

STATE OF COLORADO CONTRACT

COVER PAGE

State Agency Department of Health Care Policy & Financing	Contract Number 20-134776
Contractor Developmental Opportunities, Incorporated DBA Starpoint	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 <div style="margin-left: 40px;"> State Program State Fiscal Year 2019-20: \$23,302,027.00 Medicaid Program State Fiscal Year 2019-20: \$5,831,152.00 </div> Extension Terms <div style="margin-left: 40px;"> 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 </div>	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: <ol style="list-style-type: none"> 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 <p>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:</p> <ol style="list-style-type: none"> 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 <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> For the State: Noushin Berdjis Department of Health Care Policy & Financing 1570 Grant Street Denver, CO 80203 Noushin.Berdjis@state.co.us </div> <div style="width: 45%;"> For Contractor: Robert Arnold Developmental Opportunities, Incorporated DBA Starpoint P.O. Box 2080 Canon City, CO 81215 Rarnold@starpointco.com </div> </div>	

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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

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,

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

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

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

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

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

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

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.

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

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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- 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>.

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.

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.

- 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.

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

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).

- 1.1.1.43. 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

- 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.

- 2.9.4. 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.

- 2.9.9.2. 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

- 2.11.1.5.2. 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.

2.16.3. 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

- 3.4.3. 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.

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.

- 4.7.1. 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.

- 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.

- 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 §25.5-10-211 et seq., C.R.S. In accordance with applicable statutes and rules, the Contractor, has been designated as the Community Centered Board serving Chaffee, Custer, and Fremont County.
- 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 initiated 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.

- 6.11.3. 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:

- 6.16.6.3. 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.

- 6.16.11.2. 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

- 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.

- 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.

7.2.4.3.1. 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

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

10.3. Billing and Payment Procedures

- 10.3.1. Unless otherwise provided, and where appropriate, the Department shall establish billing procedures and pay the Contractor 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

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.

<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor INSERT-Name of Agency or IHE INSERT-Name & Title of Head of Agency or IHE</p> <p>By: _____ Name & Title of Person Signing for Agency or IHE</p> <p>Date: _____</p>	<p>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.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____ Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval</p> <p style="text-align: right;">Option Effective Date: _____</p>
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EXHIBIT END

- 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

- 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.

- 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.

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

- 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

- xī. 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

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 Contract, 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