

STANDARD AGREEMENT AMENDMENT

Check here if additional pages are added: 1 Page(s)

Agreement Number 16-10383	Amendment Number A01
Registration Number:	

1. This Agreement is entered into between the State Agency and Contractor named below:

State Agency's Name California Department of Public Health	Also known as CDPH or the State
Contractor's Name County of Orange	(Also referred to as Contractor)
2. The term of this Agreement is: **July 1, 2016** through **June 30, 2020**
3. The maximum amount of this Agreement after this amendment is: **\$ 0**
Not Applicable - Amount Solely Based on Usage
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

I. **Purpose of amendment:**

This amendment will replace the following exhibits in their entirety: Exhibit A, AI, B, D, F and G.

This agreement will continue to provide AIDS Drug Assistance Program (ADAP) and adds Pre-Exposure Prophylaxis (PrEP) Assistance Program enrollment services to local health jurisdictions, as well as community based organizations, and hospitals throughout the State of California. This contract is for costs associated with the administration of the ADAP, PrEP and Health Insurance Assistance Programs. Funding is solely based on usage.

The contract term has been extended an additional year, and requirements and deliverables have been strengthened to ensure access to services and site monitoring.

- II. Certain changes made in this amendment are shown as: Text additions are displayed in **bold and underline**. Text deletions are displayed as strike through text (i.e., ~~Strike~~).

(Continued on next page)

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		CALIFORNIA Department of General Services Use Only
Contractor's Name (If other than an individual, state whether a corporation, partnership, etc.) County of Orange		
By (Authorized Signature) 	Date Signed (Do not type)	
Printed Name and Title of Person Signing David Souleles, Deputy Agency Director		
Address 405 W. 5th Street Santa Ana, CA 92701		
STATE OF CALIFORNIA		
Agency Name California Department of Public Health		<input checked="" type="checkbox"/> Exempt per: OA Budget Act 2017
By (Authorized Signature) 	Date Signed (Do not type)	
Printed Name and Title of Person Signing		
Address 1616 Capitol Avenue, Suite 74.317, MS 1802, P.O. Box 997377, Sacramento, CA 95899-7377		

- III. Exhibit A – Scope of Work, is replaced in its entirety with Exhibit A, A01 – Scope of Work.

All references to Exhibit A – Scope of Work in this agreement and any exhibits hereto shall hereinafter be deemed to read Exhibit A, A01 – Scope of Work.

- IV. Exhibit A, Attachment I – Definitions of Terms, is replaced in its entirety with Exhibit A, Attachment I, A01 – Definitions of Terms.

All references to Exhibit A, Attachment I – Definitions of Terms, in this agreement and any exhibits hereto shall hereinafter be deemed to read Exhibit A, Attachment I, A01 – Definitions of Terms.

- V. Exhibit B – Budget Detail and Payment Provisions, is replaced in its entirety with Exhibit B, A01 – Budget Detail and Payment Provisions.

All references to Exhibit B – Budget Detail and Payment Provisions, in this agreement and any exhibits hereto shall hereinafter be deemed to read Exhibit B, A01 – Budget Detail and Payment Provisions.

- VI. Exhibit D – HIPAA Business Associate Addendum, is replaced in its entirety with Exhibit D, A01 – HIPAA Business Associate Addendum.

All references to Exhibit D – HIPAA Business Associate Addendum, in this agreement and any exhibits hereto shall hereinafter be deemed to read Exhibit D, A01 – HIPAA Business Associate Addendum.

- VII. Exhibit F – Security Requirements, Protections, and Confidentiality Checklist, is replaced in its entirety with Exhibit F, A01 - Security Requirements, Protections, and Confidentiality Checklist.

All references to Exhibit F– Security Requirements, Protections, and Confidentiality Checklist, in this agreement and any exhibits hereto shall hereinafter be deemed to read Exhibit F, A01 – Security Requirements, Protections, and Confidentiality Checklist.

- VIII. Exhibit G – Sample - Plan for Transporting Confidential ADAP Client Files POLICY & PROCEDURE, is replaced in its entirety with Exhibit G, A01 – Plan for Transporting Confidential ADAP Client Files.

All references to Exhibit G – Sample - Plan for Transporting Confidential ADAP Client Files POLICY & PROCEDURE, in this agreement and any exhibits hereto shall hereinafter be deemed to read Exhibit G, A01 – Plan for Transporting Confidential ADAP Client Files.

1. Service Overview

California Health and Safety Code (HSC) §131019 designates the California Department of Public Health (CDPH), Center for Infectious Diseases, Office of AIDS (OA) as the lead agency within the state responsible for coordinating state programs, services and activities related to Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS).

The Contractor agrees to provide CDPH/OA, the services described herein for the provision of the AIDS Drug Assistance Program (ADAP) and Pre-Exposure Prophylaxis Assistance Program (PrEP-AP) enrollment services, which includes the ADAP Medication Program and Health Insurance Assistance Programs, and OA’s PrEP-AP. This contract agreement will be in effect for four consecutive fiscal years (FY) beginning in FY 2016-17 through FY 2019-20 (July 1, 2016 – June 30, 2020).

Refer to Exhibit A-I “Definitions of Terms” to review definitions of acronyms and other contract related terms and references.

2. Service Location

The services shall be performed at the County of Orange Health Care Agency, located at 1725 W. 17th Street, Santa Ana, CA 92706.

3. Service Hours

The services shall be provided during normal Contractor working hours as defined by the enrollment site.

4. Project Representatives

A. The project representatives during the term of this agreement will be:

California Department of Public Health	County of Orange
Sandra Robinson, Branch Chief	Richard Sanchez, Health Care Agency Director
Telephone: (916) 449-5942	Telephone: (714) 834-6021
Fax: (916) 449-5859	Fax: (714) 835-5506
Email: Sandra.Robinson@cdph.ca.gov	Email: richard.sanchez@ochca.com

B. Direct all inquiries to:

<p>California Department of Public Health</p> <p>P.O. Box 997426, MS 7704 Sacramento, CA 95899-7426</p> <p><u>ADAP Call Center</u></p> <p>Hours: Monday – Friday 8 a.m. to 5 p.m. Telephone: (844) 421-7050 Fax: (844) 421-8008</p> <p><u>PrEP-AP Contact</u> Cynthia Reed-Aguayo</p> <p>Telephone: (916) 449-5791 Fax: (916) 449-5859 Email: Cynthia.Reed-Aguayo@cdph.ca.gov</p>	<p>County of Orange</p> <p>1725 W. 17th Street Santa Ana, CA 92706</p> <p><u>Site Contact</u> Natalie Silva, ADAP Enrollment Worker</p> <p>Telephone: (714) 834-7966 Fax: (714) 834-8655 Email: nsilva@ochca.com</p>
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C. Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

5. Services to be Performed

A) Major Function, Task and Activities

The Contractor shall:

Enrollment Site Requirements:	Time Line	Responsible Party	Performance Measure and/or Deliverables
<p>A.1. ADAP ES Contact Requirement:</p> <p>Maintain an ADAP Enrollment Site (ES) Contact to ensure compliance with the requirements of this contract agreement on behalf of the ADAP ES and facilitate required information exchange between the ES, CDPH/OA/ADAP, and CDPH/OA/ADAP's contracted CDPH/OA/ADAP Enrollment System (AES).</p>	<p>Throughout the life of the contract.</p>	<p>Authorized Site Administrator</p>	<p>ADAP Site Contact Name and contact information must be identified in Section 4B. Provide written notice to the assigned ADAP Advisor/PrEP-AP Advisor immediately of any changes to the ADAP ES Contact.</p>
<p>A.2. Nondiscrimination Requirements:</p> <p>Comply with the provisions as stated in Exhibit H, "Nondiscrimination Clause" (STD 17A)." The ADAP ES shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, sex, or sexual orientation.</p>	<p>Must be maintained through the life of the contract.</p>	<p>Authorized Site Administrator/ Agency's EEO Officer</p>	<p>Authorized Site Administrator and/or EEO Officer Name and contact information must be identified in Section 4A.</p>

<p>A.3. Information Privacy and Security Requirements:</p> <p>All personnel conducting ADAP/PrEP-AP enrollment services must abide by all applicable laws and CDPH/OA/ADAP and PrEP-AP guidelines regarding confidentiality of ADAP and PrEP-AP client eligibility files and protected health information when accessing or submitting client data.</p> <p>i. Ensure compliance with the provisions as stated in Exhibit D, "HIPAA Business Associate Addendum (CDPH HIPAA BAA 6-16).</p> <p>ii. Ensure that all EWs employed by or volunteering at the ES are issued/assigned an Agency email address. <i>*To ensure client confidentiality, ADAP EWs are prohibited from using a personal email address (i.e. gmail, yahoo, etc.) for ADAP related correspondence.</i></p>	<p>Must be maintained through the life of the contract.</p> <p>Contractor shall also continue to extend the protections of these provisions to protected health information upon termination or expiration of the agreement until its return or destruction.</p> <p>At the time of ADAP EW activation and throughout the life of the contract.</p>	<p>ADAP ES Contact</p> <p>Authorized Site Administrator/ Site Contact</p>	<p>Notify the assigned ADAP or PrEP-AP Advisor immediately by phone call plus email or fax when a potential breach has occurred. EWs may be deactivated if more than two potential breaches occur within a calendar year. ESs may also be deactivated if potential breaches are committed by more than two EWs in a calendar year.</p> <p>Verified when ADAP Enrollment Worker(s) (EWs) email address is provided to the assigned CDPH/OA/ADAP Advisor.</p>
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<ul style="list-style-type: none"> • Ensure compliance with the provisions as stated in “Exhibit E, “Notice of Privacy Practices”, and ensure that the notice is posted at the ES. • Review and sign the “Agreement by Employee/Contractor to Comply with Confidentiality Requirements (CDPH 8689)” form (Exhibit I). • Ensure that only certified ADAP EWs have access to ADAP client eligibility file information, unless otherwise authorized by law. Please refer to the following ADAP Confidentiality tables located under the Information flow charts for Community-Based Organizations, Health Care Provider, and Local Public Health Departments that pertains to your ADAP ES: https://www.cdph.ca.gov/Programs/CID/DOA/Pages/OA_adap_resourcepage.aspx 	<p>Must be maintained through the life of the contract.</p> <p>Annually.</p>	<p>ADAP ES Contact</p> <p>ADAP ES Contact and ADAP EW(s)</p>	<p>Indicate compliance on the “Security Requirements, Protections, and Confidentiality Checklist”, Exhibit F.</p> <p>Submit completed CDPH Form 8689 form via the AES.</p>
<p>iii. EWs are required to ask a minimum of three security questions when confirming client identity from an incoming phone call prior to disclosing any PHI.</p> <p>iv. EWs are prohibited from disclosing and must employ reasonable measures to protect their EW ID, AES password, or any other identifier/passcode which may compromise client confidentiality.</p>	<p>Must be maintained through the life of the contract.</p>	<p>ADAP ES Contact and ADAP EW(s)</p>	<p>Notify the assigned ADAP Advisor immediately when a potential breach has occurred.</p>

<p>A.4. ADAP ES Information Technology/Equipment Requirements:</p> <p>i. Ensure internet access and equipment and the ability to scan and upload the ADAP/PrEP-AP applicant/client eligibility documents to the AES secure enrollment system.</p>	<p>By the go-live date and to be maintained through the life of the contract.</p>	<p>Authorized Site Administrator and ADAP ES Contact</p>	<p>All client enrollments must occur electronically via the AES secure enrollment system.</p>
<p>ii. Only desktop computers are to be used to conduct ADAP enrollment services. The use of laptop computers or other hand held electronic devices are strictly prohibited for use in ADAP/PrEP-AP client enrollment.</p> <p>iii. Ensure fax machines and CDPH/OA/ADAP fax/scanners are used to upload and submit ADAP/PrEP-AP applications or receive correspondence which may include confidential client information are located in a secure area.</p>	<p>By the go-live date and to be maintained through the life of the contract.</p> <p>By the go-live date and to be maintained through the life of the contract.</p>	<p>ADAP ES Contact</p> <p>ADAP ES Contact</p>	<p>Indicate compliance on the “Security Requirements, Protections, and Confidentiality Checklist”, Exhibit F.</p> <p>Indicate compliance on the “Security Requirements, Protections, and Confidentiality Checklist”, Exhibit F.</p>
<p>A.5. Quality Requirements</p> <p>i. In order to ensure adequate service capacity and to maintain a high degree of customer service, enrollment sites are required to be adequately staffed to provide assistance to clients via in-person appointments, secure e-mails, or over the telephone within a reasonable time frame. Capacity assessments should be constructed from reasonable projections based on historical enrollments.</p>	<p>To be maintained throughout the life of the contract.</p>	<p>Authorized Site Administrator and ADAP ES Contact</p>	<p>Failure to maintain adequate service levels may result in OA transitioning clients to neighboring enrollment sites.</p> <p>EWs/ESs whom are continuously unresponsive may be deactivated and precluded from performing ADAP enrollment services.</p>

<p>ii. ADAP EWs and ESs will be held to quality standards and metrics. Please reference the ADAP Resource page found here https://www.cdph.ca.gov/Programs/CID/DOA/Pages/OA_adap_resourcespage.aspx for current year Quality Performance Metrics. EWs are required to maintain an enrollment performance level of at least 95 percent accuracy for ADAP/PrEP-AP eligibility documentation and enrollment. ESs are required to maintain a minimum performance level of 90 percent.</p> <p>CDPH/OA/ADAP will conduct secondary review on ADAP applications and a random sample size of PrEP applications. Applications with errors will be considered defective and will count against the performance level of the ADAP EW/ES. ADAP EW/ES quality will be factored by dividing the number of defective applications by the total number of applications processed.</p>	<p>To be maintained through the life of the contract.</p>	<p>Authorized Site Administrator and ADAP ES Contact</p>	<p>CDPH/OA/ADAP will continuously monitor performance levels throughout the life of the contract. The first year following the deployment of the AES will serve as a transition period during which OA will concentrate on evaluation and providing technical assistance.</p> <p>If after the first quarter following the initial one year transition period, an ADAP EW(s)/ES has an error rate that exceeds the quality standard, the Site Contact must submit a Corrective Action Plan to the ADAP and/or PrEP Advisor for approval within 30 days of the finding.</p> <p>If an ADAP EW(s)/ ES remains deficient for a second consecutive quarter, CDPH/OA/ADAP may suspend the EW(s)/ES for inaccurate ADAP/PrEP-AP applications processed during the quarter.</p> <p>If an ADAP EW(s)/ES remains deficient for a third consecutive quarter, the EW(s)/ES may be deactivated and will no longer be allowed to perform ADAP/PrEP-AP enrollment.</p>
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<p>A.6. Conduct Requirements:</p> <p>ADAP EWs are required to conduct themselves with a high degree of professionalism and integrity. Site Contacts are required to ensure that no ADAP EW is employed by, nor receives any financial compensation (including gifts or any other type of incentive) from a participating ADAP pharmacy and that no ADAP/PrEP-AP client enrollment is conducted at any participating ADAP pharmacy location.</p> <p>Additional examples of misconduct include, but are not limited to:</p> <ul style="list-style-type: none"> i. Knowingly and willfully enrolling clients with inaccurate or false documentation.* ii. Insubordination and/or non-compliance with CDPH/OA/ADAP staff requests. iii. Verbally abusive or use of derogatory language. iv. Unresponsive to CDPH/OA/ADAP staff and/or client inquiries. v. Conducting unauthorized off-site ADAP/PrEP-AP enrollment. vi. Transporting files without having a transportation plan approved by CDPH/OA/ADAP staff. vii. Violating or otherwise not adhering to any requirement stipulated in this scope of work. <p>* Knowingly providing inaccurate or false documentation may be in violation of various Penal Code laws and may be subject to violations of the California False Claims Act, which prohibits any person or entity from knowingly making or using a false statement or document to obtain money, property, or services from the State. (See California Government Code section 12650 et. seq.)</p>	<p>To be maintained through the life of the contract.</p>	<p>ADAP ES Contact and EW(s)</p>	<p>Notify the ADAP/PrEP-AP Advisor when instances of misconduct are identified.</p> <p>Site Contacts may be required to submit a Corrective Action Plan.</p> <p>CDPH/OA/ADAP staff to address occurrences of misconduct.</p> <p>EWs who engage in misconduct may be subject to temporary or permanent suspension of ADAP EW status.</p>
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<p>A.7. Training and Technical Assistance Requirements:</p> <p>i. Ensure all new ADAP EWs have successfully completed new ADAP EW training provided by CDPH/OA/ADAP prior to enrolling or re-certifying ADAP/PrEP-AP clients.</p> <p>ii. Ensure all existing and new enrollment workers complete training on the AES.</p>	To be maintained through the life of the contract.	ADAP ES Contact	Report to the assigned ADAP/PrEP-AP Advisor, site staff who will be registering for required ADAP EW trainings.
<p>iii. Ensure compliance with the requirements written in the ADAP “California State ADAP Guidelines,” “California State PrEP-AP Guidelines” and ADAP Management Memos.</p> <p>iv. Ensure existing ADAP EWs maintain active status by participating in required annual recertifying ADAP EW trainings and/or other required ad hoc trainings provided by CDPH/OA/ADAP in order to maintain ADAP certification to continue conducting ADAP/PrEP-AP enrollment functions.</p> <p>v. Ensure the ADAP ES has representation/participation on all monthly CDPH/OA ADAP EW calls.</p>	To be maintained through the life of the contract.	ADAP ES Contact and ADAP EW(s)	<p>Notify ADAP EWs to recertify 30 days prior to the recertification end date.</p> <p>Must ensure ADAP ES participation for 90 percent of these calls. Must contact the ADAP Advisor, if unable to participate on a call to discuss the topics covered.</p>
	To be maintained through the life of the contract.	ADAP ES Contact	
	Monthly through the life of the contract.	ADAP ES Contact	

<p>A.8. ADAP Enrollment Tracking Requirements:</p> <ul style="list-style-type: none"> i. Ensure all ADAP EWs are identified and have a site specific ADAP EW ID number issued by the CDPH/OA/ADAP AES. ii. Report any changes in site specific ADAP EWs' status (e.g., job duties, relocation, separation, etc.) that will alter the ADAP EW(s) ability to enroll clients, including the de-activation of any ADAP EW ID numbers. 	<p>To be maintained through the life of the contract.</p> <p>Within 24 hours of the change.</p>	<p>ADAP ES Contact</p> <p>ADAP ES Contact</p>	<p>This site specific ADAP EW ID number may only be used by the ADAP EW to whom it is assigned for enrollment activities at this site.</p> <p>Report addition/deletion/changes to ADAP EW(s) to the CDPH/OA/ADAP EBM and/or the assigned ADAP/PrEP-AP Advisor.</p>
<p>A.9. Transportation Plan Requirements:</p> <p>Ensure that no ADAP/PrEP-AP client eligibility documentation, records, files, etc., will be transported to or from the ADAP ES.</p> <p>Exception to this restriction may be approved by CDPH/OA for the following reasons:</p> <ul style="list-style-type: none"> i. Client disability; or, ii. Remote distance requires ADAP EW to meet with client outside of the ADAP ES; or, iii. The entire ADAP ES is moving to a new address/location. <p>Ensure that no ADAP/PrEP-AP client enrollment files will be transported until CDPH/OA/ADAP provides <u>written approval</u> of the site's specific transportation plan.</p>	<p>To be maintained through the life of the contract.</p> <p>30 days prior to the need for transporting any ADAP client enrollment documents/ files.</p>	<p>ADAP ES Contact</p> <p>ADAP ES Contact</p>	<p>See "Plan for Transporting Confidential ADAP Client Files", Exhibit G.</p> <p>Submit a written request to the assigned ADAP/PrEP-AP Advisor which justifies the necessity for transporting ADAP or PrEP-AP client enrollment document/files. The request must also identify the specific procedure to be followed to safeguard the confidentiality of the ADAP/PrEP-AP client documents being transported, as well as who will be responsible/accountable for site's specific procedure(s). See "Plan for Transporting Confidential ADAP Client Files", Exhibit G.</p>

<p>A.10. Administrative Requirements</p> <ul style="list-style-type: none"> i. Notify the assigned ADAP Advisor if the site wishes to change from an open site (one which serves any individual who wishes to enroll) to a closed site (one which serves only agency-affiliated individuals) or vice versa. ii. Notify the assigned ADAP/PrEP-AP Advisor if the site plans to no longer provide ADAP/PrEP-AP enrollment services. 	<p>Provide at least 30-days' notice for the requested change of status.</p> <p>Within at least 60 days of the site deactivation date.</p>	<p>ADAP ES Contact</p> <p>ADAP ES Contact/ Authorized Agency Administrator</p>	<p>Written Request required (may be submitted by email) to ADAP/PrEP-AP Advisor.</p> <p>Written Notification required (may be submitted by email) and submission of an ADAP/PrEP-AP transportation plan to the site's designated ADAP Advisor assuring the secure transfer of hard copy ADAP/PrEP-AP client files. See page 1, item 1) Service Overview, paragraph 3.</p>
<p>A.11. ADAP Fiscal Requirements</p> <ul style="list-style-type: none"> i. Ensure ADAP funds are used exclusively to cover costs related to ADAP in accordance with Health and Safety Code §120956(b). ii. Ensure compliance with the federal HRSA Ryan White HIV/AIDS Program requirements, polices, and National Monitoring Standards. iii. Ensure funds received from OA are not used for unallowable expenses as defined by the Ryan White National Monitoring Standards. 	<p>To be maintained through the life of the contract.</p> <p>Within five business days of request.</p>	<p>ADAP ES Contact/ Authorized Agency Administrator</p>	<p>Within five business days, upon request, submit to OA for review budget and expense reports with sufficient detail to ensure compliance with section A.11.</p> <p>In the event of an audit or upon request by CDPH, ESs must be able to adequately show that these contractual requirements have been met.</p>

<p>A.12. PrEP Fiscal Requirements</p> <ul style="list-style-type: none"> i. Ryan White funds are prohibited for the use of PrEP enrollment services. ii. EWs who conduct PrEP enrollment are precluded from being 100 percent funded by Ryan White funds. 	<p>To be maintained through the life of the contract.</p> <p>Within five business days.</p>	<p>ADAP ES Contact/ Authorized Agency Administrator</p>	<p>Within 15 business days, upon request, ESs are required to submit documentation of all EWs performing PrEP enrollment with a budget detail indicating how each EW is funded.</p>
<p>A.13. Auditing Requirements</p> <ul style="list-style-type: none"> i. Facilitate CDPH/OA/ADAP site visit requests, including but not limited to receiving or providing required documentation/information as requested by the assigned ADAP/PrEP-AP Advisor. Act as liaison between the site, ADAP/PrEP-AP Advisor, ADAP EW(s), and LHJ Coordinator (if applicable) in activities related to the site visit. 	<p>As needed during normal working hours.</p>	<p>ADAP Site Contact/Authorized Agency Administrator</p>	<p>Respond to written notifications and requests for information initiated by CDPH/OA/ADAP personnel.</p>
<ul style="list-style-type: none"> ii. Ensure that CDPH/OA/ADAP staff, authorized CDPH/OA/ADAP representatives and/or other state and federal agencies are granted access to all ADAP client eligibility files and any other documentation related to this contract agreement for audit purposes. iii. Develop and submit required Corrective Action Plan (CAP) when required based on results of ADAP site visit/federal or state program audit. 	<p>As needed during normal working hours.</p> <p>Within five business days.</p> <p>As needed.</p>	<p>ADAP Site Contact/Authorized Agency Administrator</p> <p>ADAP Site Contact/Authorized Agency Administrator</p>	<p>Within five business days, respond to written and in-person requests for ADAP client files made by CDPH/OA/ADAP personnel.</p> <p>CAP is to be submitted to the assigned ADAP/PrEP-AP Advisor by the timeframe identified in the letter indicating the CAP is required.</p>

<p>iv. Maintain hard copy ADAP/PrEP-AP client files/records, created prior to July 1, 2016 for four years (the current year, plus three prior years)</p>	<p>To be maintained through the life of the contract.</p>	<p>ADAP ES Contact</p>	<p>As needed, records will be made available to view within the timeframe provided by the federal or state auditors.</p> <p>At contract termination or expiration, Protected Health Information must be returned or retained in accordance with Exhibit D, "HIPAA Business Associate Addendum (CDPH HIPAA BAA 6-16)".</p>
<p>A.14. Grievance Requirements</p> <p>i. Ensure that ADAP/PrEP-AP clients are made aware of, and have access to, the CDPH/OA/ADAP Grievance procedures, and form as outlined in the California State ADAP/PrEP-AP Guidelines.</p>	<p>Upon initial and annual re-enrollments of ADAP clients and annual re-enrollment of PrEP-AP clients.</p>	<p>ADAP ES Contact and/or ADAP/PrEP-AP EW(s)</p>	<p>CDPH/OA/ADAP will verify, via review of the ADAP/PrEP-AP Client Satisfaction Survey.</p>
<p>ii. Upon client request, assist ADAP/PrEP-AP clients in the completion and submission of an ADAP/PrEP-AP grievance form and related documents. Assistance may also include providing the mailing address and contact information for ADAP/PrEP-AP Advisors and/or other CDPH/OA/ADAP Contractors, and/or the submission of the completed grievance form and related documents to CDPH/OA/ADAP.</p>	<p>As needed.</p>	<p>ADAP/PrEP-AP ES Contact and/or ADAP/PrEP-AP EW(s)</p>	<p>Notify the assigned ADAP/PrEP-AP Advisor immediately if assistance is needed with the CDPH/OA/ADAP/PrEP-AP grievance process.</p>

<p>A.15. Performance Requirements</p> <p>i. Enrollment workers are required to vigorously pursue enrollment into health care coverage for which clients may be eligible (e.g., Medicaid, Medicare, employer-sponsored health insurance coverage, and/or other private health insurance to comply with federal and state payer of last resort requirements.</p> <p>iii. EWs are required to proactively conduct outreach to clients, by utilizing the AES dashboard to identify clients who have an eligibility expiration date within 30 days. EWs must document the client outreach in the case notes.</p>	<p>To be maintained through the life of the contract.</p>	<p>ADAP ES Contact and/or ADAP/PrEP- AP EW(s)</p>	<p>Upon initial enrollment and annual re-enrollment. Enrollment workers are required to assess client's eligibility for other third-party coverage based on eligibility documents provided. All eligible individuals must apply.</p> <p>Outreach attempts and any client interaction as a result of said outreach must be clearly documented in the client case notes available through AES.</p>
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- i. AIDS Drug Assistance Program (ADAP) – Established in 1987 to help ensure that eligible, HIV positive uninsured and under-insured individuals have access to medication on the ADAP formulary through the Medication Program and Health Insurance Assistance Programs. ADAP provides medication, premium payment, and medical out of pocket payment assistance.
- ii. ADAP Advisor – Office of AIDS ADAP staff assigned to a Local Health Jurisdiction or ADAP Enrollment Site for monitoring and technical assistance.
- iii. Enrollment Worker (EW) – Enrollment Site staff certified to provide enrollment services for ADAP and the Pre-Exposure Prophylaxis Assistance Program (PrEP-AP). EWs will have access to ADAP/PrEP-AP enrollment data.
- iv. Enrollment Site (ES) - A public health department, clinic, community based organization (CBO), or local government agency where an individual can apply for ADAP or PrEP-AP services.
- v. Enrollment Site Contact – Ensures the requirements of this contract agreement are adhered to, including but not limited to the participation in monthly EW calls. Act as the primary contact for OA, the OA service contractors, and Enrollment Site staff.
- vi. ADAP Enrollment System (AES) – ADAP’s online system used for enrolling clients in ADAP and the PrEP-AP.
- vii. California Department of Public Health (CDPH) – is the lead agency in California providing detection, treatment, prevention and surveillance of public health issues.
- viii. Closed Site – An enrollment site that only serves applicants/clients associated with their entity.
- ix. Community Based Organization (CBO) – Non-profit 501(3)(c) entities that operate within a single local community.
- x. Fiscal Year (FY) – July 1 through June 30.
- xi. Contractor – An approved enrollment site managed by a non-profit organization to provide ADAP/PrEP-AP enrollment services.
- xii. Insurance Benefits Manager (IBM) – Service contractor that manages and processes health insurance premium payments for clients enrolled in both ADAP’s Medication Program and Insurance Assistance Programs.
- xiii. Local Health Jurisdiction (LHJ) – One of 58 counties and three cities (Pasadena, Long Beach, and Berkeley) in the state of California.
- xiv. Medical Benefits Manager (MBM) – Service contractor that manages and processes outpatient medical out of pocket payments for clients enrolled in ADAP’s Insurance

Assistance Programs and approved PrEP related medical costs for clients enrolled in the PrEP-AP.

- xv. Office of AIDS (OA) – Has lead responsibility for coordinating state programs, services, and activities relating to HIV/AIDS as designated by California Health and Safety Code Section 131019.
- xvi. OA Health Insurance Premium Payment (OA-HIPP) – Pays for health insurance premiums and medical out of pocket costs for eligible clients co-enrolled in ADAP's Medication Program.
- xvii. OA Medicare Part D Premium Payment Program – Pays for Medicare Part D premiums for clients co-enrolled in ADAP's Medication Program.
- xviii. Open Site – An enrollment site that serves all CDPH medication assistance applicants/clients.
- xix. Pharmacy Benefits Manager (PBM) – Service contractor administering the ADAP statewide pharmacy network and providing pharmaceutical services for ADAP and PrEP-AP clients.
- xx. Pre-Exposure Prophylaxis Assistance Program (PrEP) Advisor - Office of AIDS staff assigned to provide technical assistance associated with PrEP- AP.
- xxi. PrEP-AP – PrEP-AP will cover 1) costs for HIV PrEP-related medical services for uninsured individuals who are enrolled in a drug manufacturer's PrEP medication assistance program, and 2) for insured individuals, both of the following: (a) the cost of medication copays, coinsurance, and deductibles for the prevention of HIV infection after the individual's insurance is applied and, if eligible, after the drug manufacturer's medication assistance program's contributions are applied, and b) medical copays, coinsurance, and deductibles for PrEP-related medical services.

1. Payments

- A. In no event shall CDPH/OA/ADAP pay the Contractor for services performed prior to the commencement date or after the expiration of this Agreement.
- B. For services satisfactorily rendered, CDPH/OA/ADAP agrees to compensate the Contractor for actual services provided in accordance with the amounts specified in Exhibit B, Section E., Amounts Payable.
- C. Payments shall be processed by CDPH/OA/ADAP no later than the end of the quarter dates noted below.

First Quarter:	July 1 – September 30
Payment no later than:	November 30

Second Quarter:	October 1 – December 31
Payment no later than:	February 28

Third Quarter:	January 1 – March 31
Payment no later than:	May 31

Fourth Quarter:	April 1 – June 30
Payment no later than:	August 31

(FINAL) Supplemental:	July 1 – June 30
Payment no later than:	August 31

D. Payments shall:

- 1) Be calculated based on current ADAP and PrEP-AP client enrollment data as provided by the ADAP Enrollment System to determine the number of ADAP/PrEP-AP services provided at each enrollment site.
- 2) Identify the payment period and/or performance period covered.
- 3) Itemize ADAP/PrEP-AP services for the payment period in the same level of detail as indicated in Section E Amounts Payable. Subject to the terms of this agreement, payment will only be made for those services expressly identified in this agreement as approved by CDPH/OA/ADAP.

E. Amounts Payable

All ADAP enrollment sites with a minimum of one ADAP or PrEP-AP enrollment per fiscal year (FY) will receive a floor amount with additional payment(s) per FY for performing the following ADAP/PrEP-AP services complete with all required forms and verifying documentation. Enrollment sites will be paid a fee for services performed.

The following documents and any subsequent updates are not attached, but are incorporated herein and made a part hereof by this reference. CDPH will maintain on

file, all documents referenced herein and any subsequent updates, as required by program directives. CDPH shall provide the Contractor with copies of said documents and any periodic updates thereto, under separate cover.

1) ADAP Resource Page found here:

https://www.cdph.ca.gov/Programs/CID/DOA/Pages/OA_adap_resourcespage.aspx

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor, or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any FY is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to the Contractor to reflect the reduced amount.
- C. In the event of early termination or cancellation, the Contractor shall be entitled to compensation for services performed satisfactorily under this agreement and expenses incurred up to the date of termination or cancellation and any non-cancelable obligations incurred in support of this agreement.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Timely Final Payment

- A. Final payment shall be processed no more than *sixty (60)* calendar days following the expiration or termination date of this agreement, unless a later or alternate deadline is agreed to in writing by the program contract manager.
- B. CDPH/OA/ADAP shall make payment to the Contractor quarterly in arrears for costs associated with the provision of ADAP enrollment services at the ADAP Enrollment Site in the local health jurisdiction (LHJ), under this contract agreement. Payment to the Contractor will be contingent upon receipt and execution of this contract agreement and the provision of ADAP/PrEP-AP enrollment services (as verified by CDPH/OA/ADAP through the AES data).
- C. This contract agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or the State Legislature, which may affect the provisions, terms, or funding of this contract agreement in any manner.

5. Recovery of Overpayments

- A. Contractor agrees that payments based upon the terms of this agreement or an audit finding and/or an audit finding that is appealed and upheld, will be recovered by CDPH/OA/ADAP by CDPH/OA/ADAP withholding payments or withholding a portion of payment for services performed until the amount of overpayment has been resolved.

If the Contractor has filed a valid appeal regarding the report of audit findings, recovery of the overpayments will be deferred until a final administrative decision on the appeal has been reached.

I. Recitals

- A. The underlying contract (Agreement), to which this HIPAA Business Associate Addendum is attached to and made a part of, has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the HITECH Act"), 42 U.S.C. section 17921 et seq., and their implementing privacy and security regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations").
- B. The Department of Public Health ("CDPH") wishes to disclose to Business Associate certain information pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI"), including protected health information in electronic media ("ePHI"), under federal law, and personal information ("PI") under state law.
- C. As set forth in the Agreement, Contractor, here and after, is the Business Associate of CDPH acting on CDPH' behalf and provides services, arranges, performs or assists in the performance of functions or activities on behalf of CDPH and creates, receives, maintains, transmits, uses or discloses PHI and PI. CDPH and Business Associate are each a party to the Agreement and are collectively referred to as the "parties."
- D. The purpose of this Addendum is to protect the privacy and security of the PHI and PI that may be created, received, maintained, transmitted, used or disclosed pursuant to the Agreement, and to comply with certain standards and requirements of HIPAA, the HITECH Act and the HIPAA regulations, including, but not limited to, the requirement that CDPH must enter into a contract containing specific requirements with Contractor prior to the disclosure of PHI to Contractor, as set forth in 45 CFR Parts 160 and 164 and the HITECH Act.
- E. The terms used in this Addendum, but not otherwise defined, shall have the same meanings as those terms have in the HIPAA regulations. Any reference to statutory or regulatory language shall be to such language as in effect or as amended.

II. Definitions

- A. Breach shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- B. Business Associate shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- C. Covered Entity shall have the meaning given to such term under HIPAA, the HITECH Act, and the HIPAA regulations.
- D. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C Section 17921 and implementing regulations.
- E. Electronic Protected Health Information (ePHI) means individually identifiable health information transmitted by electronic media or maintained in electronic media, including but not limited to electronic media as set forth under 45 CFR section 160.103.
- F. Individually Identifiable Health Information means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer

or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 CFR section 160.103.

- G. Privacy Rule shall mean the HIPAA Regulation that is found at 45 CFR Parts 160 and 164.
- H. Personal Information shall have the meaning given to such term in California Civil Code sectionS 1798.3 and 1798.29..
- I. Protected Health Information means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as set forth under 45 CFR section 160.103.
- J. Required by law, as set forth under 45 CFR section 164.103, means a mandate contained in law that compels an entity to make a use or disclosure of PHI that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.
- K. Secretary means the Secretary of the U.S. Department of Health and Human Services ("HHS") or the Secretary's designee.
- L. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PI, or confidential data that is essential to the ongoing operation of the Business Associate's organization and intended for internal use; or interference with system operations in an information system.
- M. Security Rule shall mean the HIPAA regulation that is found at 45 CFR Parts 160 and 164.
- N. Unsecured PHI shall have the meaning given to such term under the HITECH Act, 42 U.S.C. section 17932(h), any guidance issued pursuant to such Act and the HIPAA regulations.

III. Terms of Agreement

A. Permitted Uses and Disclosures of PHI by Business Associate

Permitted Uses and Disclosures. Except as otherwise indicated in this Addendum, Business Associate may use or disclose PHI only to perform functions, activities or services specified in the Agreement, for, or on behalf of CDPH, provided that such use or disclosure would not violate the HIPAA regulations, if done by CDPH. Any such use or disclosure must, to the extent practicable, be limited to the limited data set, as defined in 45 CFR section 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.

1. **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this Addendum, Business Associate may:
 - a. **Use and disclose for management and administration.** Use and disclose PHI for the proper management and administration of the Business Associate provided that such disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.
 - b. **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to CDPH. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of CDPH with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of CDPH.

B. Prohibited Uses and Disclosures

1. Business Associate shall not disclose PHI about an individual to a health plan for payment or health care operations purposes if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. section 17935(a) and 45 CFR section 164.522(a).
2. Business Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of CDPH and as permitted by 42 U.S.C. section 17935(d)(2).

C. Responsibilities of Business Associate

Business Associate agrees:

1. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by the Agreement or as required by law.
2. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of CDPH, in compliance with 45 CFR sections 164.308, 164.310 and 164.312, and to prevent use or disclosure of PHI other than as provided for by the Agreement. Business Associate shall implement reasonable and appropriate policies and procedures to comply with the standards, implementation specifications and other requirements of 45 CFR section 164, subpart C, in compliance with 45 CFR section 164.316. Business Associate shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and which incorporates the requirements of section 3, Security, below. Business Associate will provide CDPH with its current and updated policies.
3. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI and/or PI, and to protect paper documents containing PHI and/or PI. These steps shall include, at a minimum:

- a. Complying with all of the data system security precautions listed in Attachment A, the Business Associate Data Security Requirements;
- b. Achieving and maintaining compliance with the HIPAA Security Rule (45 CFR Parts 160 and 164), as necessary in conducting operations on behalf of CDPH under the Agreement;
- c. Providing a level and scope of security that is at least comparable to the level and scope of security established by the Office of Management and Budget in OMB Circular No. A-130, Appendix III - Security of Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies; and
- d. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these standards that occur after the effective date of the Agreement.
- e. Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with CDPH.

D. *Mitigation of Harmful Effects.* To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Addendum.

E. *Business Associate's Agents and Subcontractors.*

1. To enter into written agreements with any agents, including subcontractors and vendors, to whom Business Associate provides PHI or PI received from or created or received by Business Associate on behalf of CDPH, that impose the same restrictions and conditions on such agents, subcontractors and vendors that apply to Business Associate with respect to such PHI and PI under this Addendum, and that comply with all applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations.
2. In accordance with 45 CFR section 164.504(e)(1)(ii), upon Business Associate's knowledge of a material breach or violation by its subcontractor of the agreement between Business Associate and the subcontractor, Business Associate shall:
 - a. Provide an opportunity for the subcontractor to cure the breach or end the violation and terminate the agreement if the subcontractor does not cure the breach or end the violation within the time specified by CDPH; or
 - b. Immediately terminate the agreement if the subcontractor has breached a material term of the agreement and cure is not possible.

F. *Availability of Information to CDPH and Individuals.* To provide access and information:

1. To provide access as CDPH may require, and in the time and manner designated by CDPH (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to CDPH (or, as directed by CDPH), to an Individual, in accordance with 45 CFR section 164.524. Designated Record Set means the group of records maintained for CDPH that

includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for CDPH health plans; or those records used to make decisions about individuals on behalf of CDPH. Business Associate shall use the forms and processes developed by CDPH for this purpose and shall respond to requests for access to records transmitted by CDPH within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.

2. If Business Associate maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Business Associate shall provide such information in an electronic format to enable CDPH to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. section 17935(e).
3. If Business Associate receives data from CDPH that was provided to CDPH by the Social Security Administration, upon request by CDPH, Business Associate shall provide CDPH with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.

G. *Amendment of PHI.* To make any amendment(s) to PHI that CDPH directs or agrees to pursuant to 45 CFR section 164.526, in the time and manner designated by CDPH.

H. *Internal Practices.* To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from CDPH, or created or received by Business Associate on behalf of CDPH, available to CDPH or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by CDPH or by the Secretary, for purposes of determining CDPH' compliance with the HIPAA regulations. If any information needed for this purpose is in the exclusive possession of any other entity or person and the other entity or person fails or refuses to furnish the information to Business Associate, Business Associate shall so certify to CDPH and shall set forth the efforts it made to obtain the information.

I. *Documentation of Disclosures.* To document and make available to CDPH or (at the direction of CDPH) to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with the HITECH Act and its implementing regulations, including but not limited to 45 CFR section 164.528 and 42 U.S.C. section 17935(c). If Business Associate maintains electronic health records for CDPH as of January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after January 1, 2014. If Business Associate acquires electronic health records for CDPH after January 1, 2009, Business Associate must provide an accounting of disclosures, including those disclosures for treatment, payment or health care operations, effective with disclosures on or after the date the electronic health record is acquired, or on or after January 1, 2011, whichever date is later. The electronic accounting of disclosures shall be for disclosures during the three years prior to the request for an accounting.

J. *Breaches and Security Incidents.* During the term of the Agreement, Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach or security incident, and to take the following steps:

1. ***Notice to CDPH.*** (1) To notify CDPH **immediately by telephone call plus email or fax** upon the discovery of a breach of unsecured PHI or PI in electronic media or in any other media if the PHI or PI was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, or upon the discovery of a suspected security incident that involves data provided to CDPH by the

Social Security Administration. (2) To notify CDPH **within 24 hours by email or fax** of the discovery of any suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI in violation of the Agreement and this Addendum, or potential loss of confidential data affecting the Agreement. A breach shall be treated as discovered by Business Associate as of the first day on which the breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the breach) who is an employee, officer or other agent of Business Associate.

Notice shall be provided to the CDPH Program Contract Manager, the CDPH Privacy Officer and the CDPH Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notice shall be provided by calling the CDPH ITSD Service Desk. Notice shall be made using the "CDPH Privacy Incident Report" form, including all information known at the time. Business Associate shall use the most current version of this form, which is posted on the CDPH Privacy Office website (www.CDPH.ca.gov),

Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI, Business Associate shall take:

- a. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and
 - b. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
2. **Investigation and Investigation Report.** To immediately investigate such security incident, breach, or unauthorized access, use or disclosure of PHI or PI. Within 72 hours of the discovery, Business Associate shall submit an updated "CDPH Privacy Incident Report" containing the information marked with an asterisk and all other applicable information listed on the form, to the extent known at that time, to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Information Security Officer:
 3. **Complete Report.** To provide a complete report of the investigation to the CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall be submitted on the "CDPH Privacy Incident Report" form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, the HIPAA regulations and/or state law. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If CDPH requests information in addition to that listed on the "CDPH Privacy Incident Report" form, Business Associate shall make reasonable efforts to provide CDPH with such information. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated "CDPH Privacy Incident Report" form. CDPH will review and approve the determination of whether a breach occurred and individual notifications are required, and the corrective action plan.
 4. **Notification of Individuals.** If the cause of a breach of PHI or PI is attributable to Business Associate or its subcontractors, agents or vendors, Business Associate shall notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and shall pay any costs of such notifications, as well as any costs associated with the breach. The notifications shall comply with the requirements set forth in 42 U.S.C. section 17932 and its implementing regulations, including, but not limited to, the requirement that the notifications be

made without unreasonable delay and in no event later than 60 calendar days. The CDPH Program Contract Manager, the CDPH Privacy Officer, and the CDPH Information Security Officer shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made.

5. **Responsibility for Reporting of Breaches.** If the cause of a breach of PHI or PI is attributable to Business Associate or its agents, subcontractors or vendors, Business Associate is responsible for all required reporting of the breach as specified in 42 U.S.C. section 17932 and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured PHI involves more than 500 residents of the State of California or its jurisdiction, Business Associate shall notify the Secretary of the breach immediately upon discovery of the breach. If Business Associate has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to CDPH in addition to Business Associate, Business Associate shall notify CDPH, and CDPH and Business Associate may take appropriate action to prevent duplicate reporting. The breach reporting requirements of this paragraph are in addition to the reporting requirements set forth in subsection 1, above.
6. **CDPH Contact Information.** To direct communications to the above referenced CDPH staff, the Contractor shall initiate contact as indicated herein. CDPH reserves the right to make changes to the contact information below by giving written notice to the Contractor. Said changes shall not require an amendment to this Addendum or the Agreement to which it is incorporated.

CDPH Program Contract Manager	CDPH Privacy Officer	CDPH Information Security Officer
See the Scope of Work exhibit for Program Contract Manager information	Privacy Officer Privacy Office, c/o Office of Legal Services California Department of Public Health 1415 L Street, 5 th Floor Sacramento, CA 95814 Email: privacy@cdph.ca.gov Telephone: (877) 421-9634	Chief Information Security Officer Information Security Office California Department of Public Health P.O. Box 997413, MS 6302 Sacramento, CA 95899-7413 Email: cdphiso@cdph.ca.gov Telephone: IT Service Desk (916) 440-7000 or (800) 579-0874

K. *Termination of Agreement.* In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA regulations, if Business Associate knows of a material breach or violation by CDPH of this Addendum, it shall take the following steps:

1. Provide an opportunity for CDPH to cure the breach or end the violation and terminate the Agreement if CDPH does not cure the breach or end the violation within the time specified by Business Associate; or
2. Immediately terminate the Agreement if CDPH has breached a material term of the Addendum and cure is not possible.

L. *Due Diligence.* Business Associate shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this Addendum and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this Addendum.

M. *Sanctions and/or Penalties.* Business Associate understands that a failure to comply with the provisions of HIPAA, the HITECH Act and the HIPAA regulations that are applicable to Business Associate may result in the imposition of sanctions and/or penalties on Business Associate under HIPAA, the HITECH Act and the HIPAA regulations.

IV. Obligations of CDPH

CDPH agrees to:

- A. *Notice of Privacy Practices.*** Provide Business Associate with the Notice of Privacy Practices that CDPH produces in accordance with 45 CFR section 164.520, as well as any changes to such notice.
- B. *Permission by Individuals for Use and Disclosure of PHI.*** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.
- C. *Notification of Restrictions.*** Notify the Business Associate of any restriction to the use or disclosure of PHI that CDPH has agreed to in accordance with 45 CFR section 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- D. *Requests Conflicting with HIPAA Rules.*** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by CDPH.

V. Audits, Inspection and Enforcement

- A.** From time to time, CDPH may inspect the facilities, systems, books and records of Business Associate to monitor compliance with the Agreement and this Addendum. Business Associate shall promptly remedy any violation of any provision of this Addendum and shall certify the same to the CDPH Privacy Officer in writing. The fact that CDPH inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does CDPH's:

1. Failure to detect or
 2. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of CDPH' enforcement rights under the Agreement and this Addendum.
- B.** If Business Associate is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Addendum, Business Associate shall notify CDPH and provide CDPH with a copy of any PHI or PI that Business Associate provides to the Secretary or the Office of Civil Rights concurrently with providing such PHI or PI to the Secretary. Business Associate is responsible for any civil penalties assessed due to an audit or investigation of Business Associate, in accordance with 42 U.S.C. section 17934(c).

VI. Termination

- A. *Term.*** The Term of this Addendum shall commence as of the effective date of this Addendum and shall extend beyond the termination of the Agreement and shall terminate when all the PHI provided by CDPH to Business Associate, or created or received by Business Associate on behalf of CDPH, is destroyed or returned to CDPH, in accordance with 45 CFR 164.504(e)(2)(ii)(I).
- B. *Termination for Cause.*** In accordance with 45 CFR section 164.504(e)(1)(ii), upon CDPH' knowledge of a material breach or violation of this Addendum by Business Associate, CDPH shall:
1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Agreement if Business Associate does not cure the breach or end the violation within the time specified by CDPH; or
 2. Immediately terminate the Agreement if Business Associate has breached a material term of this Addendum and cure is not possible.
- C. *Judicial or Administrative Proceedings.*** Business Associate will notify CDPH if it is named as a defendant in a criminal proceeding for a violation of HIPAA. CDPH may terminate the Agreement if Business Associate is found guilty of a criminal violation of HIPAA. CDPH may terminate the Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.
- D. *Effect of Termination.*** Upon termination or expiration of the Agreement for any reason, Business Associate shall return or destroy all PHI received from CDPH (or created or received by Business Associate on behalf of CDPH) that Business Associate still maintains in any form, and shall retain no copies of such PHI. If return or destruction is not feasible, Business Associate shall notify CDPH of the conditions that make the return or destruction infeasible, and CDPH and Business Associate shall determine the terms and conditions under which Business Associate may retain the PHI. Business Associate shall continue to extend the protections of this Addendum to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

VII. Miscellaneous Provisions

- A. *Disclaimer.*** CDPH makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business

Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

- B. Amendment.** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon CDPH' request, Business Associate agrees to promptly enter into negotiations with CDPH concerning an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. CDPH may terminate the Agreement upon thirty (30) days written notice in the event:
1. Business Associate does not promptly enter into negotiations to amend this Addendum when requested by CDPH pursuant to this Section; or
 2. Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that CDPH in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- C. Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Agreement, available to CDPH at no cost to CDPH to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CDPH, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.
- D. No Third-Party Beneficiaries.** Nothing express or implied in the terms and conditions of this Addendum is intended to confer, nor shall anything herein confer, upon any person other than CDPH or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- E. Interpretation.** The terms and conditions in this Addendum shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations.
- F. Regulatory References.** A reference in the terms and conditions of this Addendum to a section in the HIPAA regulations means the section as in effect or as amended.
- G. Survival.** The respective rights and obligations of Business Associate under Section VI.D of this Addendum shall survive the termination or expiration of the Agreement.
- H. No Waiver of Obligations.** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

Attachment A

Business Associate Data Security Requirements

I. Personnel Controls

- A. *Employee Training.*** All workforce members who assist in the performance of functions or activities on behalf of CDPH, or access or disclose CDPH PHI or PI must complete information privacy and security training, at least annually, at Business Associate's expense. Each workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following contract termination.
- B. *Employee Discipline.*** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- C. *Confidentiality Statement.*** All persons that will be working with CDPH PHI or PI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to CDPH PHI or PI. The statement must be renewed annually. The Contractor shall retain each person's written confidentiality statement for CDPH inspection for a period of six (6) years following contract termination.
- D. *Background Check.*** Before a member of the workforce may access CDPH PHI or PI, a thorough background check of that worker must be conducted, with evaluation of the results to assure that there is no indication that the worker may present a risk to the security or integrity of confidential data or a risk for theft or misuse of confidential data. The Contractor shall retain each workforce member's background check documentation for a period of three (3) years following contract termination.

II. Technical Security Controls

- A. *Workstation/Laptop encryption.*** All workstations and laptops that process and/or store CDPH PHI or PI must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the CDPH Information Security Office.
- B. *Server Security.*** Servers containing unencrypted CDPH PHI or PI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.
- C. *Minimum Necessary.*** Only the minimum necessary amount of CDPH PHI or PI required to perform necessary business functions may be copied, downloaded, or exported.
- D. *Removable media devices.*** All electronic files that contain CDPH PHI or PI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES.

- E. Antivirus software.** All workstations, laptops and other systems that process and/or store CDPH PHI or PI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- F. Patch Management.** All workstations, laptops and other systems that process and/or store CDPH PHI or PI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release.
- G. User IDs and Password Controls.** All users must be issued a unique user name for accessing CDPH PHI or PI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within 24 hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every 90 days, preferably every 60 days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
- Upper case letters (A-Z)
 - Lower case letters (a-z)
 - Arabic numerals (0-9)
 - Non-alphanumeric characters (punctuation symbols)
- H. Data Destruction.** When no longer needed, all CDPH PHI or PI must be wiped using the Gutmann or US Department of Defense (DoD) 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission of the CDPH Information Security Office.
- I. System Timeout.** The system providing access to CDPH PHI or PI must provide an automatic timeout, requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- J. Warning Banners.** All systems providing access to CDPH PHI or PI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- K. System Logging.** The system must maintain an automated audit trail which can identify the user or system process which initiates a request for CDPH PHI or PI, or which alters CDPH PHI or PI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If CDPH PHI or PI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- L. Access Controls.** The system providing access to CDPH PHI or PI must use role based access controls for all user authentications, enforcing the principle of least privilege.

- M. *Transmission encryption.*** All data transmissions of CDPH PHI or PI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI or PI in motion such as website access, file transfer, and E-Mail.
- N. *Intrusion Detection.*** All systems involved in accessing, holding, transporting, and protecting CDPH PHI or PI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

III. Audit Controls

- A. *System Security Review.*** All systems processing and/or storing CDPH PHI or PI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.
- B. *Log Reviews.*** All systems processing and/or storing CDPH PHI or PI must have a routine procedure in place to review system logs for unauthorized access.
- C. *Change Control.*** All systems processing and/or storing CDPH PHI or PI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

IV. Business Continuity / Disaster Recovery Controls

- A. *Emergency Mode Operation Plan.*** Contractor must establish a documented plan to enable continuation of critical business processes and protection of the security of electronic CDPH PHI or PI in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under the Agreement for more than 24 hours.
- B. *Data Backup Plan.*** Contractor must have established documented procedures to backup CDPH PHI to maintain retrievable exact copies of CDPH PHI or PI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore CDPH PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of CDPH data.

V. Paper Document Controls

- A. *Supervision of Data.*** CDPH PHI or PI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. CDPH PHI or PI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
- B. *Escorting Visitors.*** Visitors to areas where CDPH PHI or PI is contained shall be escorted and CDPH PHI or PI shall be kept out of sight while visitors are in the area.
- C. *Confidential Destruction.*** CDPH PHI or PI must be disposed of through confidential means, such as cross cut shredding and pulverizing.

- D. *Removal of Data.*** CDPH PHI or PI must not be removed from the premises of the Contractor except with express written permission of CDPH.
- E. *Faxing.*** Faxes containing CDPH PHI or PI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
- F. *Mailing.*** Mailings of CDPH PHI or PI shall be sealed and secured from damage or inappropriate viewing of PHI or PI to the extent possible. Mailings which include 500 or more individually identifiable records of CDPH PHI or PI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of CDPH to use another method is obtained.

Site Name: _____ Site Number: _____

The Contractor shall complete and return this checklist with the signed copy of the contract agreement. To complete this checklist, the authorized agency administrator or representative attests by checking the boxes adjacent to the statement and signing this checklist that the ADAP Enrollment Site meets, and shall continue to meet throughout the life of the contract (July 1, 2016 – June 30, 2020), the requirements as identified in the Scope of Work which includes those identified below:

1.	The Contractor has reviewed and attests that the contracting agency or organization meets the requirements as written in the “Nondiscrimination Clause (OCP-1)” STD 17A form and has a process in place to deal with discrimination complaints.	
2.	The Contractor can ensure the administrative, physical and technical safeguards of protected health information as required in the CDPH HIPAA BAA 6-16, HIPAA Business Associate Addendum.	
2.a.	<i>Breaches of confidential client information must be immediately reported to CDPH/OA/ADAP. In the space below, please identify the process (and individual/s) your agency or organization has in place to report breaches of ADAP clients’ protected health or personal information.</i>	
3.	The ADAP Notice of Privacy Practices is posted in an area at the ADAP Enrollment Site that is accessible and visible to ADAP applicants/clients.	
4.	The Contractor has internet access and scanning and uploading capabilities to allow for the creation of electronic ADAP client files within the designated ADAP’s Enrollment Benefits Management secure web-based enrollment system.	
5.	The Contractor has desktop computers with internet access available for all site personnel (shared or individual) who will be performing ADAP enrollment services.	
6.	The Contractor has fax machine/s and scanner/s used to transmit and/or received ADAP client enrollment information/documentation located in a secure area at this ADAP Enrollment Site.	

All of the requirements listed above must be met in order to become an ADAP Enrollment Site.

Print Name of Authorized Agency Representative

Title

Signature

Date

Exhibit G

Plan for Transporting Confidential ADAP Client Files	
Enrollment Site Number:	Enrollment Site Contact:
Address of New Location (where client files are being transferred to): Enrollment Site Name: Current Enrollment Site Address: Enrollment Site Telephone Number: Enrollment Site Fax Number:	Date Client Files will be Transferred:
Please submit the completed Document Transfer Plan to your CDPH ADAP Advisor. Your advisor will contact you after the Document Transfer Plan has been reviewed/approved.	
<p>Acknowledge ADAP Policy for Transferring Client Files:</p> <p>It is the policy of [Insert Name of Enrollment Site], ADAP, to ensure that any transfer of ADAP documentation will be safe, secured and implemented in accordance with CDPH ADAP confidentiality and security requirements for safeguarding the confidentiality of protected health information. ADAP Eligibility Workers (EWs) will implement reasonable and appropriate administrative, technical, and physical measures to safeguard protected health information from any intentional or unintentional use or disclosure that might violate County, State or Federal privacy regulations, Health and Safety Code, and in accordance with the ADAP Site Agreement for years 2016 – 2020, Exhibit D, HIPAA Business Associate Addendum and Exhibit G, Plan for Transporting Confidential ADAP Client Files.</p>	
<p>Why are client files being transferred?</p> <p><input type="checkbox"/> Relocation of the ADAP Enrollment Site to a new office/location</p> <p><input type="checkbox"/> Providing in-home client enrollment services when a client is unable to travel to the ADAP Enrollment Site</p> <p><input type="checkbox"/> Relocating ADAP files to a new location for storage purposes</p> <p><input type="checkbox"/> Closure of an ADAP Enrollment Site.</p> <p>Note: If files are being transferred for a reason not listed above, please contact your ADAP Advisor</p>	
1. How many client files will be transferred?	

2. Describe the methods that will be used to secure client files when being transferred (e.g., locked container, by vehicle/trunk, no stops on way to new location, etc.)	
3. Which site staff person/s will supervise the security and transfer of client files as they are moved to the new location? Will a vendor be utilized? If so, please explain.	
4. Please describe where and how the client files will be stored at their new location.	
5. In this section, outline, step-by-step, the process that will be followed in the transferring of client files to their new location. Attach an additional page if necessary.	
_____ SIGNATURE OF SITE CONTACT/AGENCY ADMINISTRATOR	_____ DATE SIGNED

Additional Comments:

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

Pursuant to Public Contract Code section 2010, a person that submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a state agency with respect to any contract in the amount of \$100,000 or above shall certify, under penalty perjury, at the time the bid or proposal is submitted or the contract is renewed, all of the following:

1. CALIFORNIA CIVIL RIGHTS LAWS: For contracts executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and
2. EMPLOYER DISCRIMINATORY POLICIES: For contracts executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.		<i>Federal ID Number</i>
<i>Proposer/Bidder Firm Name (Printed)</i>		
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i>	