision through Residential Habilitation and Day Habilitation Services and Supports.

1.1.1.21. Disaster - An event that makes it impossible for the Contractor to perform the Work out of its regular facility, and may include, but is not limited to, natural disasters, fire or terrorist attacks.

1.1.1.22. Family Support Services Program (FSSP) - The Family Support Services Program (FSSP) provides support for families who have individuals with developmental disabilities or delays with costs that are beyond those normally experienced by other families.

1.1.1.23. Financial Eligibility - the eligibility criteria for a publicly funded program, based on the individual's financial circumstances, including income and resources, if applicable.

1.1.1.24. Health First Colorado – Colorado's Medicaid Program.

1.1.1.25. HIPAA - The Health Insurance Portability and Accountability Act of 1996, as amended.

1.1.1.26. Home and Community Based Services (HCBS) waivers - services and supports authorized through a 1915(c) waiver of the Social Security Act and provided in community settings to a client who requires an institutional level of care that would otherwise be provided in a Hospital, Nursing Facility, or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID).

1.1.1.27. Human Rights Committee – a third party mechanism to adequately safeguard the legal rights of persons receiving services by participating in the granting of informed consent, monitoring the suspensions of rights, monitoring behavioral developmental programs, monitoring of psychotropic medications, and reviewing investigations of allegations of mistreatment of persons with intellectual and developmental disabilities.

1.1.1.28. Support Need Level Assessment - the standardized assessment tool to identify and measure the practical support requirements for HCBS-CHRP waiver participants.

1.1.1.29. Intake and Referral - the initial contact with individuals and shall include, but not limited to, a preliminary screening in the following areas: an individual's need for long term services and supports; an individual's need for referral to other programs or services; an individual's eligibility for financial and program assistance; and the need for a Level of Care Evaluation of the individual seeking services.

1.1.1.30. Investigation - A procedure completed after an allegation of abuse, neglect and/or exploitation, is defined as a formal administrative review and systemic assessment of the agency's policies and practices and the waiver participant's services and supports to ensure immediate and on-going health and welfare. All investigations are completed using the specified investigation procedures required by this Contract. However, such procedures must not be used in lieu of investigations required by law or which may result from action initiated pursuant to section 19-10-103, C.R.S., (Colorado Children's Code), Section 18-8-115, C.R.S., (Colorado Criminal Code - Duty To Report A Crime), and Section 26-3.1-102, C.R.S., (Social Services Code - Protective Services).

1.1.1.31. Key Personnel - Includes Executive Director, Chief Financial Officer, Licensed Medical Professional, Contract Lead, and Case Management Director.

1.1.1.32. Level of Care Determination - determining eligibility of an individual for a Long-Term Services and Supports (LTSS) program and determined by a Community Centered Board.

1.1.1.33. Level of Care Evaluation - a comprehensive evaluation with the individual seeking services and others chosen by the individual to participate and an evaluation by the case manager utilizing the Department prescribed tool, with supporting diagnostic information from the individual's medical provider, and to determine the individual's level of functioning for admission or continued stay in certain Long-Term Services and Supports (LTSS) programs.

1.1.1.34. Long-Term Services and Supports (LTSS) - the services and supports used by individuals of all ages with functional limitations and chronic illnesses who need assistance to perform routine daily activities such as bathing, dressing, preparing meals, and administering medications.

1.1.1.35. Member - Any individual enrolled in the Colorado Medicaid program, Colorado's CHP+ program or the Colorado Indigent Care Program, as determined by the Department.

1.1.1.36. Omnibus Reconciliation Act of 1987 Specialized Services Program (OBRA-SS) - any service or support recommended by an individualized Level II determination that a particular nursing facility resident requires due to mental illness, intellectual disability or related condition, that supplements the scope of services that the facility must provide under reimbursement as nursing facility services.

1.1.1.37. Operational Start Date – When the Department authorizes Contractor to begin fulfilling its obligations under the Contract.

1.1.1.38. Other Personnel - Individuals and Subcontractors, in addition to Key Personnel, assigned to positions to complete tasks associated with the Work.

1.1.1.39. Professional Medical Information Page (PMIP) - the medical information document signed by a licensed medical professional used as a component of the level of care evaluation to determine the client's need for LTSS program.

1.1.1.40. Pre-Admission Screening and Resident Review (PASRR) - the review that occurs for all client's seeking admission to a Medicaid nursing facility to screen the client for evidence of serious mental illness and/or intellectual and developmental disabilities ore related conditions. The review determines whether the client needs the level of services that a nursing facility provider and whether clients who need nursing facility services also need specialized services.

1.1.1.41. Provider - Any health care professional or entity that has been accepted as a provider in the Colorado Medicaid program, Colorado's CHP+ program or the Colorado Indigent Care Program, as determined by the Department.

1.1.1.42. Quality Assurance – Activities include tracking and response to complaints and grievances; critical incident reporting; investigation of allegations of abuse, neglect, and exploitation; Human Rights Committee, response to corrective action for Quality Improvement Strategies (QIS).

1.1.1.43. Quality Improvement Strategy (QIS) – The Department's process to measure and improve its performance in meeting the HCBS waiver assurances annually as set forth in 42 C.F.R. Sections 441.301 and 441.302.

1.1.1.44. Quarter - Four (4) distinct time periods during the state fiscal year. Quarter one (1) begins on July 1 and ends September 30. Quarter two (2) begins on October 1 and ends December 31. Quarter three (3) begins on January 1 and ends March 31. Quarter four (4) begins on April 1 and ends on June 30.

1.1.1.45. Service Area – Designated distinct geographical area determined by the Department where the Community Centered Board is authorized to provide administrative activities and State General Fund programs.

1.1.1.46. State Intellectual Disability Authority (SIDA) – the person authorized by the Department to review PASRR Level II Evaluations and approve or deny a nursing facility admission for individuals with intellectual and developmental disabilities.

1.1.1.47. Supported Living Services Waiver (HBCS-SLS) - The Home and Community-Based Supported Living Services waiver provides necessary services and supports for adult individuals with intellectual or developmental disabilities so they can remain in their homes and communities with minimal impact to individuals' community and social supports.

1.1.1.48. State Supported Living Services (State-SLS) - The State Funded Supported Living Services (State-SLS) program is funded through an allocation from the Colorado General Assembly. The State SLS program is designed to provide supports to individuals with demonstrated needs in order to remain in their community. The State SLS program shall not duplicate Home and Community Based services for those who are currently eligible.

1.1.1.49. Surcharge - Any additional amount added by the Contractor, over and above the rate charged by the subcontractor to the Contractor, which would be shown on an individual's service plan or on encounter data service rates submitted to the Department.

1.1.1.50. Waiting List - A list of otherwise eligible individuals established to manage selection of individuals' entrance into the waiver or State General Fund programs until approved capacity and funding become available.

2. CONTRACTOR'S GENERAL REQUIREMENTS

2.1. The Department will contract with only one (1) organization, the Contractor, and will work solely with that organization with respect to all tasks and deliverables to be completed, services to be rendered and performance standards to be met under this Contract.

2.2. Contractor may be privy to internal policy discussions, contractual issues, price negotiations, confidential medical information, Department financial information, advance knowledge of legislation and other Confidential Information. In addition to all other confidentiality requirements of the Contract, the Contractor shall also consider and treat any such information as Confidential Information and shall only disclose it in accordance with the terms of the Contract.

2.3. The Contractor shall work cooperatively with Department staff and, if applicable, the staff of other State contractors to ensure the completion of the Work. The Department may, in its sole discretion, use other contractors to perform activities related to the Work that are not contained in the Contract or to perform any of the Department's responsibilities. In the event of a conflict

between Contractor and any other State contractor, the State will resolve the conflict and Contractor shall abide by the resolution provided by the State.

2.4. The Contractor shall inform the Department on current trends and issues in the healthcare marketplace and provide information on new technologies in use that may impact the Contractor's responsibilities under this Contract.

2.5. The Contractor shall maintain complete and detailed records of all meetings, presentations, and any other interactions or Deliverables related to the Work described in the Contract. The Contractor shall make such records available to the Department upon request throughout the term of the Contract.

2.6. **Deliverables**

2.6.1. All Deliverables shall meet Department-approved format and content requirements. The Department will specify the number of copies and media for each Deliverable.

2.6.2. All Deliverables shall be submitted to the Department by close of business on the due date determined by the Department.

2.6.3. Contractor shall submit each Deliverable to the Department for review and approval and shall adhere to the following Deliverable process such for any documentation creation, review, and acceptable cycle, the Contractor shall:

2.6.3.1. Gather and document requirements for the Deliverable.

2.6.3.2. Create a draft in the Department-approved format for the individual Deliverable.

2.6.3.3. Perform internal quality control review(s) of the Deliverable, including, but not limited to:

2.6.3.3.1. Readability.

2.6.3.3.2. Spelling.

2.6.3.3.3. Grammar.

2.6.3.3.4. Completion.

2.6.3.3.5. Adhere to all required templates or development of templates.

2.6.4. The Department will review the Deliverable and may direct Contractor to make changes to the Deliverable. Contractor shall make all changes within ten (10) Business Days following the Department's direction to make the change unless the Department provides a longer period in writing.

2.6.5. Changes the Department direct include, but are not limited to, modifying portions of the Deliverable, requiring new pages or portions of the Deliverable, requiring resubmission of the Deliverable or requiring inclusion of information or components that were left out of the Deliverable.

2.6.6. The Department may also direct Contractor to provide clarification or provide a walkthrough of any Deliverable to assist the Department in its review. Contractor shall provide the clarification or walkthrough as directed by the Department.

2.6.7. Once the Department has received an acceptable version of the Deliverable, including all changes directed by the Department, the Department will notify Contractor of its acceptance of the Deliverable in writing. A Deliverable shall not be deemed accepted prior to the Department's notice to Contractor of its acceptance of that Deliverable.

2.6.8. In the event any due date for a Deliverable falls on a day that is not a Business Day, the due date shall be automatically extended to the next Business Day, unless otherwise directed by the Department.

2.6.9. All due dates or timelines that reference a period of days, months or quarters shall be measured in calendar days, months and quarters unless specifically stated as being measured in Business Days or otherwise. All times stated in the Contract shall be considered to be in Mountain Time, adjusted for Daylight Saving Time as appropriate, unless specifically stated otherwise.

2.6.10. No Deliverable, report, data, procedure or system created by Contractor for the Department that is necessary to fulfilling Contractor's responsibilities under the Contract, as determined by the Department, shall be considered proprietary.

2.6.11. If any Deliverable contains ongoing responsibilities or requirements for the Contractor, such as Deliverables that are plans, policies or procedures, then Contractor shall comply with all requirements of the most recently approved version of that Deliverable. Contractor shall not implement any version of any such Deliverable prior to receipt of the Department's written approval of that version of that Deliverable. Once a version of any Deliverable described in this subsection is approved by the Department, all requirements, milestones and other Deliverables contained within that Deliverable shall be considered to be requirements, milestones and Deliverables of this Contract.

2.6.12. Any Deliverable described as an update of another Deliverable shall be considered a version of the original Deliverable for the purposes of this subsection.

2.7. Stated Deliverables and Performance Standards

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

2.8. Communication with the Department

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

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

2.8.2.1. The date the transmittal will be effective.

2.8.2.2. Direction to the Contractor regarding performance under the Contract.

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

2.8.2.4. The name of the Department employee who has been designated to sign transmittals.

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

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

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

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

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

2.8.7. Transmittals may not be used in place of an amendment, and may not, under any circumstances be used to modify the term of the Contract or any compensation under the Contract. Transmittals are not intended to be the sole means of communication between the Department and the Contractor, and the Department may provide day-to-day communication to the Contractor without using a transmittal.

2.8.8. The Contractor shall retain all transmittals for reference and shall provide copies of any received transmittals upon request by the Department.

2.9. Operations Guide

2.9.1. Contractor shall not engage in any Work under the Contract, other than the Work described in this Section 2.9 and 2.10, prior to the Operational Start Date. The Department shall not be liable to the Contractor for, and Contractor shall not receive, any payment for any period prior to the Operational Start Date under this Contract.

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

2.9.2.1. Communication Plan.

2.9.2.2. Business Continuity Plan.

2.9.2.3. Long-Range Plan.

2.9.2.4. Closeout Plan.

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

2.9.3.1. DELIVERABLE: Operations Guide

2.9.3.2. DUE: Within forty-five (45) Business Days after the Effective Date

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

2.9.4.1. DELIVERABLE: Annual Operations Guide Update

2.9.4.2. DUE: Annually, by July 15th of each year

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

2.9.6. Communication Plan with Members, Providers, and Other Entities

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

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

2.9.6.1.2. A description of the communication methods, including things such as email lists, newsletters and other methods, that the Contractor will use to communicate with Providers and Subcontractors.

2.9.6.1.3. The specific means of immediate communication with Members and a method for accelerating the internal approval and communication process to address urgent communications or crisis situations.

2.9.6.1.4. A general plan for how the Contractor will address communication deficiencies or crisis situations, including how the Contractor will increase staff, contact hours or other steps the Contractor will take if existing communication methods for Members or Providers are insufficient.

2.9.6.1.5. A listing of the following individuals within the Contractor's organization, including cell phone numbers and email addresses:

2.9.6.1.5.1. An individual who is authorized to speak on the record regarding the Work, the Contract or any issues that arise that are related to the Work.

2.9.6.1.5.2. An individual who is responsible for any website or marketing related to the Work.

2.9.6.1.5.3. Back-up communication staff that can respond in the event that the other individuals listed are unavailable.

2.9.7. Business Continuity Plan

2.9.7.1. The Contractor shall create a Business Continuity Plan that the Contractor will follow in order to continue operations after a Disaster or a Business Interruption. The Business Continuity Plan shall include, but is not limited to, all of the following:

2.9.7.1.1. How the Contractor will replace staff that are lost or unavailable during or after a Business Interruption so that the Work is performed in accordance with the Contract.

2.9.7.1.2. How the Contractor will back-up all information necessary to continue performing the Work, so that no information is lost because of a Business Interruption.

2.9.7.1.2.1. In the event of a Disaster, the plan shall also include how the Contractor will make all information available at its back-up facilities.

2.9.7.1.3. How the Contractor will maintain complete back-up copies of all data, databases, operating programs, files, systems, and software pertaining to enrollment information at a, off-site location.

2.9.7.1.4. How the Contractor will comply with the disaster recovery standards described in Exhibit E, Information Technology Provisions.

2.9.7.1.5. How the Contractor will minimize the effects on Members of any Business Interruption.

2.9.7.1.6. How the Contractor will communicate with the Department during the Business Interruption and points of contact within the Contractor's organization the Department can contact in the event of a Business Interruption.

2.9.7.1.7. Planned long-term back-up facilities out of which the Contractor can continue operations after a Disaster.

2.9.7.1.8. The time period it will take to transition all activities from the Contractor's regular facilities to the back-up facilities after a Disaster.

2.9.8. Long Range Plan

2.9.8.1. The Contractor shall create a long-range plan for its designated service area pursuant to 10 C.C.R. 2505-10, Section 8.601.1 (c). The long-range plan shall include, but not be limited to:

2.9.8.1.1. A summary of the agency's administrative or case management accomplishments.

2.9.8.1.2. A summary of the needs determination to include identified needs of eligible persons in the designated service area and a plan to address those needs.

2.9.8.1.3. A summary of the local area issues impacting or expected to impact the designated service area and a plan to address those issues.

2.9.8.1.4. A summary of how public input was obtained/sought for the development of the long-range plan or annual update.

2.9.9. Closeout Plan

2.9.9.1. The Contractor shall create a Closeout Plan that describes all requirements, steps, timelines, milestones, and Deliverables necessary to fully transition the services described in the Contract from the Contractor to the Department or to another contractor selected by the Department to be the contractor after the termination of the Contract. The Closeout Plan shall include, but is not limited to, all of the following:

2.9.9.1.1. Transfer of Members

2.9.9.1.2. Transfer of documentation to include all electronic and physical documentation

2.9.9.1.3. Transfer of all member records through the Department Case Management Systems

2.9.9.1.4. Transfer of services

2.9.9.1.5. Transfer of Case Management Services

2.9.9.2. The Closeout Plan shall also designate an individual to act as a closeout coordinator who will ensure that all requirements, steps, timelines, milestones, and deliverables contained in the Closeout Plan are completed and work with the Department and any other contractor to minimize the impact of the transition on Members and the Department.

2.9.9.3. The Contractor shall deliver the Closeout Plan to the Department for review and approval.

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

2.10. Closeout Period

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

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

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

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

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

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

2.10.1.5.1. DELIVERABLE: Member Notifications

2.10.1.5.2. DUE: Thirty (30) days prior to termination of the Contract

2.10.1.6. Continue meeting each requirement of the Contract as described in the Department-approved and updated Closeout Plan, or until the Department determines that specific requirement is being performed by the Department or another contractor, whichever is sooner. The Department will determine when any specific requirement is being performed by the Department or another contractor, and will notify the Contractor of this determination for that requirement.

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

2.11. Federal Financial Participation Related Intellectual Property Ownership

2.11.1. In addition to the intellectual property ownership rights specified in the Contract, the following subsections enumerate the intellectual property ownership requirements the Contractor shall meet during the term of the Contract in relation to federal financial participation under 42 C.F.R. 433.112 and 45 C.F.R. 95.617.

2.11.1.1. The Contractor shall notify the State before designing, developing, creating or installing any new data, new software or modification of a software using Contract Funds. The Contractor shall not proceed with such designing, development, creation or installation of data or software without express written approval from the State.

2.11.1.2. If the Contractor uses Contract Funds to develop necessary materials, including, but not limited to, programs, products, procedures, data and software to fulfill its obligations under the Contract, the Contractor shall document all Contract Funds used in the development of the Work Product, including, but not limited to the materials, programs, procedures, and any data, software or software modifications.

2.11.1.2.1. The terms of this Contract will encompass sole payment for any and all Work Product and intellectual property produced by the Contractor for the State. The Contractor shall not receive any additional payments for licenses, subscriptions, or to remove a restriction on any intellectual property Work Product related to or developed under the terms of this Contract.

2.11.1.3. The Contractor shall provide the State comprehensive and exclusive access to and disclose all details of the Work Product produced using Contract Funds.

2.11.1.4. The Contractor shall hereby assign to the State, without further consideration, all right, interest, title, ownership and ownership rights in all work product and deliverables prepared and developed by the Contractor for the State, either alone or jointly, under this Contract, including, but not limited to, data, software and software modifications designed, developed, created or installed using Contract Funds, as allowable in the United States under 17 U.S.C.S. §201 and §204 and in any foreign jurisdictions.

2.11.1.4.1. Such assigned rights include, but are not limited to, all rights granted under 17 U.S.C.S §106, the right to use, sell, license or otherwise transfer or exploit the Work Product and the right to make such changes to the Work Product as determined by the State.

2.11.1.4.2. This assignment shall also encompass any and all rights under 17 U.S.C.S §106A, also referred to as the Visual Artists Rights Act of 1990 (VARA), and any and all moral rights to the Work Product.

2.11.1.4.3. The Contractor shall require its employees and agents to, promptly sign and deliver any documents and take any action the State reasonably requests to establish and perfect the rights assigned to the State or its designees under these provisions.

2.11.1.4.4. The Contractor shall execute the assignment referenced herein immediately upon the creation of the Work Product pursuant to the terms of this Contract.

2.11.1.5. The State claims sole ownership and all ownership rights in all copyrightable software designed, developed, created or installed under this contract, including, but not limited to:

2.11.1.5.1. Data and software, or modifications thereof created, designed or developed using Contract Funds.

2.11.1.5.2. Associated documentation and procedures designed and developed to produce any systems, programs, reports and documentation.

2.11.1.5.3. All other Work Products or documents created, designed, purchased, or developed by the Contractor and funded using Contract Funds.

2.11.1.6. All ownership and ownership rights pertaining to Work Product created in the performance of this Contract will vest with the State, regardless of whether the Work Product was developed by the Contractor or any Subcontractor.

2.11.1.7. The Contractor shall fully assist in and allow without dispute, both during the term of this Contract and after its expiration, registration by the State of any and all copyrights and other intellectual property protections and registrations in data, software, software modifications or any other Work Product created, designed or developed using Contract Funds.

2.11.1.8. The State reserves a royalty-free, non-exclusive and irrevocable license to produce, publish or otherwise use such software, modifications, documentation and procedures created using Contract Funds on behalf of the State, the Federal Department of Health and Human Services (HHS) and its contractors. Such data and software includes, but is not limited to, the following:

2.11.1.8.1. All computer software and programs, which have been designed or developed for the State, or acquired by the Contractor on behalf of the State, which are used in performance of the Contract.

2.11.1.8.2. All internal system software and programs developed by the Contractor or subcontractor, including all source codes, which result from the performance of the Contract; excluding commercial software packages purchased under the Contractor's own license.

2.11.1.8.3. All necessary data files.

2.11.1.8.4. User and operation manuals and other documentation.

2.11.1.8.5. System and program documentation in the form specified by the State.

2.11.1.8.6. Training materials developed for State staff, agents or designated representatives in the operation and maintenance of this software.

2.12. Performance Reviews

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

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

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

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

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

2.13. Renewal Options and Extensions

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

2.13.2. The Parties may amend the Contract to extend beyond five (5) years, in accordance with the Colorado Procurement Code and its implementing rules, in the event that the Department determines the extension is necessary to align the Contract with other Department contracts, to address state or federal programmatic or policy changes related to the Contract, or to provide sufficient time to transition the Work.

2.14. Department System Access

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

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

2.15. State of Colorado Information Technology Requirements

2.15.1. The Contractor shall adhere to all State of Colorado Information Technology Security and Privacy requirements that are relevant to the Contract outlined in Exhibit E, Information Technology Provisions.

2.16. Contractor and Community Partner Communication

2.16.1. The Contractor shall comply with written communication from the Department, provided by the Department, between the Contractor and community partners and service providers that outline how the Contractor will work together with these partners to coordinate care and better serve Department enrollees. As applicable, the communications shall address partnerships with:

2.16.1.1. County Departments of Human Services

2.16.1.2. Regional Accountable Entities (RAE)

2.16.1.3. Single Entry Point Agencies (SEP)

2.16.1.4. Skilled Nursing Facilities

2.16.1.5. Home Health Agencies

2.16.1.6. Hospitals

2.16.1.7. Hospice Organizations

2.16.2. The Contractor shall inform the Department of community partners or service providers that are not in compliance with the written communications.

2.16.3. The Department may provide the Contractor with modified communications as those communications become available. The Contractor shall comply with the most recent version of the communications provided by the Department.

2.17. Transparency

2.17.1. Board of Director Changes

2.17.1.1. The Contractor shall notify the Department in writing of any changes to the Board of Directors within ten (10) Business Days.

2.17.2. Annual Financial Audit

2.17.2.1. The Contractor shall submit a copy of the Annual Financial Audit Report to the Department.

2.17.2.1.1. DELIVERABLE: Annual Financial Audit Report

2.17.2.1.2. DUE: No later than thirty (30) calendar days following the acceptance of the audit by the Community Centered Board's Board of Directors.

2.17.3. IRS Form 990

2.17.3.1. The Contractor shall submit a copy of the Form 990 the Community Centered Board filed with the Federal Internal Revenue Service to the Department, if applicable.

2.17.3.1.1. DELIVERABLE: IRS Form 990

2.17.3.1.2. DUE: No later than thirty (30) calendar days following the Contractor's filing of the form with the Internal Revenue Service.

3. CONTRACTOR PERSONNEL

3.1. Personnel General Requirements

3.1.1. Contractor shall provide qualified Key Personnel and Other Personnel as necessary to perform the Work throughout the term of the Contract.

3.1.2. Contractor shall provide the Department with a final list of individuals assigned to the Contract and appropriate contact information for those individuals.

3.1.2.1. DELIVERABLE: Final list of Key Personnel

3.1.2.2. DUE: Annually, by July 15th of each year

3.1.3. Contractor shall update this list to account for changes in the Key Personnel.

3.1.3.1. DELIVERABLE: Updated list of Key Personnel

3.1.3.2. DUE: Within ten (10) Business Days of the any change to Key Personnel

3.2. Key Personnel

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

3.2.1.1. Executive Director

3.2.1.2. Chief Financial Officer

3.2.1.3. Case Management Director

3.2.1.4. Licensed Medical Professional

3.2.1.5. Contract Lead

3.2.1.5.1. The Contract Lead shall be responsible for all of the following:

3.2.1.5.1.1. Serving as Contractor's primary point of contact for contract related questions or issues for the Department.

3.2.1.5.1.2. Ensuring the completion of all Work in accordance with the Contract's requirements. This includes, but is not limited to, ensuring the accuracy, timeliness and completeness of all work.

3.2.1.5.1.3. Ensuring the timely submission and accuracy of all Deliverables submitted to the Department.

3.3. Personnel Availability

3.3.1. Contractor shall ensure Key Personnel and Other Personnel assigned to the Contract are available for meetings with the Department during the Department's normal business hours, as determined by the Department. Contractor shall also make these personnel available outside of the Department's normal business hours and on weekends with prior notice from the Department.

3.3.2. Contractor's Key Personnel and Other Personnel shall be available for all regularly scheduled meetings between Contractor and the Department, unless the Department has granted prior written approval otherwise.

3.3.3. Contractor shall ensure that the Key Personnel and Other Personnel attending all meetings between the Department and Contractor have the authority to represent and commit Contractor regarding work planning, problem resolution and program development.

3.3.4. At the Department's direction, the Contractor shall make its Key Personnel and Other Personnel available to attend meetings as subject matter experts with stakeholders both within the State government and external private stakeholders.

3.3.5. All of Contractor's Key Personnel and Other Personnel that attend any meeting with the Department or other Department stakeholders shall be present at the meeting or attend by telephone or video conference, unless the Department gives prior, written permission. If Contractor has any personnel attend by telephone or video conference, Contractor shall provide all additional equipment necessary for attendance, including any virtual meeting space or telephone conference lines.

3.3.6. The Contractor shall respond to all telephone calls, voicemails, and emails from the Department within three (3) Business Days of receipt by the Contractor.

3.4. Other Personnel Responsibilities

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

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

3.4.3. The Contractor shall employ or contract with a licensed medical professional who will be available for consultation regarding Long Term Home Health (LTHH) PARs for Clients.

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

3.4.4.1. Contractor shall not subcontract more than forty percent (40%) of the Work.

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

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

3.4.4.2.2. DUE: Annually, by July 15th of each year

3.4.4.3. Contractor shall notify the Department of any changes to Subcontractors within ten (10) business days of the change.

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

3.5. Background Checks

3.5.1. The Contractor shall conduct background checks on all new applicants considered for employment.

3.5.2. Background checks under Section 3.5. shall be conducted by a third-party and shall include, at a minimum, a comprehensive check into the applicant's criminal history.

3.5.3. Beginning on and after January 1, 2019, prior to hiring or contracting with an employee who will provide direct care to an at-risk adult, the Contractor shall request a Colorado Adult Protective Services (CAPS) background check from the Colorado Department of Human Services data system. The CAPS background check shall be used to determine if the potential employee is implicated in a case of mistreatment of an at-risk adult.

3.5.4. If any of the Contractor's Key Personnel, or Other Personnel, are required to have and maintain any professional licensure or certification issued by any federal, state or local government agency, then the Contractor shall maintain copies of such current licenses and certifications and provide them to the Department upon request.

4. GENERAL BUSINESS FUNCTIONS

4.1. Business Functions

4.1.1. The general Business Functions of the Contractor shall include, but not be limited to, the following:

4.1.1.1. Providing access to its facilities for clients, service providers and others. Regular business office hours of operation shall be posted and made available to the public and accommodations shall be made available for clients who need assistance or consultation outside regular business office hours. The Contractor shall provide emergency contact information to the Department for Key Personnel, when posted hours of operation do not follow a standard Monday through Friday schedule.

4.1.1.2. Providing access to a telephone system and trained staff to ensure a response to messages, and telephone calls received after hours.

4.1.1.3. Providing access to telecommunication devices and/or interpreters for the hearing and vocally impaired and access to foreign language interpreters as needed.

4.1.1.4. Providing a person-centered business approach seeking to accommodate Client requests.

4.1.1.5. Following communication direction set by the Department. The application of these standards includes but is not limited to Memo Series, technical assistance documents, Provider Bulletins, training documents, and email correspondence.

4.1.1.6. Facilitating the Medicaid application process and responding to all referrals of potentially eligible Clients within Department prescribed timeframes.

4.1.2. The Contractor shall support the Department's National Core Indicator (NCI) efforts.

4.2. Training

4.2.1. The Contractor shall ensure that all case management staff receive training within one hundred and twenty (120) calendar days after the staff member's hire date and prior to being assigned independent duties. All other case management staff must receive a refresher training as required by the Department or the Contractor. Training must include the following areas:

4.2.1.1. Medicaid LTSS programs Eligibility

4.2.1.2. Intake and Referral

4.2.1.3. Determination of Developmental Disability or Delay

4.2.1.4. Medicaid LTSS programs Level of Care Evaluation and Determination

4.2.1.5. State General Fund Program Requirements and Services

4.2.1.6. State General Fund Program Case Management Requirements

4.2.1.7. Medicaid LTSS programs Notices and Appeals

4.2.1.8. Department Information Management Systems Documentation

4.2.1.9. Long Term Home Health

4.2.1.10. Applicable federal and state laws and regulations for LTSS programs

4.2.1.11. Critical Incident Reporting

4.2.1.12. Waiver requirements and services

4.2.1.13. Mandatory Reporting

4.2.2. The Contractor shall utilize training materials provided by the Department where applicable related to section 4.2 of this Contract.

4.2.3. The Contractor shall provide the date all case management staff were hired and received training in the areas identified in Section 4.2, using the reporting template provided by the Department.

4.2.3.1. DELIVERABLE: Case Management Training

4.2.3.2. DUE: Semi-annually by July 15th and January 15th

4.2.4. The Contractor shall maintain supporting documentation demonstrating case managers attended the required trainings and make the information available to the Department upon request. Supporting documentation must include the name and description of the training,

date the training was held, case managers in attendance, and trainer sign off showing the case manager completed the training.

4.3. Complaints and Grievances

4.3.1. The Contractor shall receive, document and track any complaint received by the Contractor as it relates to the services provided through this Contract to include, but not limited to, general business functions, administration, transparency, State General Fund program functions, administrative case management functions. Complaints received outside of the scope of this Contract shall not be included. Documentation shall consist of a complaint log that includes the date of complaint, name of the complainant, the nature of the complaint, the date, and a description of the resolution.

4.3.2. The Contractor shall analyze complaints for trends quarterly and shall submit all complaint-oriented trends observed since the Effective Date of this Contract and the remedial actions taken to address them to the Department.

4.3.3. Trend analysis may include an examination of information including but not limited to:

4.3.3.1. A comparison of complaint types and number of complaints over a period of time.

4.3.3.2. Number of type of complaint against the Contractor, time, location, individual involved, staff involved, and/or any additional relevant information.

4.3.3.3. An examination of potential reasons for the increase or decrease in complaints by total number, provider, individual, or staff.

4.3.3.4. An examination of preventative measures that can be implemented to reduce the number or frequency of future complaints.

4.3.3.5. Implementation of a plan of action or any future actions to take place.

4.3.3.6. An analysis of whether or not the plan of action and changes made were effective or if additional changes need to occur.

4.3.4. As part of the complaint process the Contractor shall:

4.3.4.1. Document complaints received.

4.3.4.2. Address substantiated complaints.

4.3.4.3. Respond to complaints received and document actions taken to resolve and/or mitigate complaints.

4.3.4.4. Conduct quarterly trend analyses of all complaints received for the full period of the contract.

4.3.4.4.1. DELIVERABLE: Complaint Trends Analysis

4.3.4.4.2. DUE: Quarterly, by October 31st, January 31st, and April 30th and July 31st of each year

4.4. Critical Incident Reports

4.4.1. The Contractor shall:

4.4.1.1. Report critical incidents in the Department prescribed system as soon as possible, but no later than twenty-four (24) hours (one business day) following notification.

4.4.1.2. Ensure all suspected incidents of abuse, neglect, and exploitation are immediately reported consistent with statute; §19-10-103, C.R.S. Colorado Children's Code, §18-8-115 C.R.S. (Colorado Criminal Code- Duty to Report a Crime), §18-6.5-108 C.R.S. (Colorado Criminal Code- Wrongs to At-Risk Adults) and §26-3.1-102, C.R.S. (Social Services Code-Protective Services).

4.4.1.3. Enter all CIR follow-up information timely in the Department prescribed system and maintain detailed documentation.

4.5. Critical Incident Trend Analysis

4.5.1. The Contractor shall review and analyze all critical incidents to identify trends and problematic practices and documenting appropriate action.

4.5.2. The Critical Incident Trend Analysis shall include an examination of information including but not limited to:

4.5.2.1. Incident Date, Incident Time, Case Management (CM) Notification Date, CM Notification Time, Entry Date, Entry Time, Incident Type, Case Manager, Program Type, Incident Location Description, Percent of Timely Reporting.

4.5.2.2. An examination of potential reasons for the increase or decrease in incidents.

4.5.2.3. An examination of preventative measures that can be implemented to reduce the number or frequency of future incidents.

4.5.2.4. Identify the root cause of the critical incident and analyze to determine if intervention is needed to prevent similar critical incidents in the future.

4.5.2.5. Implementation of a plan of action or any future actions to take place.

4.5.2.6. An analysis of whether the plan of action and changes made were effective or if additional changes need to occur.

4.5.3. The Contractor shall submit the Critical Incident Trend Analyses on the Department's prescribed template.

4.5.3.1. DELIVERABLE: Critical Incident Trend Analyses

4.5.3.2. DUE: Quarterly by October 31st, January 31st, April 30th and July 31st

4.6. Investigations

4.6.1. The Contractor shall insure all allegations of abuse, neglect, and exploitation are investigated and documented within the Department's prescribed system.

4.6.2. Investigations may include but is not limited to: examination of Critical Incident Reports, log notes, and medical documentation related to the member; documented interviews with the waiver participant, guardian, and support staff as appropriate; documentation regarding any questions not resolved by a law enforcement or county investigation (e.g., provider training, program management supervision, etc.); documentation of follow-up, preventative strategies and outcomes of reviews and assessments regarding the allegations and incident; the examination incident report and preliminary results of the investigation, a summary of the investigative procedures utilized, the full investigative finding, the actions taken, and Human Rights Committee review of the investigative report and the action taken on recommendations made by the committee.

4.7. Human Rights Committee (HRC)

4.7.1. The Contractor shall establish and facilitate a Human Rights Committee (HRC) pursuant to §25.5-10-209(h), C.R.S. and 10 C.C.R. 2505-10 Section 8.608.5.

4.7.2. The Contractor shall establish at least one HRC as a third-party mechanism to safeguard the rights of persons receiving services. The HRC is an advisory and review body to the administration of the community centered board.

4.7.3. The Contractor shall develop policies and procedures to assure that all potential conflicts of interest are addressed.

4.7.4. The Contractor shall orient members regarding the duties and responsibilities of the Human Rights Committee.

4.7.5. The Contractor shall provide the Human Rights Committee with the necessary staff support to facilitate its functions.

4.7.6. The Contractor shall keep proper documentation and record of all Human Rights Committee recommendations and assure that all documentation is a part of the individual's master record.

4.8. Quality Improvement Strategies (QIS)

4.8.1. The Contractor shall respond to all inquiries and requests for corrective action related to QIS within the timeframe specified by the Department.

4.9. Corrective Action Plan

4.9.1. When the Department determines that the Contractor is not in compliance with any term of this Contract, the Contractor, upon written notification by the Department, shall develop a corrective action plan. Corrective action plans shall include, but not be limited to:

4.9.1.1. A detailed description of actions to be taken including any supporting documentation.

4.9.1.2. A detailed time frame specifying the actions to be taken.

4.9.1.3. Contractor's employee(s) responsible for implementing the actions.

4.9.1.4. The implementation time frames and a date for completion.

4.9.2. The Contractor shall submit the Corrective Action Plan to the Department within ten (10) Business Days of the receipt of a written request from the Department.

4.9.2.1. DELIVERABLE: Corrective Action Plan

4.9.2.2. DUE: Within ten (10) Business Days of receipt of a written request from the Department.

4.9.3. The Contractor shall notify the Department in writing, within three (3) Business Days if it will not be able to present the Corrective Action Plan by the due date. The Contractor shall explain the rationale for the delay and the Department may grant an extension, in writing, of the deadline for the Contractor's compliance.

4.9.4. Upon receipt of the Contractor's Corrective Action Plan, the Department will accept, modify or reject the proposed Corrective Action Plan. Modifications and rejects shall be accompanied by a written explanation.

4.9.5. In the event of a rejection of Contractor's Corrective Action Plan the Contractor shall re-write the corrective action plan and resubmit it along with requested documentation to the Department for review.

4.9.5.1. DELIVERABLE: Revised Corrective Action Plan.

4.9.5.2. DUE: Within five (5) Business Day of the Department's rejection.

4.9.6. Upon acceptance by the Department the Contractor shall implement the Corrective Action Plan.

4.9.7. If corrections are not made within the requested timeline and quality specified by the Department then funds may be suspended or withheld from this Contract.

5. DISABILITY DETERMINATION, WAITING LIST MANAGEMENT, AND PROGRAM ENROLLMENT

5.1. Developmental Disability and Delay Determinations

5.1.1. The Contractor shall determine whether an applicant meets the definition of an Individual with Developmental Disabilities or Delay as defined under 10 CCR 2505-10, section 8.600.4, in accordance with 10 C.C.R. 2505-10 Section 8.607.2.

5.1.2. The Contractor shall complete the individual's determination record and assessment record in the Department prescribed system with all applicable dates and information within ten (10) Business Days after a determination is complete.

5.1.3. The Contractor shall maintain the individual's determination, documents, and request forms and make them available to the Department upon request.

5.2. Waiting List Management

5.2.1. The Contractor shall maintain a program specific waiting list within the Department's prescribed system for all eligible clients for whom funding is not available. Waiting lists could be applicable for the State SLS, FSSP, HCBS-DD, HCBS-SLS, HCBS-CHRP, and HCBS-CES dependent on available funding. CCBs shall not maintain a waiting list for OBRA-SS.

5.2.2. The name of a person eligible for the program shall be placed on the waiting list by the Contractor making the eligibility determination.

5.2.3. When an eligible person is placed on the waiting list for Waiver services, a written notice of action including information regarding client rights and appeals shall be sent to the person or the person's legal guardian in accordance with the provisions of 10 C.C.R. 2505-10 Section 8.057 et seq.

5.2.4. The placement date used to establish a person's order on an HCBS waiver waiting list shall be:

5.2.4.1. The date on which the person was initially determined to have a developmental disability by the community centered board; or

5.2.4.2. The fourteenth (14) birth date if a child is determined to have a developmental disability by the community centered board prior to the age of fourteen.

5.2.5. When a client is eligible for a program and funding is not available, the Contractor shall:

5.2.5.1. Verify demographic information.

5.2.5.2. Compile and correct data.

5.2.6. The Contractor shall complete data entry of Waiting List record into the Department prescribed system within ten (10) Business Days of any addition or change to the Waiting List.

5.2.7. The Contractor shall conduct and document, in the Department prescribed case management system, a semiannual follow-up with individuals eighteen (18) and older for all HCBS waivers with a Waiting List timeline of "As Soon As Available" (ASAA) or "see date" to update changes in demographic information and ensure the individual is appropriately identified on waiting lists for the program and services the individual is eligible to receive.

5.2.7.1. PERFORMANCE STANDARD: One hundred percent (100%) of HCBS individuals eighteen (18) and older with an ASAA or "see date" timeline on the Waiting List contacted semiannually.

5.2.8. The Contractor shall conduct and document, in the Department prescribed case management system, an annual follow-up with individuals and families with a timeline of "safety net" or individuals waiting for the Family Support Services Program (FSSP) or individuals waiting for State SLS services to update changes in demographic information and ensure that the individual is appropriately identified on waiting lists for the program and services the individual is eligible to receive.

5.2.8.1. The Contractor shall update the Department prescribed system with changes in demographic or other information within ten (10) Business Days of any change.

5.3. Program Enrollment from the Waiting List

5.3.1. The Contractor shall select individuals from the Waiting List to enroll into State-SLS by "order of selection date".

5.3.2. When an enrollment becomes available from the HCBS-DD Waiting List, the Department shall notify the Contractor of the person that will be offered an enrollment by the order of selection date.

5.3.2.1. The Contractor shall notify the individual of the enrollment offer within five (5) Business Days. The Contractor shall make three (3) attempts to contact the individual within a thirty (30) calendar day period. The Contractor shall document in the Departments prescribed system all attempts to contact the individual for enrollment offer. If the individual does not respond to the offer of enrollment the Contractor shall change the individuals waiting list timeline to Safety Net.

5.3.3. In cooperation with the local Family Support Council, the Contractor shall develop procedures for determining how and which individuals on the Waiting List will be enrolled into the Family Support Services Program (FSSP).

5.3.4. The Contractor shall remove individuals from the Waiting List or change an individual's Waiting List timeline to the "safety net" or "see date" category, when an enrollment is authorized to the individual and the individual or guardian refuses enrollment within ten (10) Business Days of the individual or guardian's response or the last attempt.

5.3.4.1. If an individual or guardian declines an enrollment, the Contractor shall enter the reason for declining an enrollment into the Department prescribed system Waiting List record within ten (10) Business Days of the enrollment being declined.

5.3.5. The Contractor shall provide information and referrals to Clients, families and/or guardians at the time of the semiannual follow-up.

5.3.6. The Contractor shall continue to refer Clients on the Waiting List to other community resources that may be available and inform Clients of their choice of providers, waivers, and services.

5.3.7. The Contractor shall provide assistance completing Medicaid financial applications or other public assistance program applications at the time assistance is requested by the individual, family, or guardian.

5.4. Compilation and Correction of Waiting List Data

5.4.1. The Contractor shall correct one hundred percent (100%) of Waiting List data errors, discovered by the Department within ten (10) Business Days of notification from the Department of an error.

5.4.1.1. PERFORMANCE STANDARD: One hundred percent (100%) of Waiting List data corrected with ten (10) Business Days of notification.

5.5. Authorization and Reporting of HCBS-DD Enrollments

5.5.1. The Contractor shall obtain prior authorization from the Department for all enrollments into the HCBS-DD waiver.

5.5.2. In accordance with 10 CCR 2505 Section 8.500.7.E, the Contractor shall inform the Department of all vacancies in the HCBS-DD waiver. Vacancies shall be submitted to the Department within ten (10) Business Days.

5.5.2.1. DELIVERABLE: HCBS-DD Vacancy Reporting

5.5.2.2. DUE: Within ten (10) Business Days of vacancy.

5.5.3. The Contractor shall report all enrollment dates or changes to enrollment status for the HCBS-DD waiver to the Department within ten (10) Business Days.

5.5.3.1. DELIVERABLE: HCBS-DD Enrollment Date and Enrollment Change Reporting

5.5.3.2. DUE: Within ten (10) Business Days of enrollment or change to enrollment status.

6. STATE GENERAL FUND PROGRAMS

6.1. The Contractor shall abide by and perform its duties and obligations in conformity with relevant federal law, all pertinent federal regulations, state law, rules and regulations of the Department of Health Care Policy and Financing at 10 C.C.R. 2505-10 and the Colorado Department of Public Health and Environment at 6 C.C.R. 1011 which include, but are not limited to:

6.1.1. Colorado Revised Statute, Title 25.5, Article 10.

6.1.2. Colorado Department of Health Care Policy and Financing Regulation at 10 C.C.R. 2505-10.

6.1.3. Colorado Department of Health Care Policy and Financing, Office of Community Living written communications.

6.1.4. Colorado Department of Public Health and Environment at 6 C.C.R. 1011-1.

6.2. The Contractor shall comply with existing policies, procedures and guidelines issued by state agencies.

6.2.1. For any policies, procedures, and guidelines issued during the Contract term, the Contractor shall comply with the policy, procedure or guideline as of its effective date, unless otherwise specified by the Department or another regulatory agency.

6.2.2. The Contractor's agency policies, procedures, and practices shall comply with 10 C.C.R. 2505-10, and shall be reviewed by its Board of Directors to remain in compliance.

6.3. Community Centered Board Designation

6.3.1. Subject to available appropriations, the Department shall provide or purchase authorized services and supports for individuals with intellectual and developmental disabilities pursuant to §25.5-10-206, C.R.S. by contracting with the Community Centered Board (CCB) under §25.5-10-209, C.R.S. and have the Contractor purchase or provide services for eligible persons under the provisions of §25.5-10-211et seq., C.R.S. In accordance with applicable statutes and rules, the Contractor, has been designated as the Community Centered Board serving Arapahoe and Douglas County and the City of Aurora.

6.4. Single Point of Entry

6.4.1. The Contractor shall be the single point of entry for persons residing in its designated service area for state funded services and supports authorized pursuant to C.R.S. Title 25.5, Article 10, to individuals with intellectual and developmental disabilities.

6.5. Service Support Requirements

6.5.1. The Contractor shall administer and purchase or provide services and supports for persons determined to be eligible under this Contract. The Contractor shall not be responsible for guaranteeing services to eligible persons under this Contract in the event that there are no Providers available to provide services.

6.5.2. The Contractor shall ensure that written notifications are provided to Clients informing them of their rights and the potential influence the Contractor has on the Service Planning process, such as:

6.5.2.1. Exercising free choice of providers.

6.6. The Contractor shall provide the Client and/or guardian with written information about how to file a provider agency complaint as well as how to make a complaint against the Contractor.

6.7. The Contractor shall have procedures for a dispute resolution process, as described in 10 C.C.R. 2505-10, Section 8.605.2, when an action to terminate, change, reduce or deny services is imitated by the provider service agency.

6.8. Client Records

6.8.1. The Contractor shall comply with reporting and billing policies and procedures established by the Department, participate in the State's management information systems and adhere to the information system requirements provided by the Department for these systems. These systems include but are not limited to: the DDD Web Application Portal/Community Contract and Management System (CCMS).

6.8.2. The Contractor shall:

6.8.2.1. Maintain client records within the Department prescribed system for the purposes of Client information management.

6.8.2.2. Maintain accurate and detailed documentation of State General Fund case management activities required under this Contract. All documentation must be made available to the Department upon request within ten (10) Business Days.

6.8.2.3. Ensure all enrollments into the State General Funded programs comply with all requirements in Section 5.2.4 of this Contract and are entered into the Department prescribed system with ten (10) Business Days of the enrollment.

6.8.2.4. Enter all Client terminations from the State General Fund programs into the Department prescribed system within ten (10) Business Days of the termination.

6.9. State General Fund Program Expenditure Reporting

6.9.1. The Contractor shall report all State SLS, FSSP, and OBRA-SS expenditures on a Department created template, or a template approved by the Department. Expenditure reports shall include all expenditures for the full State Fiscal Year.

6.9.1.1. DELIVERABLE: State General Fund Expenditure Reports

6.9.1.2. DUE: Monthly, within thirty (30) days of the end of each month

6.10. State Supported Living Services (State SLS)

6.10.1. The Contractor shall operate the State SLS program pursuant to 10 C.C.R. 2505 Section 8.501.

6.10.2. The Contractor shall not add surcharges to the purchase of covered services for State SLS.

6.10.3. The Contractor shall provide a list of qualified providers for all services to Clients and families, during the State SLS Individual Support Plan process, and to other interested parties upon request.

6.10.4. The Contractor shall provide or subcontract to provide community services to individuals enrolled in State SLS who meet the intellectual and developmental disabilities criteria and the eligibility requirements for the specific program required in 10 C.C.R. 2505-10 Section 8.501.

6.10.5. The Department will notify the Contractor of the minimum number of individuals that shall be served through State SLS prior to the start of each State Fiscal Year (SFY). The Contractor may choose to enroll more individuals in State SLS than authorized, ensuring all individuals can be served within the funding allocated.

6.10.6. The Contractor shall serve one hundred percent (100%) of the number of State SLS enrollments authorized by the Department.

6.10.6.1. PERFORMANCE STANDARD: One hundred percent (100%) of persons specified by the Department.

6.10.7. The Contractor shall report all transfers of State SLS services from one Contract agency to another to the Department within ten (10) Business Days of the date of transfer on the Department prescribed template.

6.10.7.1. DELIVERABLE: Notification of State SLS transfers

6.10.7.2. DUE: Within ten (10) Business Days of the date of transfer.

6.11. State SLS Individual Support Plans

6.11.1. The Contractor shall develop a State SLS Individual Support Plan (State SLS ISP) within ten (10) business days after an initial Individualized Support Plan (ISP) meeting for those individuals not established with the contractor and with a Developmental Disability determination at time of referral. The Contractor shall have up to 10 (ten) business days to complete additional meetings and/or assessments that allow for the creation of the State SLS ISP during this time.

6.11.2. The contractor shall develop a State SLS ISP within ten (10) business days after a referral has been made to a State General Fund program. The Contractor shall have up to (ten) business days to completed additional meetings and/or assessments that allow for the creation of the State SLS ISP during this time.

6.11.3. The Contractor shall ensure that one hundred percent (100%) of the State SLS ISPs are developed within 10 (ten) business days of the individual's referral to a State General Fund program or after the initial ISP meeting.

6.11.3.1. PERFORMANCE STANDARD: One hundred percent (100%) of the State SLS ISPs are developed within 10 (ten) business days of the individual's referral to a State General Fund program or after the initial ISP meeting.

6.11.4. The Contractor shall make all State SLS ISPs available to the Department upon request.

6.12. State SLS Direct Services

6.12.1. The Contractor shall utilize appropriated State SLS Direct Service funds to provide services to support individuals with an intellectual and developmental disability living in the community in accordance with 10 C.C.R. 2505-10 Section 8.501.

6.12.2. The Contractor shall not utilize State SLS Direct Service funding to support case management or other general and administrative duties of the Contractor.

6.13. State SLS Case Management

6.13.1. The Contractor shall utilize appropriated Case Management Funds to perform case management duties in accordance with 10 C.C.R. 2505-10 Section 8.501.5(B) to include:

6.13.1.1. Developing a State SLS Individual Support Plan

6.13.1.2. Maintaining the determination of eligibility for services and supports.

6.13.1.3. Providing service and support coordination.

6.13.1.4. Monitoring all services and supports delivered pursuant to the State SLS Individual Support Plan.

6.14. State SLS Management and General Administration

6.14.1. The Contractor shall utilize appropriated Management and General Administration Funds to perform activities for the financial and corporate administration of the agency specific to State SLS required by the Department.

6.14.2. The Contractor shall ensure that Management and General Administration Funds do not exceed fifteen percent (15%) of direct service and case management expenditures.

6.15. State SLS Record Maintenance

6.15.1. When the Contractor acts as the service provider, it shall:

6.15.1.1. Maintain supporting documentation capable of substantiating all expenditures and shall make them available to the Department upon request as required in 10 C.C.R. 2505-10 Section 8.130.2.

6.15.1.1.1. Receipts, invoices, and service logs must contain, at a minimum: Client name, service description, provider name, first and/or last date of service, service rate, and amount due or paid.

6.15.1.1.2. If the Contractor does not maintain supporting documentation in the required format for all services rendered, the Department may recover these funds pursuant to 10 C.C.R. 2505-10 Section 8.076.

6.15.2. When the Contractor purchases services through a service provider not affiliated with the Contractor, the Contractor shall:

6.15.2.1. Maintain receipts or invoices from the service provider and documentation demonstrating that the provider was paid by the Contractor.

6.15.2.1.1. Receipts or invoices must contain, at a minimum: Client name, service description, provider name, first and/or last date of service, service rate, and amount due or paid.

6.15.2.2. Through ongoing monitoring, the Contractor shall ensure all services reimbursed by the Contractor are rendered by service providers in accordance with the State SLS Individual Support Plan.

6.15.2.2.1. The Contractor shall attempt to resolve any discrepancies with the service provider directly.

6.15.2.2.2. The Contractor shall notify the Department of any instances of suspected fraud or waste, and any supporting documentation at the time of discovery.

6.15.2.2.3. The Contractor shall notify all service providers that all records and supporting documentation related to services rendered through State SLS are subject to inspection and recovery by the Department pursuant to 10 C.C.R. 2505-10 Section 8.076.

6.16. Family Support Services Program (FSSP)

6.16.1. The Contractor shall provide or purchase Family Support Services pursuant to §25.5-10-305, C.R.S. and 10 C.C.R. 2505-10 Section 8.613.

6.16.2. The Contractor shall establish and maintain a Family Support Council pursuant to §25.5-10-304, C.R.S. and 10 C.C.R. 2505-10 Section 8.613.

6.16.3. The Contractor shall not charge families to provide direct services and case management for Family Support Services.

6.16.4. The Contractor shall provide a list of qualified providers for all services to applicants, Client(s) and families, during the individualized planning process, and to other interested parties upon request.

6.16.5. The Contractor shall adhere to the Department of Human Services' response to Senate Bill 03-258, Legislative Footnote 89, prioritization of families 'most in need' which identifies five (5) parameters to assure that families most in need are served with state funds including: the individual's disability and overall care needs, the individual's behavior, the families composition and stability, access to support networks and access to resources.

6.16.6. **Family Support Plans (FSP)**

6.16.6.1. The Contractor shall develop a Family Support Plan (FSP) within ten (10) Business Days after an initial Individualized Support Plan (ISP) meeting for those individuals not established with the Contractor and with a Developmental Disability Determination at the time of referral. The contractor shall have up to ten (10) Business Days to completed additional meetings and/or assessments that allow for the creation of the FSP during this time.

6.16.6.2. The Contractor shall develop an FSP within ten (10) Business Days after a referral has been made to a State General Fund program. The contractor shall have up to ten (10) Business Days to completed additional meetings and/or assessments that allow for the creation of the FSP during this time.

6.16.6.3. The Contractor shall ensure that one hundred percent (100%) of the FSPs are developed within ten (10) Business Days of the individual's referral to a State General Fund program or after the initial ISP meeting.

6.16.6.3.1. PERFORMANCE STANDARD: One hundred percent (100%) of the FSPs are developed within ten (10) Business Days of the individual's referral to a State General Fund program or after the initial ISP meeting.

6.16.6.4. The Contractor shall make all FSPs available to the Department upon request.

6.16.7. Direct Services

6.16.7.1. The Contractor shall utilize appropriated FSSP Direct Service funds to reimburse or advance funds to families for expenses that are incurred as a result of supporting the family and/or individual with an intellectual or developmental disability or delay living in the family home.

6.16.7.2. The Contractor shall utilize FSSP Direct Service funds to provide funding to families for expenses referenced in §25.5-10-305(a-j), C.R.S.

6.16.7.3. The Contractor shall not use FSSP Direct Service funding to support case management or management and general and administrative duties of the Contractor.

6.16.8. FSSP Case Management

6.16.8.1. The Contractor shall utilize appropriated Case Management Funds to:

6.16.8.1.1. Maintain the determination of eligibility for services and supports.

6.16.8.1.2. Develop an FSP

6.16.8.1.3. Provide service and support coordination.

6.16.8.1.4. Monitor all services and supports delivered pursuant to the FSP.

6.16.9. FSSP Management and General Funds

6.16.9.1. The Contractor shall utilize appropriated Management and General Administration Funds to perform activities for the financial and corporate administration of the agency specific to FSSP required by the Department.

6.16.9.2. The Contractor shall ensure that Management and General Administration Funds shall not exceed fifteen percent (15%) of direct service and case management expenditures.

6.16.10. FSSP Records Maintenance

6.16.10.1. The Contractor shall maintain supporting documentation capable of substantiating all expenditures and reimbursements made to providers, Clients and/or families.

6.16.10.2. When the Contractor purchases services or items directly for Clients and/or families, the Contractor shall:

6.16.10.2.1. Maintain receipts or invoices from the service provider and documentation demonstrating that the provider was paid by the Contractor.

6.16.10.2.1.1. Receipts or invoices must contain, at a minimum: Client and/or family name, provider name, first and/or last date of service, item(s) or service(s) purchased, item(s) or service(s) cost and amount due or paid.

6.16.10.3. When the Contractor reimburses Clients and/or families for services or items, the Contractor shall:

6.16.10.3.1. Ensure the Client and/or family provides the Contractor with receipts or invoices prior to reimbursement.

6.16.10.3.2. Maintain receipts or invoices from the Clients and/or family, and documentation demonstrating that the Client and/or family was reimbursed by the Contractor.

6.16.10.3.3. Ensure all receipts or invoices provided by the Clients and/or family contain, at a minimum: Client and/or family name, provider name, first and/or last date of service, item(s) or service(s) purchased, items(s) or service(s) cost, and amount paid.

6.16.10.4. When the Contractor provides funding to Clients and/or families for the purchase of services or items in advance, the Contractor shall:

6.16.10.4.1. Establish policies and procedures outlining the Contractor's processes for advancing funds, ensuring supporting documentation is received by the Client and/or family, and remedial action steps the Contractor will take if supporting documentation is not received. The policies and procedures shall identify timelines and shall be made available to the Department upon request.

6.16.10.4.2. Notify the Client and/or family that they are required to submit invoices or receipts to the Contractor of all purchases made prior to the close of the State Fiscal Year.

6.16.10.4.3. Ensure the Client and/or family provides the Contractor with receipts or invoices.

6.16.10.4.4. Maintain receipts or invoices from the Clients and/or family, and documentation demonstrating that the Client and/or family was provided with advanced funds by the Contractor.

6.16.10.4.4.1. Ensure all receipts or invoices provided by the Clients and/or family contain, at a minimum: Client and/or family name, provider name, first and/or last date of service, item(s) or service(s) purchased, items(s) or service(s) cost, and amount paid.

6.16.10.4.5. The Contractor shall ensure the documentation received by the Client and/or family, indicates that the amount was paid.

6.16.10.4.6. If a Client and/or family does not submit invoices or receipts, the Contractor shall document all attempts to obtain receipts or paid invoices and any remedial action taken. The Contractor shall make all supporting documentation available to the Department upon request.

6.16.10.4.7. If the Contractor cannot provide supporting documentation as described in this section, the Department may recover any unsubstantiated expenditures from the Contractor.

6.16.11. Omnibus Budget Reconciliation Act of 1987 Specialized Services (OBRA-SS)

6.16.11.1. The Contractor shall provide or arrange for the provision of OBRA-SS to any individual identified by the Pre-Admission Screening and Resident Review (PASRR) Level II Assessment to determine the need for placement in to a nursing facility and need for additional specialized services. The Contractor shall ensure that OBRA-SS shall be related to the individual's intellectual or developmental disability or related condition and individualized to the resident's needs.

6.16.11.2. The contractor will complete PASRR Level II Evaluations and submit to the State Intellectual Disability Authority (SIDA) within eight (8) Business Days of being notified of the need for an evaluation.

6.16.11.3. The Contractor shall not utilize OBRA-SS funds to purchase mental health related services. The Contractor shall seek provision of, or payment for, mental health services for those individuals through the Medicaid-funded mental health system or other local sources of funding.

6.16.11.4. The Contractor shall not utilize or authorize OBRA-SS funds to provide or purchase services and supports that are covered and provided by the nursing facility.

6.16.11.5. The Contractor shall enroll individuals into OBRA-SS, as long as the individual resides in a nursing facility.

6.16.11.5.1. Upon approval of the nursing facility admission by the State Intellectual Disability Authority (SIDA), the Contractor shall send referrals for OBRA-SS within ten (10) Business Days from the date of nursing facility admission.

6.16.11.6. The Contractor shall maintain Client records within the Department prescribed system. All changes to OBRA-SS enrollments, shall be entered into the Department prescribed system within ten (10) Business Days of the change. The Department may adjust the number of authorized enrollments based on fluctuating enrollments. If the individual does not receive OBRA-SS within one (1) calendar month the contractor shall inactivate the client's in the Department prescribed system.

6.16.12. OBRA-SS Individual Support Plans

6.16.12.1. The Contractor shall develop an OBRA-SS Individual Support Plan within ten (10) Business Days after an initial Individualized Support Plan (ISP) meeting for those individuals not established with the contractor and with a Developmental Disability determination at time of referral. The Contractor shall have up to ten (10) Business Days to complete additional meetings and/or assessments that allow for the creation of the OBRA-SS ISP during this time.

6.16.12.2. The Contractor shall develop an OBRA-SS Individual Support Plan within ten (10) Business Days after a referral has been made to a State General Fund program. The Contractor shall have up to ten (10) Business Days to completed additional meetings and/or assessments that allow for the creation of the OBRA-SS ISP during this time.

6.16.12.3. The Contractor shall ensure that one hundred percent (100%) of the OBRA-SS Individual Support Plans are developed within ten (10) business days of the individual's referral to a State General Fund program or after the initial ISP meeting.

6.16.12.3.1. PERFORMANCE STANDARD: One hundred percent (100%) of the OBRA-SS ISPs are developed within ten (10) business days of the individual's referral to a State General Fund program or after the initial ISP meeting.

6.16.12.4. The Contractor shall make all OBRA-SS Individual Support Plans available to the Department upon request.

6.16.13. OBRA-SS Direct Services

6.16.13.1. The Contractor shall utilize appropriated Direct Service funds to provide services to support individuals with intellectual and developmental disabilities living in a nursing facility. The Contractor shall not utilize Direct Service funding for services that are

provided by the Nursing Facility through Medicaid reimbursement. Services eligible through OBRA include:

6.16.13.1.1. Assistive Technology

6.16.13.1.2. Behavioral Consultation

6.16.13.1.3. Behavioral Counseling

6.16.13.1.4. Behavioral Counseling Group

6.16.13.1.5. Behavioral Plan Assessment

6.16.13.1.6. Day Habilitation - Specialized Habilitation

6.16.13.1.7. Day Habilitation - Supported Community Connections

6.16.13.1.8. Dental – Basic

6.16.13.1.9. Dental – Major

6.16.13.1.10. Mileage

6.16.13.1.11. Other Public Conveyance

6.16.13.1.12. Recreational Facility Fees/Passes

6.16.13.1.13. Job Coaching – Individual

6.16.13.1.14. Job Coaching – Group

6.16.13.1.15. Job Development – Individual

6.16.13.1.16. Job Development – Group

6.16.13.1.17. Job Placement

6.16.13.1.18. Vision

6.16.13.2. Services must be provided in accordance with the service definitions found in 10 C.C.R. 2505-10 Section 8.500.94.B.

6.16.13.3. The Contractor shall not utilize Direct Service funding to support case management or other general and administrative duties of the Contractor.

6.16.14. OBRA-SS Case Management

6.16.14.1. The Contractor shall utilize appropriated Case Management Funds to:

6.16.14.1.1. Maintain the determination of eligibility for services and supports.

6.16.14.1.2. Develop an OBRA-SS Support Plan

6.16.14.1.3. Provide service and support coordination.

6.16.14.1.4. Monitor all services and supports delivered pursuant to the OBRA-SS Support Plan.

6.16.14.1.5. Ensure there is not a duplication of authorized services with the services provided in the nursing facility.

6.16.15. OBRA-SS Management and General

6.16.15.1. The Contractor shall utilize appropriated Management and General Administration Funds to perform activities for the financial and corporate administration of the agency specific to OBRA-SS required by the Department.

6.16.15.2. The Contractor shall ensure that Management and General Administration Funds shall not exceed fifteen percent (15%) of direct service and case management expenditures.

6.16.16. OBRA-SS Records Maintenance

6.16.16.1. When the Contractor acts as the service provider, it shall:

6.16.16.1.1. Maintain supporting documentation capable of substantiating all expenditures and shall make them available to the Department upon request as required in 10 C.C.R. 2505-10 Section 8.130.2.

6.16.16.1.1.1. Receipts or invoices must contain, at a minimum: Client name, service description, provider name, first and/or last date of service, service rate, and amount due or paid.

6.16.16.1.1.2. If the Contractor does not maintain supporting documentation in the required format for all services rendered, the Department may recover these funds pursuant to 10 C.C.R. 2505-10 Section 8.076.

6.16.16.2. When the Contractor purchases services through a service provider not affiliated with the Contractor, the Contractor shall:

6.16.16.2.1. Maintain receipts or invoices from the service provider and documentation demonstrating that the provider was paid by the Contractor.

6.16.16.2.1.1. Receipts or invoices must contain, at a minimum: Client name, service description, provider name, first and/or last date of service, service rate, and amount due or paid.

6.16.16.3. Through ongoing monitoring, the Contractor shall ensure all services reimbursed by the Contractor are rendered by service providers in accordance with the OBRA-SS Individual Support Plan.

6.16.16.3.1. The Contractor shall attempt to resolve any discrepancies with the service provider directly.

6.16.16.3.2. The Contractor shall notify the Department of any instances of suspected fraud and any supporting documentation at the time of discovery.

6.16.16.3.3. The Contractor shall notify all service providers that all records and supporting documentation related to services rendered through OBRA-SS are subject to inspection and recovery by the Department pursuant to 10 C.C.R. 2505-10 Section 8.076.

6.17. Compilation and Correction of Data

6.17.1. The Contractor shall correct one hundred percent (100%) of data errors, discovered by the Department, and confirm the accuracy of the data it enters into the Department prescribed system within ten (10) Business Days of notification from the Department of an error.

6.17.1.1. PERFORMANCE STANDARD: One hundred percent (100%) of data corrected within ten (10) Business Days of notification.

6.18. Mental Health Services Prohibited

6.18.1. The Contractor shall not utilize state funds to purchase mental health related services for individuals with intellectual disabilities who are Medicaid eligible and who also have a Medicaid covered mental health diagnosis.

6.18.2. The Contractor shall seek provision of, or payment for, mental health services for those individuals through the Medicaid funded mental health system or other local sources of funding.

7. MEDICAID PROGRAMS

7.1. Rules, regulations and references:

7.1.1. The Contractor shall abide by and perform its duties and obligations in conformity with relevant federal law, all pertinent federal regulations, state law, rules and regulations of the Department of Health Care Policy and Financing, Colorado Department of Human Services, and the Colorado Department of Public Health and Environment which include but are not limited to:

7.1.1.1. Colorado Revised Statute, Title 25.5, Article 10.

7.1.1.2. Colorado Department of Health Care Policy and Financing, Office of Community Living written communications.

7.1.1.3. Colorado Department of Public Health and Environment at 6 C.C.R. 1011-1.

7.1.1.4. Colorado Department of Human Services 12 C.C.R. 2509-8 7.700.

7.1.1.5. The Contractor shall comply with all State Medicaid regulations promulgated by the Department. These regulations include, but are not limited to, Department regulations regarding:

7.1.1.5.1. The HCBS-DD waiver, 10 C.C.R. 2505-10 Sections 8.500 to 8.500.80,

7.1.1.5.2. The HCBS-SLS waiver, 10 C.C.R. 2505-10 Sections 8.500.90 to 8.500.102,

7.1.1.5.3. The HCBS-CES waiver, 10 C.C.R. 2505-10 Section 8.503, et seq.,

7.1.1.5.4. The HCBS-CHRP waiver, 10 C.C.R. 2505-10 Section 8.508,

7.1.1.5.5. Long Term Care, 10 C.C.R. 2505-10 Sections 8.400 to 8.401,

7.1.1.5.6. Recipient Appeals, 10 C.C.R. 2505-10 Section 8.507, and

7.1.1.5.7. Services for Individuals with Intellectual and Developmental Disabilities, 10 C.C.R. 2505-10 Sections 8.600, et seq.

7.1.2. The Contractor shall perform its obligations in conformity with the provisions of Title XIX of the Social Security Act and other applicable federal and state laws and regulations.

7.1.3. The Contractor shall ensure applicant and Client rights are protected in accordance with Title XIX of the Social Security Act, other applicable federal and state laws, and Department regulations.

7.2. Medicaid Administrative Functions

7.2.1. Intake and Referral

7.2.1.1. The Contractor shall provide information to all individuals regarding the programs and services available for individuals with I/DD.

7.2.1.2. The Contractor shall screen individuals to determine if the individual may be eligible for programs and services for individuals with I/DD.

7.2.1.3. For individuals seeking an HCBS program, the Contractor shall enter a referral into the Department's prescribed system.

7.2.1.4. All referrals are entered into the Department's prescribed system within three (3) Business Days from the date of referral.

7.2.2. Level of Care Evaluation and Determination

7.2.2.1. The Contractor shall provide staff that meet the qualifications set forth in state statutes and regulations to perform all level of care evaluations and determinations.

7.2.2.2. The Contractor shall conduct an Initial Level of Care Evaluation and Determination for all new applicants to HCBS-DD, HCBS-SLS, HCBS-CES, and HCBS-CHRP waivers, and the Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID). For individuals already enrolled in an HCBS waiver and seeking the HCBS-DD waiting list, the Contractor may either create an Unscheduled Review copy of the most recent Level of Care Evaluation or may conduct a new Level of Care Evaluation for waiting list approval.

7.2.2.2.1. Unscheduled Review copies may be conducted via the telephone rather than in person.

7.2.2.3. The Contractor shall conduct an Initial Level of Care Evaluation and Determination in accordance with the following timelines:

7.2.2.3.1. Ten (10) Business Days for individuals residing in the community, upon completion of the DD determination, when the individual requests HCBS waiver services, and upon verifying Medicaid eligibility or submission of a Medicaid application.

7.2.2.3.2. Five (5) Business Days from the date of referral for individuals residing in a nursing facility or ICF-IID.

7.2.2.3.3. Two (2) Business Days from the date of referral for individuals residing in a hospital.

7.2.2.3.4. The Contractor shall enter and verify the evaluation into the Benefits Utilization System (BUS) within ten (10) Business Days of completing the evaluation.

7.2.2.3.4.1. PERFORMANCE STANDARD: Initial Level of Care Evaluation and Determination

7.2.2.3.4.2. DUE: Within ten (10) Business Days after completing the Evaluation

7.2.2.4. The Contractor shall verify that an individual needs an institutional level of care by receiving a Professional Medical Information Page (PMIP) signed by a medical professional and dated no earlier than six (6) months from the certification start date and no later than ninety (90) days from the evaluation date of an Initial Level of Care Evaluation and Determination; and within ninety (90) calendar days of the certification start date and before the certification end date for a Continued Stay Review (CSR) for all applicants and individuals currently receiving services through the HCBS-DD, HCBS-SLS, HCBS-CES, and HCBS-CHRP waivers, and the Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID).The Contractor shall conduct all Level of Care Evaluations face-to-face with the individual, at minimum, and in the place where the individual resides.

7.2.2.5. The Contractor shall conduct a Continued Stay Review every twelve (12) months for Clients who are continually enrolled for the HCBS-DD, HCBS-SLS, HCBS-CES, and HCBS-CHRP waivers. The Contractor shall enter the review into the BUS within ten (10) Business Days of completing the evaluation.

7.2.2.5.1. PERFORMANCE STANDARD: Continued Stay Review

7.2.2.5.2. DUE: Within ten (10) Business Days after completing the Review

7.2.2.6. The Contractor shall enter and verify the Continued Stay Review into the BUS within ten (10) Business Days of completing the assessment.

7.2.2.7. Failure by the Contractor to complete the annual Level of Care Evaluation and Determination shall cause a break in payment authorization for waiver services for the Client.

7.2.2.8. The Contractor shall ensure that this break in payment authorization shall not affect the continued delivery of waiver services to the Client. Service costs incurred during a break in payment authorization are non-allowable costs.

7.2.2.9. The Contractor shall bear the sole financial responsibility of all costs incurred during this break in payment authorization and shall be responsible for reimbursing providers for any loss in funding as a result of the break in payment authorization.

7.2.2.9.1. The Contractor shall notify all providers of the discontinuation of services no later than eleven (11) calendar days prior to the certification end date that services shall not be authorized past the certification end date.

7.2.3. Supports Intensity Scale-A Assessment

7.2.3.1. The Contractor shall conduct a Supports Intensity Scale-A (SIS) assessment for all HCBS-DD and HCBS-SLS enrollments and reassessments when criteria set forth at 10 C.C.R. 2505-10 Section 8.612.1.H are met. The Contractor shall not be reimbursed for a SIS assessment prior to the individual being determined eligible for a waiver through the Level of Care Evaluation and Determination and confirmation of financial eligibility. The Contractor shall not be reimbursed for SIS reassessments without prior authorization from the Department to conduct the SIS reassessment.

7.2.3.2. The Contractor shall conduct all initial SIS Assessments within forty-five (45) calendar days from the date of the Initial Level of Care Evaluation and Determination. The Contractor shall conduct all SIS reassessments within forty-five (45) calendar days from the date of approval from the Department.

7.2.3.3. The Contractor shall enter the SIS Assessment into SIS-A Online within thirty (30) calendar days of completing the assessment.

7.2.3.3.1. PERFORMANCE STANDARD: SIS-A Assessment

7.2.3.3.2. DUE: Within thirty (30) calendar days of completing the assessment

7.2.4. HCBS-CHRP Support Need Level Assessment

7.2.4.1. The Contractor shall conduct a Support Need Level Assessment for all HCBS-CHRP enrollments and re-assessments as set forth by the Department's prescribed guidelines.

7.2.4.2. The Contractor shall conduct an initial Support Need Level Assessment within forty-five (45) calendar days from the date of the Initial Level of Care Evaluation and Determination. The Contractor shall conduct all reassessments as necessary client's needs change.

7.2.4.3. The Contractor shall maintain all Support Need Level Assessments and supporting documentation and make it available to the Department upon request.

7.2.4.3.1. PERFORMANCE STANDAND: Support Need Level Assessment

7.2.4.3.2. DUE: Within ten (10) Business Days of the Department's request

7.2.5. Management Information Systems and Reporting

7.2.5.1. The Contractor shall comply with reporting and billing policies and procedures established by the Department, participate in the State's management information systems and adhere to the information system requirements provided by the Department for these systems. These systems include but are not limited to: the DDD Web Application Portal/Community Contract and Management System (CCMS) and the Benefits Utilization System (BUS).

7.2.5.2. The Contractor shall:

7.2.5.2.1. Utilize the Department prescribed system for the purpose of Client information management.

7.2.5.2.2. Provide accurate documentation of administrative activities required under this Contract. Timely documentation shall be completed within ten (10) Business Days and entered into the Department prescribed system.

7.2.6. Appeals

7.2.6.1. The Contractor shall represent the Department and defend any adverse action in accordance with 10 C.C.R. 2505-10 Sections 8.057 et. seq in all appeals initiated during this Contract. The Contractor shall coordinate with the Department for any adverse actions necessitating Department attendance at a hearing.

7.2.6.2. The Contractor shall represent its actions at Administrative Law Judge hearings when the Client appeals a denial or adverse action affecting Client's program eligibility or receipt of services.

7.2.6.3. The Contractor shall process appeals in accordance with schedules published by the State of Colorado Office of Administrative Courts and rules promulgated by the Department.

7.2.6.4. The Contractor shall submit exceptions when applicable and include all relevant information.

7.2.6.5. The Contractor shall cooperate with the Office of the State Attorney General for any case in which it is involved.

8. ACCOUNTING

8.1. The Contractor's accounting methods shall conform to the standards of Generally Accepted Accounting Principles (GAAP), and any updates thereto, throughout the Term of the Contract.

8.2. The Contractor shall establish and maintain internal control systems and standards that apply to the operation of the organization.

8.3. The Contractor shall establish any necessary cost accounting systems to identify the application of funds and record the amounts spent.

8.4. The Contractor shall document all transactions and funding sources and this documentation shall be available for examination by the Department within ten (10) Business Days of the Department's request.

8.4.1. DELIVERBALE: Transaction and Funds Documentation

8.4.2. DUE: Within ten (10) Business Days of the Department's Request

9. SUBRECIPIENT STATUS AND REQUIREMENTS

9.1. The Contractor has been determined to be a Subrecipient under 2 C.F.R. Chapter I, Chapter II, Part 200 et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule (the "Final Rule"), released December 26, 2013 and subsequently updated, and thus shall be required to follow all requirements and guidance contained in the Final Rule.

9.2. Single Audits

9.2.1. Under the Final Rule, all Non-Federal Entities, as defined in the Final Rule, expending $750,000.00 or more from all federal sources (direct or from pass-through entities) must have a single or program-specific audit conducted for that year in accordance with Subpart F of the Final Rule.

9.2.2. The Contractor shall notify the State when expected or actual expenditures of federal assistance from all sources equal or exceed $750,000.00.

9.2.3. If the expected or actual expenditures of federal assistance from all sources do not equal or exceed $750,000.00 the Contractor shall provide an attestation to the State that they do not qualify for a Single Audit.

9.2.4. Pursuant to the Final Rule §200.512 (a)(1) the Single Audit must be completed and submitted to the Department within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. If the due date falls on a Saturday, Sunday, or federal holiday, the reporting package is due the next Business Day.

9.2.4.1. DELIVERABLE: Single Audit

9.2.4.2. DUE: Within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period

9.2.5. If the Contractor did not receive enough federal funds to require a Single Audit, the Contractor shall submit an attestation form stating a Single Audit was not required utilizing the Department's template.

9.2.5.1. DELIVERABLE: Attestation Form

9.2.5.2. DUE: Within the earlier of thirty (30) calendar days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period

9.2.6. The audit period shall be the Contractor's fiscal year.

10. COMPENSATION

10.1. State Funded Program Compensation

10.1.1. In consideration for the services provided by the Contractor under the terms of this Contract, the Department shall reimburse the Contractor as follows:

10.1.2. The Department shall pay to the Contractor the amount due for State-funded services, as allocated.

10.1.3. The Contractor shall receive payment from available State funds in an amount not to exceed the amount listed in Section 6, Modifications, Subsection B, Maximum Amount, of this Contract, for the purchase of services under all program contracts. The liability of the State,

at any time, for such payment shall be limited to the unexpended amount remaining of such funds.

10.1.4. Increases or decreases in the amount of State funding during the term of this Contract may be made by written notice by the State to the Contractor or by amendment of the Contract for the following circumstances:

10.1.4.1. If necessary to fully utilize program appropriations.

10.1.4.2. Adjustments to reflect prior year final contract utilization and current year expenditures.

10.1.4.3. Supplemental appropriation changes resulting in an increase or decrease in the amounts originally appropriated and available for the purposes of this program.

10.1.4.4. Closure of programs and/or termination of related contracts.

10.1.4.5. Delay or difficulty in implementing new programs or services.

10.1.4.6. Other special circumstances as deemed necessary by the Department.

10.1.4.7. Client receiving services transfers from the Contractor to another CCB

10.1.5. Payments shall be made in accordance with rates determined by the Department and may be amended during the term of the contract. When the Contractor's maximum allocation of State money has been paid to the Contractor, no additional funds shall be provided under this Contract.

10.1.6. Payment pursuant to this Contract is contingent upon the Contractor, or subcontractor(s), securing and properly maintaining all necessary licenses, certifications, approvals, etc., required to properly provide the services or goods covered by the contract.

10.1.7. In the event that the Contractor is not able to comply with the terms of this Contract due to a decrease in funds or change in rules, the Contractor may submit a request to renegotiate this Contract or request a waiver of the rules governing the provision of services in accordance with 10 C.C.R. 2505-10 Section 8.600.5.G, as it currently exists or may hereafter be promulgated or amended. If the Department approves the renegotiation of terms, this Contract shall be amended to incorporate approved renegotiated Contract provisions or approved waivers. If the amended Contract is not signed within thirty (30) calendar days of being submitted to the Contractor, then this Contract shall terminate upon the expiration of thirty (30) calendar days.

10.1.8. Disbursement of Funds

10.1.8.1. Disbursement of funds for services and supports shall be made through the 1/12th per month Disbursement Method for Family Support Services, State Supported Living Services, Management and General Administration and Case Management Services. Funds disbursed on a 1/12th basis shall be expended within the program area where disbursed.

10.1.8.2. Funds for OBRA-SS shall be distributed at the rate and method established by the Department.

10.1.8.3. Funds for Eligibility Determination and Waiting List Management shall be distributed as determined by the Department.

10.1.9. Unexpended Service Funds

10.1.9.1. The Contractor shall remit any Direct Service funds disbursed under this Contract for FSSP, State SLS, and OBRA-SS that are not expended by close of the State's fiscal year. If the Contractor does not expend all Direct Service funds, the Department shall invoice for repayment of all unspent funds no later than October 31st of the following fiscal year. If the Contractor does not expend all Direct Service funds, the Department shall invoice for repayment Management and General Administration funds to ensure fees do not exceed fifteen percent.

10.1.9.2. The Contractor shall notify the Department of any discrepancies within ten (10) Business Days of receiving this invoice.

10.1.9.3. Repayment of all funds shall be remitted to the Department no later than December 31st of the following fiscal year.

10.1.10. Adjustments to Fund Disbursement Amounts

10.1.11. The Department reserves the right to make adjustments during the Contract period and post-period adjustment to disbursements following the end of the Contract period, or an adjustment to the fiscal year contract if:

10.1.11.1. The Contractor does not achieve the Performance Standards identified for each program.

10.1.11.2. The disbursements of Management and General Administration Fees exceed fifteen percent (15%) of the total Direct Service and Case Management Fee funds disbursed.

10.1.11.3. The Contractor has not remitted unexpended service funds as set forth in Section 10.1.9 of this Contract.

10.2. Administrative Compensation

10.2.1. The Department shall pay the Contractor at the rates shown in the following table:

ADMINISTRATIVE RATE TABLE	
DESCRIPTION	Rate
DD AND DELAY DETERMINATION	$262.57
QUALITY ASSURANCE	$26.37
LEVEL OF CARE EVALUATION AND DETERMINATION	$84.09
PASRR LEVEL II EVALUATION	$208.78
SIS-A ASSESSMENTS	$241.10
HCBS-CHRP SUPPORT NEED LEVEL ASSESSMENT	$151.98
PASRR PSYCHOLOGICAL EVALUATION	Actual Costs up to $438.00 per evaluation

10.2.1.1. The Department may modify the rates shown in this section based on the Medicaid Provider rate increases authorized by the Colorado legislature or due to an administrative error. In the event that the Department does modify these rates, the Department may modify them through the use of an Option Letter.

10.3. Billing and Payment Procedures

10.3.1. Unless otherwise provided, and where appropriate, the Department shall establish billing procedures and pay the Contractor the for Administrative Functions, at a rate determined by the Department, performed and accepted pursuant to the terms of this Contract.

11. INVOICING AND PAYMENT PROCEDURES

11.1. Developmental Disability and Delay Determinations

11.1.1. The Contractor shall input all disability determinations into the Department prescribed system. The Department will pay disability determinations, based on data pulled from the Department prescribed system on the eighteenth (18) day of the month for determinations from the previous month.

11.2. Quality Assurance

11.2.1. The Contractor shall ensure all enrollments are active in the Department prescribed system. The Department will pay Quality Assurance for all active enrollments based on data pulled from the Department prescribed system on the eighteenth (18) day of the month for enrollments from the previous month.

11.3. Level of Care Evaluation and Determination

11.3.1. The Contractor shall input all Level of Care Evaluations and Determinations into the Department prescribed system. The Department will pay for Initial Assessments, Continued Stay Reviews, and Waitlist Assessments from data pulled from the Department prescribed system on the eighteenth (18) day of the month for assessments from the previous month. The Department shall not pay for Waitlist Reviews completed for those HCBS waivers that do not have a Waiting List.

11.4. Pre-Admission Screenings and Resident Reviews

11.4.1. The Contractor shall invoice the Department by the last day of the month for all Pre-Admission Screenings and Resident Reviews. The Contractor may invoice for Psychological Evaluations for up to the amount shown in the Administrative Rate Table of this Contract. The Department will pay for all screenings and reviews once the invoice is reviewed and accepted.

11.5. OBRA-SS Pre-Admission Evaluation

11.5.1. The Contractor shall invoice the Department by the last day of the month for all OBRA-SS Pre-Admission Evaluations. The Department will pay for all evaluations once the invoice is reviewed and accepted.

11.6. SIS-A Assessments

11.6.1. The Contractor shall input all SIS assessments into SIS Online by the last day of the month. The Contractor shall invoice the Department for all completed assessments by the fifteenth (15) day of the month for all assessments from the previous month. The Department will pay for all assessments once the invoice is reviewed and accepted. All invoices shall be submitted on the format prescribed by the Department.

11.7. HCBS-CHRP Support Need Level Assessment

11.7.1. The Contractor shall maintain all supporting documentation related to the Support Need Level Assessment and make it available to the Department upon request. The Contractor shall

invoice the Department for all completed assessments by the fifteenth (15) day of the month for all assessments completed in the previous month. The Department will pay for assessments once the invoice and supporting documentation is reviewed and accepted. All invoices shall be submitted on the format prescribed by the Department.

11.8. The due dates identified in this section shall be adhered to, and information entered into the Department's prescribed systems and/or submitted to the Department by a date identified in this section. For the month of June, the Department will notify the Contractor of the modified due date to account for year-end closing.

11.9. Payment and Billing Errors

11.9.1. The Contractor shall review all payments made by the Department to ensure accuracy within ten (10) Business Days of receiving a payment summary.

11.9.2. The Contractor shall notify the Department of any errors in billing or payment within ten (10) Business Days of receiving a payment summary on the Department's prescribed template to ensure over and under payments are adjusted.

11.9.2.1. DELIVERABLE: Payment Correction Form

11.9.2.2. DUE: Within ten (10) Business Days of receiving a payment summary from the Department.

11.9.3. The Department shall notify the Contractor of any overpayment or underpayment identified through an internal review process.

11.9.4. If an overpayment is confirmed by the Department, the overpayment amount will be withheld from the next monthly reimbursement to the Contractor and, if necessary, from each monthly payment thereafter to the Contractor, until all overpayment of funds is recovered.

11.9.5. If an underpayment is confirmed, the amount will be included on the next monthly reimbursement to the Contractor.

EXHIBIT END

EXHIBIT B, SAMPLE OPTION LETTER

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

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

STATE OF COLORADO Jared S. Polis, Governor INSERT-Name of Agency or IHE INSERT-Name & Title of Head of Agency or IHE _____ By: Name & Title of Person Signing for Agency or IHE Date: _____	In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate. **STATE CONTROLLER** **Robert Jaros, CPA, MBA, JD** By: _____ Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval Option Effective Date:

EXHIBIT END

EXHIBIT C, FEDERAL PROVISIONS

12. APPLICABILITY OF PROVISIONS.

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

13. DEFINITIONS.

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

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

13.1.1.1. Awards may be in the form of:

13.1.1.1.1. Grants;

13.1.1.1.2. Contracts;

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

13.1.1.1.4. Loans;

13.1.1.1.5. Loan Guarantees;

13.1.1.1.6. Subsidies;

13.1.1.1.7. Insurance;

13.1.1.1.8. Food commodities;

13.1.1.1.9. Direct appropriations;

13.1.1.1.10. Assessed and voluntary contributions; and

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

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

13.1.1.2. Award ***does not*** include:

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

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

13.1.1.2.3. Any award classified for security purposes; or

13.1.1.2.4. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

13.1.2. "Contract" means the Contract to which these Federal Provisions are attached and includes all Award types in §13.1.1.1 of this Exhibit.

13.1.3. "Contractor" means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

13.1.4. "Data Universal Numbering System (DUNS) Number" means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet's website may be found at: http://fedgov.dnb.com/webform.

13.1.5. "Entity" means all of the following as defined at 2 CFR part 25, subpart C;

13.1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;

13.1.5.2. A foreign public entity;

13.1.5.3. A domestic or foreign non-profit organization;

13.1.5.4. A domestic or foreign for-profit organization; and

13.1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.

13.1.6. "Executive" means an officer, managing partner or any other employee in a management position.

13.1.7. "Federal Award Identification Number (FAIN)" means an Award number assigned by a Federal agency to a Prime Recipient.

13.1.8. "Federal Awarding Agency" means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR §200.37

13.1.9. "FFATA" means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the "Transparency Act."

13.1.10. "Federal Provisions" means these Federal Provisions subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

13.1.11. "OMB" means the Executive Office of the President, Office of Management and Budget.

13.1.12. "Prime Recipient" means a Colorado State agency or institution of higher education that receives an Award.

13.1.13. "Subaward" means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate

otherwise in accordance with 2 CFR §200.38. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

13.1.14. "Subrecipient" means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term "Subrecipient" includes and may be referred to as Subgrantee. The term does not include an individual who is a beneficiary of a federal program.

13.1.15. "Subrecipient Parent DUNS Number" means the subrecipient parent organization's 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient's System for Award Management (SAM) profile, if applicable.

13.1.16. "System for Award Management (SAM)" means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at http://www.sam.gov.

13.1.17. "Total Compensation" means the cash and noncash dollar value earned by an Executive during the Prime Recipient's or Subrecipient's preceding fiscal year and includes the following:

13.1.17.1. Salary and bonus;

13.1.17.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;

13.1.17.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;

13.1.17.4. Change in present value of defined benefit and actuarial pension plans;

13.1.17.5. Above-market earnings on deferred compensation which is not tax-qualified;

13.1.17.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds $10,000.

13.1.18. "Transparency Act" means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.

13.1.19. "Uniform Guidance" means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

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

14. COMPLIANCE.

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

15. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

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

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

16. TOTAL COMPENSATION.

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

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

16.1.2. In the preceding fiscal year, Contractor received:

16.1.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

16.1.2.2. $25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

16.1.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

17. REPORTING.

17.1. Contractor shall report data elements to SAM and to the Prime Recipient as required in this Exhibit if Contractor is a Subrecipient for the Award pursuant to the Transparency Act.

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

18. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR REPORTING.

18.1. Reporting requirements in §19 below apply to new Awards as of October 1, 2010, if the initial award is $25,000 or more. If the initial Award is below $25,000 but subsequent Award modifications result in a total Award of $25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds $25,000. If the initial Award is $25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below $25,000, the Award shall continue to be subject to the reporting requirements.

18.2. The procurement standards in §20 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §22 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

19. SUBRECIPIENT REPORTING REQUIREMENTS.

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

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

19.1.1.1. Subrecipient DUNS Number;

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

19.1.1.3. Subrecipient Parent DUNS Number;

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

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

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

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

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

19.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

20. PROCUREMENT STANDARDS.

20.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.

20.2. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

21. ACCESS TO RECORDS

21.1. A Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).

22. SINGLE AUDIT REQUIREMENTS

22.1. If a Subrecipient expends $750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.

22.1.1. **Election.** A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.

22.1.2. **Exemption.** If a Subrecipient expends less than $750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.

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

23. CONTRACT PROVISIONS FOR SUBRECEPIENT CONTRACTS

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

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

23.1.1.1. During the performance of this contract, the contractor agrees as follows:

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

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

23.1.1.1.3. Contractor will send to each labor union or representative of workers with which he has a collective bargaining Contract or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24,

1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

23.1.1.1.4. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

23.1.1.1.5. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

23.1.1.1.6. In the event of Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

23.1.1.1.7. Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

23.1.2. **Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include

a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

23.1.3. **Rights to Inventions Made Under a Contract or Contract.** If the Federal Award meets the definition of "funding Contract" under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding Contract," Subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts," and any implementing regulations issued by the awarding agency.

23.1.4. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

23.1.5. **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

23.1.6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

24. CERTIFICATIONS.

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

25. EXEMPTIONS.

25.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

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

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

26. EVENT OF DEFAULT.

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

EXHIBIT END

EXHIBIT D, SUPPLEMENTAL PROVISIONS FOR FEDERAL AWARDS

For the purposes of this Exhibit only, Contractor is also identified as "Subrecipient." This Contract has been funded, in whole or part, with an award of Federal Funds. In the event of a conflict between the provisions of these Supplemental Provisions for Federal Awards, the Special Provisions, the Contract or any attachments or exhibits incorporated into and made a part of the Contract, the Supplemental Provisions for Federal Awards shall control. In the event of a conflict between the Supplemental Provisions for Federal Award and the FFATA Supplemental Provisions (if any), the FFATA Supplemental Provisions shall control.

1) Federal Award Identification
   i. Subrecipient: Developmental Pathways, Inc.;
   ii. Subrecipient Data Universal Numbering System (DUNS) Number: 69716934;
   iii. The Federal Award Identification Number (FAIN): 1805CO5ADM;
   iv. The Federal Award date is: July 1, 2019;
   v. The subaward period of performance start date is July 1, 2019 and the end date is June 30, 2020;
   vi. Federal Funds:

Contract or Fiscal Year	Amount of Federal Funds obligated by this Contract	Total amount of Federal Funds obligated to the Subrecipient	Total amount of the Federal Award
FY2019-20	To Be Determined, Dependent on Caseload	To Be Determined, Dependent on Caseload	To Be Determined, Dependent on Caseload

   vii. Federal Award project description: To secure case management, associated utilization review services, and other administrative activities for applicants and individuals of the Home and Community Based Services Developmental Disabilities (HCBS-DD), Home and Community Based Services Developmentally Disabled Supported Living Services (HCBS-SLS), Home and Community Based Children's Habilitation Residential Program (HCBS-CHRP), and Home and Community Based Services Children's Extensive Support (HCBS-CES) Medicaid Waivers. The Contractor was selected by the State in accordance with Colorado Revised Statute (C.R.S.) Title 25.5, Article 10.
   viii. The name of the Federal awarding agency is the United States Centers for Medicare & Medicaid Services (CMS); the name of the pass-through entity is the Colorado Department of Health Care Policy & Financing (HCPF); and the contact information for the awarding official is Amanda Allen, Financial Compliance Unit Supervisor, Office of Community Living, 1570 Grant Street, Denver, CO 80203, Amanda.Allen@state.co.us, 303-866-5668.
   ix. The Catalog of Federal Domestic Assistance (CFDA) number is 93.778, the name is Medical Assistance Program, and the dollar amount is To Be Determined, Dependent on Caseload.
   x. This award is not for research & development.

xi. The indirect cost rate for the Federal Award (including if the de minimis rate is charged per 2 CFR 200.414 Indirect (F&A) costs) is pre-determined based upon the State of Colorado and HCPF cost allocation plan.

EXHIBIT END

EXHIBIT E, INFORMATION TECHNOLOGY PROVISIONS FOR MUNICIPAL OR NON-COMMERCIAL STATE PARTNER ENTITIES

This Exhibit regarding **Information Technology Provisions** (the "Exhibit") is an essential part of the agreement between the State and Contractor as described in the Contract to which this Exhibit is attached. Unless the context clearly requires a distinction between the Contract and this Exhibit, all references to "Contract" shall include this Exhibit.

1. PROTECTION OF SYSTEM DATA

A. In addition to the requirements of the main body of this Contract, if Contractor or any Subcontractor is given access to State Records by the State or its agents in connection with Contractor's performance under the Contract, Contractor shall protect all State Records in accordance with this Exhibit. All provisions of this Exhibit that refer to Contractor shall apply equally to any Subcontractor performing work in connection with the Contract.

B. For the avoidance of doubt, the terms of this Exhibit shall apply to the extent that any of the following statements is true in regard to Contractor access, use, or disclosure of State Records:

i. Contractor provides physical or logical storage of State Records;

ii. Contractor creates, uses, processes, discloses, transmits, or disposes of State Records;

iii. Contractor is otherwise given physical or logical access to State Records in order to perform Contractor's obligations under this Contract.

C. Contractor shall, and shall cause its Subcontractors, to do all of the following:

i. Provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this Contract.

ii. Maintain network, system, and application security consistent with evolving industry standards.

iii. Comply with applicable federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing.

a. Compliance shall include reasonable personnel security, such as background checks, on all of Contractor's employees and agents performing services or having access to State Records provided under this Contract.

b. If Contractor will have access to Federal Tax Information under the Contract, Contractor shall agree to the State's requirements regarding Safeguarding Requirements for Federal Tax Information

and shall comply with the background check requirements defined in IRS Publication 1075 and §24-50-1002, C.R.S.

iv. Prevent unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments.

v. Promptly report all Incidents, including Incidents that do not result in unauthorized disclosure or loss of data integrity, to a designated representative of the State's Office of Information Security ("OIS").

D. Subject to Contractor's reasonable access security requirements and upon reasonable prior notice, Contractor shall provide the State with scheduled access for the purpose of inspecting and monitoring access and use of State Records, maintaining State systems, and evaluating physical and logical security control effectiveness.

2. DATA HANDLING

A. The State, in its sole discretion, may securely deliver State Records directly to the facility where such data is used to perform the Work. Contractor may not maintain or forward these State Records to or from any other facility or location, except for the authorized and approved purposes of backup and disaster recovery purposes, without the prior written consent of the State. Contractor may not maintain State Records in any data center or other storage location outside the United States for any purpose without the prior express written consent of the State.

B. Contractor shall not allow remote access to State Records from outside the United States, including access by Contractor's employees or agents, without the prior express written consent of the State.

C. Upon the termination of Contractor's services under this Contact, Contractor shall, as directed by the State, either:

a. Return all State Records provided by the State to Contractor, and the copies thereof, to the State; or

b. Destroy all such State Records and certify to the State that it has done so.

D. If any legal obligation imposed upon Contractor prevents Contractor from returning or destroying any State Records provided by the State to Contractor, Contractor shall guarantee the confidentiality of all State Records provided by the State to Contractor and will not continue to use or process such data except as required by such legal obligation.

E. The State retains the right to use the established operational services to access and retrieve State Records stored on Contractor's infrastructure at its sole discretion and at any time. Upon request of the State or of the supervisory authority, Contractor shall submit its data processing facilities for an audit of the measures referred to in this Exhibit in accordance with the terms of this Contract.

3. COMPLIANCE

F. The State and Contractor agree that Contractor has a legal obligation to comply with all Colorado Office of Information Security (OIS) policies and procedures

which OIS has issued pursuant to §§24-37.5-401 through 406, C.R.S. and 8 CCR §1501-5 and posted at http://oit.state.co.us/ois.

G. Contractor shall implement and maintain all appropriate administrative, physical, technical, and procedural safeguards necessary and appropriate to ensure compliance with the standards and guidelines applicable to Contractor's performance under the Contract.

H. Contractor shall, upon execution of the Contract and no less than annually thereafter during the term of the Contract, provide the State with information reasonably required to assess Contractor's compliance with the terms of this Exhibit. Such access and information may include one or more of the following:

   a. The annual performance of MS-ISAC Nationwide Cybersecurity Review (NCSR), available at https://www.cisecurity.org/ms-isac/services/ncsr/;

   b. The performance of security audit and penetration tests, as requested by OIS or its designee at any time under this Contract;

   c. An annual SOC2 Type II audit including, at a minimum, the Trust Principles of Security, Confidentiality, and Availability, or an alternative audit recommended by the State.

I. To the extent that Contractor is not in compliance with the terms of this Exhibit, Contractor shall, no less than annually, provide the State with a proposed remediation plan identifying the priority actions and implementation targets for remedy any conditions of non-compliance. The State may advise and assist in the development or implementation of such remediation plan.

J. Provided that Contractor complies with the requirements of this Exhibit pertaining to assessment of Contractor's compliance as described in paragraph C., above, and implementation of a remediation plan as approved by the State as described in paragraph D., above, Contractor shall be in compliance with the terms of this Exhibit.

EXHIBIT END