DocuSign Envelope ID: CCE98599-462E-4FB4-A378-2C290F207B65

OPTION LETTER #1

State Agency Department of Health Care Policy and Financing	**Option Letter Number** 1
Contractor **Denver County**	**Original Contract Number** **22-171375**
Current Contract Maximum Amount Initial Term State Fiscal Year 2022 $927571.46 Extension Terms State Fiscal Year 2023 $927571.46 Total for All State Fiscal Years $1855142.92	**Option Contract Number** 22-171375OL1 **Contract Performance Beginning Date** The Effective Date or July 1, 2022, whichever is later. **Current Contract Expiration Date** June 30, 2023

1. OPTIONS:

A. Option to extend for an Extension Term

2. REQUIRED PROVISIONS:

A. In accordance with Section 2.C. of the Original Contract referenced above, the State hereby exercises its option for an additional term, beginning July 1, 2022 and ending on the current contract expiration date shown above, at the rates stated in the Original Contract, as amended.

3. OPTION EFFECTIVE DATE:

A. The effective date of this Option Letter is upon approval of the State Controller or July 1, 2022, whichever is later.

STATE OF COLORADO **Jared S. Polis, Governor** Department of Health Care Policy and Financing Kim Bimestefer, Executive Director By: DocuSigned by: Kim Bimestefer 0B6A84797EA8493... Date: 6/28/2022	In accordance with C.R.S. §24-30-202, this Option is not valid until signed and dated below by the State Controller or an authorized delegate. **STATE CONTROLLER** **Robert Jaros, CPA, MBA, JD** By: DocuSigned by: Nathan Wattenberg 5E7821C38FAC42A... Option Effective Date: 6/28/2022

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

STATE OF COLORADO ITERGOVERNMENTAL AGREEMENT

COVER PAGE

State Agency Department of Health Care Policy and Financing	**Contract Number** 22-171375
Contractor Denver County	**Contract Performance Beginning Date** The Effective Date
Contract Maximum Amount Initial Term State Fiscal Year 2022 $927,571.46 Total for All State Fiscal Years $927,571.46	**Initial Contract Expiration Date** June 30, 2022 **Contract Authority** Authority to enter into this Contract exists in C.R.S. §25.5-1-101, *et. seq*. and insert other specific statutory authority or delete this entirely if no other specific authority exists

Contract Purpose

The purpose of this Contract is to create performance-based benchmarks and deliverables for county departments of human/social services to achieve certain performance standards related to County Administration, Medical Assistance Eligibility and cooperation with other Medical Assistance-related entities. This Amendment includes new Performance Incentives.

Exhibits and Order of Precedence

The following Exhibits and attachments are included with this Contract:

1. Exhibit A – Statement of Work
2. Exhibit B – Rates
3. Exhibit C – Sample Option Letter
4. Exhibit D: Review Sample Size Exemption Process Flow

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

1. Exhibit A, HIPAA Business Associates Addendum.
2. Exhibit G, Federal Provisions
3. Colorado Special Provisions in §18 of the main body of this Contract.
4. The provisions of the other sections of the main body of this Contract.
5. Exhibit A, Statement of Work.
6. Exhibit B, Rates.
7. Exhibit C, Sample Option Letter.

Principal Representatives

For the State:
Josh Montoya
Department of Healthcare Policy and Financing
Policy, Communications, and Administration Office
1570 Grant Street
Denver, Colorado, 80203
Josh.Montoya@state.co.us

For County:
Donald Mares
Denver County
1200 Federal Blvd.
Denver, CO
80204
Donald.Mares@denvergov.org

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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

County Donald Mares, County Director Denver County By: Mares, Donald J. - MOS Digitally signed by Mares, Donald J. - MOS Date: 2021.11.17 09:29:48 -07'00' Date: _____	**STATE OF COLORADO** **Jared S. Polis, Governor** Department of Health Care Policy and Financing Kim Bimestefer, Executive Director By: DocuSigned by: 0B6A84797EA8493... _____ 11/18/2021 Date: _____
	LEGAL REVIEW Phil Weiser, Attorney General By: N/A Date: _____

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

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: DocuSigned by: Greg Tanner BBE0F4C030DC45C... _____

11/18/2021

Effective Date: _____

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

TABLE OF CONTENTS

1. PARTIES 2
2. TERM AND EFFECTIVE DATE 2
3. DEFINITIONS 3
4. STATEMENT OF WORK 6
5. PAYMENTS TO CONTRACTOR 6
6. REPORTING - NOTIFICATION 7
7. CONTRACTOR RECORDS 7
8. CONFIDENTIAL INFORMATION-STATE RECORDS 8
9. CONFLICTS OF INTEREST 10
10. INSURANCE 10
11. BREACH OF CONTRACT 12
12. REMEDIES 12
13. DISPUTE RESOLUTION 14
14. NOTICES AND REPRESENTATIVES 15
15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION 15
16. GENERAL PROVISIONS 16
17. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3) 19

EXHIBIT A, HIPAA BUSINESS ASSOCIATES ADDENDUM .... **ERROR! BOOKMARK NOT DEFINED.**
EXHIBIT B, STATEMENT OF WORK ..... **ERROR! BOOKMARK NOT DEFINED.**
EXHIBIT C, RATES 1
EXHIBIT D, TERMINOLOGY ..... **ERROR! BOOKMARK NOT DEFINED.**
EXHIBIT E, CONTRACTOR'S ADMINISTRATIVE REQUIREMENTS ..... **ERROR! BOOKMARK NOT DEFINED.**
EXHIBIT F, SAMPLE OPTION LETTER 1
EXHIBIT G, FEDERAL PROVISIONS ..... **ERROR! BOOKMARK NOT DEFINED.**

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

1. PARTIES

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

2. TERM AND EFFECTIVE DATE

A. Effective Date

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

B. Initial Term

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

C. Extension Terms - State's Option

The State, at its discretion, shall have the option to extend the performance under this Contract beyond the Initial Term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in the Contract (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to the Sample Option Letter attached to this contract. Except as stated in **§2.D**, the total duration of this Contract, including the exercise of any options to extend, shall not exceed five years from its Effective Date absent prior approval from the Chief Procurement Officer in accordance with the Colorado Procurement Code.

D. End of Term Extension

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

E. Early Termination in the Public Interest

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

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

governed by **§12.**

i. Method and Content

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

ii. Obligations and Rights

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

iii. Payments

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

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

A. "**Breach of Contract**" means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Contractor is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.

B. "**Business Day**" means any day other than Saturday, Sunday, or a Legal Holiday as listed in C.R.S. §24-11-101(1).

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

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

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

F. "**Contractor Pre-Existing Material**" means material, code, methodology, concepts, process, systems, technique, trade or service marks, copyrights, or other intellectual property

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

developed, licensed or otherwise acquired by Contractor prior to the Effective Date of this Contract and independent of any services rendered under any other contract with the State.

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

H. "**Criminal Justice Information (CJI)**" means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under C.R.S. §24-72-302.

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

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

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

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

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

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

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

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

Q. **"Payment Card Information (PCI)**" means payment card information including any data related to credit card holders' names, credit card numbers, or the other credit card information as may be protected by state or federal law.

R. "**Personal Health Information (PHI)**" means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.

S. **"Personally Identifiable Information (PII)**" means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in C.R.S. §24-72-501.

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

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

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

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

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

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

Z. "**Tax Information**" means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to, all information defined as federal tax information in Internal Revenue Service Publication 1075.

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

BB. "**Work Product**" means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. "Work

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

Product" does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit, including the terminology in Exhibit D.

4. STATEMENT OF WORK

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

The State, at its discretion, shall have the option to increase or decrease the statewide quantity of Goods and Services based upon rates established in this Contract, and increase the maximum amount payable accordingly. In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to the Sample Option Letter attached to this contract. Delivery of Goods and performance of Services shall continue at the same rates and terms as described in this Contract.

5. PAYMENTS TO CONTRACTOR

A. Maximum Amount

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

B. Payment Procedures

i. Invoices and Payment

a. The State shall pay Contractor in the amounts and in accordance with the schedule and other conditions set forth in Exhibit B, Statement of Work and Exhibit C, Rates.

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

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

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

ii. Interest

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

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

iii. Payment Disputes

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

iv. Available Funds-Contingency-Termination

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

6. REPORTING - NOTIFICATION

A. Quarterly Reports.

In addition to any reports required pursuant to this Contract or pursuant to any other Exhibit, for any contract having a term longer than 3 months, Contractor shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Contract. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than 5 Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

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

7. CONTRACTOR RECORDS

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the "Contractor Records"). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: **(i)** the date three years after the date this Contract expires or is terminated, **(ii)** final payment under this Contract is made, **(iii)** the resolution of any pending Contract matters, or **(iv)** if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

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

C. Monitoring

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

D. Final Audit Report

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

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

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

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Contract, if applicable. Contractor shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

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

C. Use, Security, and Retention

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

D. Incident Notice and Remediation

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

E. Data Protection and Handling

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

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

F. Safeguarding PII

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

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

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

B. Apparent Conflicts of Interest

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

C. Disclosure to the State

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

10. INSURANCE

Contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Contract. All insurance policies required by this Contract that are not provided through self-insurance shall be issued by insurance companies as approved by the state.

A. Contractor Insurance

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

B. Subcontractor Requirements

Contractor shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Contract, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Contractor shall ensure that each Subcontractor that is not a public entity

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

within the meaning of the GIA, maintains at all times during the terms of this Contract all of the following insurance policies:

i. Workers' Compensation

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

ii. General Liability

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

a. $1,000,000 each occurrence;

b. $1,000,000 general aggregate;

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

d. $50,000 any 1 fire.

iii. Automobile Liability

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

iv. Protected Information

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

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

b. $2,000,000 general aggregate.

v. Professional Liability Insurance

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

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

b. $1,000,000 general aggregate.

vi. Crime Insurance

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

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

b. $1,000,000 general aggregate.

C. Additional Insured

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

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

D. Primacy of Coverage

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

E. Cancellation

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

F. Subrogation Waiver

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

G. Certificates

For each commercial insurance plan provided by Contractor under this Contract, Contractor shall provide to the State certificates evidencing Contractor's insurance coverage required in this Contract within 7 Business Days following the Effective Date. Contractor shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Contract within 7 Business Days following the Effective Date, except that, if Contractor's subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage required under this Contract within 7 Business Days following Contractor's execution of the subcontract. No later than 15 days before the expiration date of Contractor's or any Subcontractor's coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Contractor shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this **§10**.

11. BREACH OF CONTRACT

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

12. REMEDIES

A. State's Remedies

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

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

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

a. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the State all Work not cancelled by the termination notice and may incur obligations as necessary to do so within this Contract's terms. At the request of the State, Contractor shall assign to the State all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor but in which the State has an interest. At the State's request, Contractor shall return materials owned by the State in Contractor's possession at the time of any termination. Contractor shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

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

c. Damages and Withholding

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

ii. Remedies Not Involving Termination

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

a. Suspend Performance

Suspend Contractor's performance with respect to all or any portion of the Work

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

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

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

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

d. Removal

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

e. Intellectual Property

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

B. Contractor's Remedies

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

13. DISPUTE RESOLUTION

A. Initial Resolution

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

B. Resolution of Controversies

If the initial resolution described in **§13.A** fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Department's Procurement Official as described in C.R.S. §24-101-301(30), for resolution in accordance with the provisions of C.R.S. §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

(the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

14. NOTICES AND REPRESENTATIVES

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

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

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

i. Copyrights

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

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

license.

ii. Patents

In addition, Contractor grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Contractor that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

B. Exclusive Property of the State

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

C. Exclusive Property of Contractor

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

16. GENERAL PROVISIONS

A. Assignment

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

B. Subcontracts

Contractor shall not enter into any subcontract in connection with its obligations under this Contract without the prior, written approval of the State. Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

C. Binding Effect

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

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

D. Authority

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

E. Captions and References

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

F. Counterparts

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

G. Entire Understanding

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

H. Digital Signatures

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

I. Modification

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

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

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

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Contractor's or a Subcontractor's website or any provision incorporated into any click-through or online

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

agreements related to the Work unless that provision is specifically referenced in this Contract.

L. Severability

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

M. Survival of Certain Contract Terms

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

N. Taxes

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

O. Third Party Beneficiaries

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

P. Waiver

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

Q. CORA Disclosure

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

R. Standard and Manner of Performance

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

S. Licenses, Permits, and Other Authorizations.

Contractor shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

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

T. Additional Provisions

Contractor shall comply with all requirements shown Exhibit A and Exhibit G.

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

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

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

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

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

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

C. **GOVERNMENTAL IMMUNITY.**

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the Party's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. **INDEPENDENT CONTRACTOR.**

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

E. **COMPLIANCE WITH LAW.**

Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

to discrimination and unfair employment practices.

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

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

G. **PROHIBITED TERMS.**

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S.

H. **SOFTWARE PIRACY PROHIBITION.**

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

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

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

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

EXHIBIT A, STATEMENT OF WORK

1. TERMINOLOGY

1.1. The following list is provided to assist the reader in understanding acronyms, abbreviations and terminology used throughout this document.

1.1.1. Applicant – An individual for whom the Contractor is performing a Determination.

1.1.2. Benchmark - degrees of performance between undesired current performance and target performance (example: current timeliness 90%, benchmark for next month= 93% until we reach 95%)

1.1.3. Child Health Plan *Plus* (CHP+) – public low-cost health insurance for certain children and pregnant women.

1.1.4. Compliance - these measures are tied to contracts or to ensure Colorado does not fall below expected standards.

1.1.5. COGNOS/Decision Support System 01 (DSS01) – the Department's data reporting systems that use information from the Colorado Benefits Management System (CBMS).

1.1.6. Colorado Benefits Management System (CBMS) – the State's eligibility determination system.

1.1.7. Colorado Information Security Policies (CISP) - Colorado Information Security Policies promulgated by the Chief Information Security Officer in the Governor's Office of Information Technology pursuant to §§24-37.5-401, *et seq*., C.R.S.

1.1.8. Colorado interChange (interChange) – the State's claims payment system and related subsystems that utilize eligibility information from CBMS to pay providers for medical and/or other claims. The system and related subsystems also collects and analyzes data related to those payments.

1.1.9. Correction Action Plan (CAP) - A formal plan implemented with technical assistance to address non-compliance and/or performance.

1.1.10. County Administration website – the Department's public-facing website where contract documentation is kept for the County Incentives Program (http://www.colorado.gov/hcpf/county-admin).

1.1.11. County Financial Management System (CFMS) – the accounting system utilized by the Contractor to record expenditures against county administration funding for Colorado's Medical Assistance Program. The system is also used to issue Performance Incentive Payments to eligible Contractors.

1.1.12. County Incentives Program – program that provides specific funding to county departments of human/social services for meeting Medicaid-related Performance Incentive Standards in their counties. Also referenced as Performance Incentive Standard Program throughout this Agreement.

1.1.13. Determination – The act of using CBMS to determine if an Applicant is eligible for the Colorado Medical Assistance Program based on information submitted on a new application, a redetermination or a change in member circumstance.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

1.1.14. Disenroll or Disenrollment – The act of processing a change in circumstance that affects a member's eligibility and makes them ineligible for coverage within Health First Colorado or Child Health Plan *Plus*.

1.1.15. Governor's Office of Information Technology (OIT) – The office created by and described in §§24-37.5.101, *et seq*. C.R.S. OIT is the Information Technology Service Provider for Consolidated State Agencies.

1.1.16. HCPF Memo Series - The Department's policy, operational and informational communications that are utilized to provide contract clarifications, provide data and operational guidance and share information pertaining to the County Incentives Program.

1.1.17. Health First Colorado – the member-facing name for Colorado's Medical Assistance Program, which includes all programs that use the Modified Adjusted Gross Income (MAGI) methodology.

1.1.18. Home and Community-Based Services (HCBS) - HCBS waiver programs provide additional benefits and services to eligible populations in addition to the standard benefit package offered to all members.

1.1.19. Improvement Action Plan (IAP) - An informal plan implemented with technical assistance to address non-compliance and/or performance that may lead to noncompliance.

1.1.20. Information Technology Service Provider (ITSP) - A Service Provider that provides information technology services to the Contractor. The ITSP may be an internal department, a third-party vendor or OIT.

1.1.21. Long Term Care (LTC) - Long-Term Care is a Medical Assistance program that provides nursing-home care, home-health care, personal or adult day care for individuals aged at least 65 years or with a chronic or disabling condition.

1.1.22. Management Decision Letter (MDL) -A formal notification issued by the Department, through a letter that details areas and findings of noncompliance by the Contractor. An MDL can be issued for not meeting performance targets on the MAP Dashboard.

1.1.23. Member – An individual who is eligible for the Colorado Medical Assistance Program. Also known as a client.

1.1.24. Medicaid Assistance Performance (MAP) Dashboards - a graphic representation of essential information regarding performance measures, targets and benchmarks and the county's actual performance. The MAP Dashboards highlights each county's performance and quality.

1.1.25. Performance Measure - A quantification that provides objective evidence of the degree to which a performance result (goal) is occurring over time.

1.1.26. Program for the All-Inclusive Care for the Elderly (PACE) – Program provides comprehensive medical and social support services to certain frail individuals 55 years of age and over. The goal of PACE is to keep individuals in their homes and communities through comprehensive care coordination.

1.1.27. PuMP - Performance Measurement Process developed by Stacey Barr.

1.1.28. Reporting Period – The period of time for each performance standard used to measure whether the Contractor met that standard.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

1.1.28.1. The First Reporting Period for a SFY shall begin on July 1 of that SFY and end on December 31 of that SFY.

1.1.28.2. The Second Reporting Period for a SFY shall begin on January 1 of that SFY and end on June 30 of that SFY.

1.1.29. Redetermination – A Determination as defined under 10 C.C.R. 2505-8.100.3.P.

1.1.30. State Fiscal Year (SFY) – The period beginning July 1 of each calendar year and ending on June 30 of the following calendar year. Also referred to as fiscal year in this Exhibit.

1.1.31. Status Report – a communication to the Contractor that details which Performance Incentive Standards were met for each Reporting Period.

1.1.32. Timely Determination – Any Determination that is completed within the timeliness requirements set forth in 10 C.C.R. 2505-8.100.3.D.

1.1.33. Timely Disenrollment – Processing a change in a member's circumstance and making a determination within fifteen (15) calendar days.

1.1.34. Timely Redetermination – Any Redetermination that is completed by the last day of the month prior to the month in which the member's new annual enrollment period begins.

1.1.35. Target - Degree of performance we are aiming to achieve (i.e. 95% Timeliness)

1.1.36. Untimely Determination – Any Determination that is not completed within the timeliness requirements set forth in 10 C.C.R. 2505-8.100.3.D.

1.1.37. Untimely Redetermination – Any Redetermination that is not completed by the last day of the month prior to the month in which the member's new annual enrollment period begins. This is based on the CBMS RRR Due Date.

2. COUNTY DETERMINATIONS

2.1. The Contractor shall perform all Medicaid eligibility-related work within the Contractor's county, required under C.R.S. §25.5-1-101 *et seq*. The Department and the Contractor share the costs of this work performed by the Contractor as defined in those statutes and this Contract shall not impact the allocated amount of that cost sharing.

3. SYSTEMS USED TO DETERMINE COMPLIANCE WITH PERFORMANCE INCENTIVES STANDARDS

3.1. Systems Utilized to Determine Compliance

3.1.1. To determine whether the Contractor met any or all the Performance Incentives Standards when completing determinations and redeterminations within the Contractor's county, the Department will utilize the COGNOS/DSS01 systems to pull data tracking and reports that track the Contractor's compliance with certain Performance Incentive Standards. This data will be visualized on each county's MAP Dashboards.

3.1.2. To determine whether the Contractor met any or all the Performance Incentives Standards when working with Medicaid populations within the Contractor's county, the Department may utilize data from the Colorado interChange system.

3.1.3. The above list of systems is not all-inclusive and the Department will, at its discretion, utilize additional data and reports from the COGNOS/DSS01, interChange, and/or other systems to determine whether the Contractor met any or all the Performance Incentives Standards.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

3.1.4. The date the data or reports will be pulled from the COGNOS/DSS01, interChange, and/or other systems published on the MAP Dashboard will be defined in each applicable Performance Incentive Standard and/or the PuMP template for those performance measures.

3.1.5. The Contractor should utilize policy, operational and informational guidance provided in this Exhibit and through the HCPF Memo Series for each Performance Incentives Standard to assist with implementing the Performance Incentives Standard and pulling applicable data and reports to determine the Contractor's compliance with any or all the Performance Incentives Standards.

3.2. Communications Utilized to Determine Compliance

3.2.1. To fulfill the requirements in Exhibit A1 Statement of Work and earn a Performance Incentive Payment, the Contractor shall utilize and comply with guidance issued through the HCPF Memo Series.

3.2.2. The Contractor will utilize the HCPF Memo Series to find any forms, templates, program contacts or additional information needed to operationalize the Performance Incentives Standard Program referenced throughout this Agreement.

3.2.3. If additional guidance or contract clarification is needed, the Department may release additional guidance to the Contractor through the HCPF Memo Series.

4. PERFORMANCE INCENTIVES STANDARD PROGRAM

4.1. The Contractor may earn Performance Incentive Payments to reimburse it for a portion of its cost sharing as described in Section 2.

4.2. Accuracy Performance Incentive Standard

4.2.1. The Contractor may earn the Accuracy Performance Incentive Payment by meeting the Accuracy targets at the end of the Second Reporting Period. To earn the Accuracy Performance Incentive Payment, the Contractor must meet both targets as specified in section 4.2.1.1, which includes (1) Target for Inaccurate Eligibility Determination Rate and (2) Target for Errors that do not Impact Eligibility.

4.2.1.1. Accuracy Targets

4.2.1.1.1. The Inaccurate Eligibility Determination Rate target is used to determine how many individuals in the sample had an incorrect determination.

4.2.1.1.1.1. The Inaccurate Eligibility Determination Rate is calculated as the number of individuals that were incorrectly approved, denied, or terminated divided by the total number of individuals in the sample (%), monthly (includes applications, redeterminations, and case changes).

4.2.1.1.2. The Errors that do not Impact Eligibility target is used to determine how many individuals in the sample had a correct determination with errors that did not impact eligibility.

4.2.1.1.2.1. The Errors that do not Impact Eligibility is calculated as the number of individuals with error(s) that did not impact eligibility divided by number of individuals in the sample, monthly (includes applications, redeterminations, and case changes).

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

4.2.1.2. HCPF Quality Assurance Process and Accuracy Dashboard

4.2.1.2.1. The Contractor shall comply with HCPF Operational Memo (OM) 21-030, which specifies the Contractor's role in the state quality assurance (QA) case review process.

4.2.1.2.1.1. The QA case reviews occur monthly.

4.2.1.2.1.2. The QA case review process is to monitor the accuracy and quality of eligibility determinations for Medical Assistance made by the Contractor.

4.2.1.2.1.3. The Contractor must respond to documentation requests and error findings within ten (10) business days of the request to ensure QA case reviews are completed timely.

4.2.1.2.1.4. The Contractor must respond to the Department's QA case review error findings by using the two options, 1) Agree/Concur or 2) Disagree/Rebut within ten (10) business days.

4.2.1.2.1.5. If additional or revised guidance on the state quality assurance case review process is issued, then the Contractor shall comply with the most current, recent information issued through the HCPF Memo Series.

4.2.1.2.2 The Department shall utilize the Medical Assistance Performance (MAP) Accuracy Dashboard to publish the results of the quality assurance case review findings on a monthly basis and sends the results to the County Directors and County Commissioners.

4.2.1.3. Setting Accuracy Targets and Benchmarks

4.2.1.3.1. The Department shall use the May 2021 data, which will be published on the June 2021 MAP Accuracy Dashboard, to set the Second Reporting Period targets and quarterly benchmarks. The Department shall communicate the targets and benchmarks the Contractor is required to meet at the conclusion of the Second Reporting Period through HCPF Memo Series.

4.2.1.4. Determining Compliance with the Accuracy Performance Incentives Standards

4.2.1.4.1 The MAP Accuracy Dashboard will be available monthly to the Contractor to determine the Contractor's performance over the fiscal year. To determine compliance with the Accuracy Performance Incentive, the Department will utilize the June 2022 Accuracy data, available in the July 2022 MAP Accuracy Dashboard, to determine whether the Contractor met or exceeded the specified Accuracy target.

4.2.1.4.2 The Department will take the Contractor's final actual performance on the MAP Accuracy Dashboard in comparison to the Contractor's Accuracy targets at the end of the fiscal year to determine if the Contractor's actual performance has met and/or exceeded the Accuracy targets to earn an Accuracy Performance Incentive Payment. The percentage calculation has zero (0) decimal places and will not be rounded.

4.2.1.5 Review Sample Size Exemptions

4.2.1.5.1 If the Contractor has a review sample size, as defined in section 4.2.1.5.2, performed by HCPF QA, the Contractor may be eligible for the Review Sample Size Exemption.

4.2.1.5.2 Definition of Review Sample Size

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

4.2.1.5.2.1 The Contractor with twenty (20) or fewer quality assurance case reviews per fiscal year would qualify for a Review Sample Size Exemption. The Contractor with a review sample size that do not meet one or both of the Accuracy Incentive targets as defined in section 4.2.1.1 may be eligible for the Review Sample Size Exemption:

i. Inaccurate Eligibility Rate and/or,
ii. Errors that do not impact Eligibility.

4.2.1.5.3 Determining Targets percentage (%) for Potential Review Sample Size Exemptions

4.2.1.5.3.1 The Department shall have two tier target percentages for the Accuracy Targets:

4.2.1.5.3.1.1 Tier 1 target percentage (%): The Contractor with twenty (20) or more quality assurance case reviews.

4.2.1.5.3.1.2 Tier 2 target percentage (%): The Contractor with fewer than twenty (20) quality assurance case reviews.

4.2.1.5.3.2 The Department shall set the two tier targets percentage based on the June 2021 data for the Accuracy Incentive.

4.2.1.5.3.2.1 The finalized targets percentage will be communicated through the HCPF Memo Series.

4.2.1.5.4 Review Sample Size Exemption Process

4.2.1.5.4.1 The Department shall follow Exhibit D for the Review Sample Size Exemption Process.

4.2.1.5.4.2 Definition of Similar Error(s)

4.2.1.5.4.2.1 The MAP Accuracy Dashboard identifies the accuracy rates for each Contractor; HCPF QA provides those errors caused by the Contractor that impact accuracy rates. This allows the Contractor to address the root cause of errors to prevent similar errors going forward. If errors are not addressed by the Contractor and they repeat in future months, the errors will be considered similar errors.

4.2.1.5.4.3 If the Contractor meets only one target with less than twenty (20) reviews, the Review Sample Size Exemption Process will be applied only to the one target not met by the Contractor.

4.2.1.5.4.3.1 If the QA case review size is less than three (3), the three (3) errors are not similar errors at the end of fiscal year, an automatic exemption is applied,

4.2.1.5.4.3.1.1 If the three (3) errors are similar errors at the end of fiscal year, no automatic exemption is applied.

4.2.1.5.4.3.2 If the QA case review size is greater than three (3) over the course of the fiscal year with no similar errors, exemption process is applied, and the initial target percentage shall be reviewed per section 4.2.1.5.3, and the Department may review additional documentation per the Department's discretion to recalculate the percentage, if needed.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

4.2.1.5.4.4 The Contractor that does not meet both targets with less than twenty (20) reviews, exemption will be applied to both targets.

4.2.1.5.4.4.1 If the QA case review size is less than three (3) over the course of the fiscal year, the three (3) errors are not similar errors at the end of fiscal year, an automatic exemption is applied,

4.2.1.5.4.4.1.1 If the three (3) errors are similar errors at the end of fiscal year, no automatic exemption is applied.

4.2.1.5.4.4.2 If the QA case review size is greater than three (3) over the course of the fiscal year with no similar errors, exemption process is applied, and the initial target percentage shall be reviewed per section 4.2.1.5.3, and the Department may review additional documentation per the Department's discretion to recalculate the percentage, if needed.

4.2.1.5.5 Notification of Review Sample Size Exemption

4.2.1.5.5.1 If the Contractor does not meet the Accuracy Incentive Targets per section 4.2.1.5.3, they will be notified through the Status Report of the Second Reporting Period.

4.2.1.5.5.2 The Contractor that does not meet the Accuracy Incentive Targets but qualifies for the exemption process per section 4.2.1.5.4, the Contractor will be notified through the Status Report.

4.2.1.5.5.2.1 If the Contractor qualifies for the Review Sample Size Exemption Process, the Department shall review previously submitted documentation from the Contractor based on their MAP Accuracy Dashboard and may request additional documentation as needed.

4.2.1.5.5.2.2 The Contractor shall submit any additional documentation requested for the exemption process to hcpf_countyrelations@state.co.us within ten (10) business days from the day of notification.

4.2.1.5.6 Review Sample Size Exemption Process and Accuracy Performance Incentive Payment

4.2.1.5.6.1 The Contractor shall earn an Accuracy Performance Incentive Payment if both Accuracy Targets defined at sections 4.2.1.1.1 and 4.2.1.1.2 are met after eligible exemption(s) are applied.

4.2.2 BENCHMARKS: Individualized, Contractor-specific accuracy targets for Inaccurate Eligibility Determinations and Errors that do not impact Eligibility.

4.3 Performance Compliance Performance Incentive Standard

4.3.1 The Contractor shall comply monthly with the Director-level MAP Dashboard measures. The performance measures include timeliness of applications/redeterminations, timeliness of long term services and supports (LTSS) applications/redeterminations, timeliness of case changes, etc.

4.3.1.1 The specific Director-level measures to be included in the Performance Compliance Performance Incentives Standard shall be communicated through HCPF Memo Series.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

4.3.1.2 The Department reserves the right to remove and/or add additional measures as it is appropriate.

4.3.1.3 If adding or revising MAP Dashboard measures, the Department shall apply the PuMP process and the Contractor shall have an opportunity to provide feedback.

4.3.2 Department Monitoring of MAP Dashboards

4.3.2.1 The Department updates the MAP Dashboards monthly, which are accessible to the Contractor through the Department's MAP Dashboard SharePoint Page; copies of these Dashboards are also emailed to Contractor leadership monthly.

4.3.3 Contractor Monitoring of MAP Dashboards

4.3.3.1 The Contractor must monitor the monthly published MAP Dashboards to ensure targets are met.

4.3.3.2 The Contractor shall designate MAP Dashboard performance owners to access the MAP Dashboards and follow the Standard Operating Procedure (SOP) that is available on the Department SharePoint Page to ensure targets are met and to take action.

4.3.3.3 The Contractor shall review and investigate the root causes for not achieving the target(s).

4.3.3.4 Contractors shall respond with the outcome of the investigation for not meeting the target based on the established MAP Dashboard process.

4.3.3.5 The Contractor shall follow guidance regarding the MAP Dashboard process as issued through the MAP Dashboard SOP, trainings and HCPF Memo Series.

4.3.4 Determining Compliance with Performance Compliance Performance Incentives Standard

4.3.4.1 The Contractor will be deemed out of compliance for specific Director-level measures when the Contractor has not met the target(s) after a short- or long-run of performance.

4.3.4.1.1 The Contractor shall refer the MAP Dashboard SOP and HCPF Memo Series for guidance on what constitutes a short- or long-run of performance.

4.3.4.1.2 A Management Decision Letter (MDL), requiring the Contractor to create an Improvement Action Plan (IAP) or Corrective Action Plan (CAP), will be issued to the Contractor to address the short- or long-run of performance.

4.3.4.1.2.1 The Contractor shall refer to HCPF OM 21-004 for guidance on MDLs, IAPs and CAPs.

4.3.4.1.2.1.1 If additional guidance or clarification on MDLs, IAPs and CAPs is issued by the Department, the Contractor shall comply with the most recently released information.

4.3.4.1.2.1.1.1 The issuance of the MDL on a specific Director-level measure signifies that measure as being out-of-compliance. Performance measures with an active MDL shall be ineligible for a Performance Compliance Performance Incentive Payment.

4.3.4.1.2.2 The Contractor may earn the Performance Compliance Performance Incentive Payment by ensuring that a certain number of Director-level measures maintain compliance with the performance targets and are not issued an MDL.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

4.3.4.1.2.2.1 The specific number of Director-level measures that the Contractor must maintain compliance with shall be communicated through the HCPF Memo Series.

4.3.5 BENCHMARKs: The Contractor shall maintain compliance with a certain amount of Director-level measures out of the total number of Director-level measures reported on the MAP Dashboard.

4.4 Cyber Security Performance Incentive Standard

4.4.1 The Contractor may earn one Cyber Security Performance Incentive Payment for both Reporting Periods in which the Contractor submits the required deliverable(s) relating to remediation of certain high-risk non-compliant cyber security standards based on Colorado Information Security Policies (CISP) and federal Health and Human Services Security Risk Assessment. The Department will provide additional guidance through the HCPF Memo Series, which can also be found on the County Administration website.

4.4.2 Fiscal Year Deliverable

4.4.2.1 No later than the semi-annual reporting due date for the Second Reporting Period, the Contractor shall use a written Remediation Deliverable to address certain areas of actionable high-risk non-compliance to be identified by the Department based on the Contractor's FY 2020-21 Risk Assessment and Remediation Plan Deliverable.

4.4.2.1.1 If the Contractor has not completed the FY 2020-21 Risk Assessment and Remediation Plan Deliverable, this Deliverable must be completed and submitted to the Department in order to be eligible to earn FY 2021-22 Cyber Security Incentive funds. Full compliance with each and every CISP does not need to be met by the semi-annual due date for the Second Reporting Period; rather, the Contractor, shall work with the State to remediate identified actionable high-risk non-compliant Cyber Security standards.

4.4.3 DELIVERABLE: Completed Remediation Deliverable submitted no later than the semi-annual due date for the Second Reporting Period.

4.5 Continuous Coverage Performance Incentive Standard

4.5.1 The Contractor may earn a Continuous Coverage Performance Incentive Payment for the fiscal year in which the Contractor meets its specified benchmarks relating to the percentage of Medical Assistance members who have an eligibility review within one hundred eighty (180) calendar days of the end of the COVID-19 public health emergency as described in section 4.5.

4.5.1.1 Notification of end of continuous coverage and COVID-19 public health emergency

4.5.1.1.1 Upon notification from the federal government that the continuous coverage requirement for Medical Assistance members has ended, the Contractor will be notified through the HCPF Memo Series. The communication will include the starting date of the one hundred eighty (180) calendar days period to review eligibility for those members impacted by the continuous coverage requirement.

4.5.1.2 Percentages of Medical Assistance members with a required review of eligibility

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

4.5.1.2.1 The Contractor shall review eligibility within one hundred eighty (180) calendar days for at least ninety percent (90.00%) of Health First Colorado and CHP+ members that require a review due to the end of the COVID-19 public health emergency.

4.5.1.2.2 The Contractor shall review eligibility within one hundred eighty (180) calendar days for at least ninety percent (90.00%) of Long Term Services and Supports members that require a review due to the end of the COVID-19 public health emergency.

4.5.1.3 Members who require a review of eligibility

4.5.1.3.1 The Department will work with the CBMS Contractor to review eligibility for those members who have the necessary information at the end of the COVID-19 public health emergency. For those members who do not have the necessary information to review eligibility, the Contractor will be responsible for ensuring the timely completion of eligibility review within one hundred eighty (180) calendar days of the end of COVID-19 public health emergency.

4.5.1.3.1.1 The Department has the discretion to amend section 4.5 if the PHE guidance changes upon federal government direction.

4.5.1.4 Determining Compliance with the Continuous Coverage benchmarks

4.5.1.4.1 The Department will total the number of Health First Colorado and CHP+ members that the Contractor completed a review of eligibility within one hundred eighty (180) calendar days of the end of the COVID-19 public health emergency and divide that by the total number of all Health First Colorado and CHP+ members that required a review of eligibility due to COVID-19 public health emergency in the Contractor's county.

4.5.1.4.2 The Department will total the number of LTSS members that the Contractor completed a review of eligibility within one hundred eighty (180) calendar days of the end of the COVID-19 public health emergency and divide that by the total number of all LTSS members that required a review of eligibility due to COVID-19 public health emergency in the Contractor's county.

4.5.1.4.3 To earn the Continuous Coverage Performance Incentive Payment, the Contractor shall meet both the benchmarks described in section 4.5.1.4.

4.5.1.4.4 The Department will utilize a data pull from CBMS to determine compliance with the benchmarks of the Continuous Coverage Performance Incentive Standard.

4.5.2 BENCHMARKS: Review benchmarks for ninety percent (90.00%) of Health First Colorado, CHP+ and LTSS members who require a review of eligibility due to the end of the COVID-19 public health emergency as described in section 4.5.

5 SEMI-ANNUAL REPORTING

5.1 The Contractor shall submit documentation to the Department to verify the Contractor's compliance with each Performance Incentive Standard and will submit such documentation on a semi-annual basis as required. The Contractor must submit documentation to hcpf_countyrelations@state.co.us, unless otherwise specified through the HCPF Memo Series.

5.1.1 For the Second Reporting Period, the Contractor shall submit the following documentation:

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

5.1.1.1 Any Accuracy Performance Incentive Standard Review Sample Size Exemption Process documentation for the fiscal year if the Contractor failed to meet specified target(s). The Contractor shall only submit documentation upon the Department's request.

5.1.1.2 Any Cyber Security Performance Incentive Standard Remediation Plans or other documents listed as deliverables under this agreement or specified through the HCPF Memo Series.

5.1.2 DUE DATE: Annually, on July 5th of the following Fiscal Year

6 EXEMPTIONS

6.1 Exemptions for the Accuracy Performance Incentive Standard

6.1.1 The Contractor shall be responsible submitting any additional documentation requested for the exemption process.

6.1.2 The Department may approve or reject any request for the Accuracy Targets exemption and may limit the total number of exempted for the Accuracy Performance Incentive Standard.

6.1.2.1 The Department will deny exemption requests that do not meet the Accuracy Targets and Benchmarks per section 4.2.1.3 and timeliness definition set forth in 10 C.C.R. 2505-8.100.3.D (d) and section 1.1 due to the fault of the Contractor and/or any exemption requests based on the following:

6.1.2.1.1 Failure of the Contractor to use the MAP Accuracy Dashboard for the purposes of fulfilling Exhibit A1, Statement of Work.

6.1.2.2 The reasons for denial of an exemption as stated in section 6 are not all-inclusive and the Department reserves the right to deny any exemption for reasons not stated in section 6.

6.1.2.2.1 Prior to denying an exemption for reasons beyond those stated in section 6, the Department may, at its discretion, request further information from the Contractor to determine whether the request for exemption meets the exemption standards as stated in section 6, Exemptions.

6.1.2.3 The Department may approve or reject any request for exemption due to unusual circumstances and may limit the total number of exemption requests.

6.2 Exemptions for Performance Incentive Standards other than the Accuracy Performance Incentive Standard.

6.2.1 Exemptions will not be considered for any Performance Incentive Standard listed under section 6.2.1.

6.2.1.1 Performance Compliance Performance Incentive Standard

6.2.1.2 Cyber Security Performance Incentive Standard

6.2.1.3 Continuous Coverage Performance Incentive Standard

6.2.2 The Contractor's performance and compliance with the Performance Incentive Standards listed under section 6.2.1 will be deemed final, as determined by the Department, and Performance Incentive Payments made without the opportunity to submit an exemption.

7 NOTIFICATIONS

7.1 After each Reporting Period, the Contractor will be provided a Status Report that details which Performance Incentive Standards were met.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

7.1.1 The Contractor's Reporting Period Status Report will only detail which Performance Incentive Standards were met for the Reporting Period in question. Funding amounts will not be provided until the conclusion of the fiscal year.

7.1.2 If the Contractor has more than one Reporting Period in the fiscal year to meet any Performance Incentive Standards, the Reporting Period Status Report will not include the Contractor's performance in those Performance Incentive Standards.

7.2 After the conclusion of the fiscal year, the Department will provide the Contractor a final Status Report that details which Performance Incentive Standards were not met and met and how much Performance Incentive Payments were earned by the Contractor.

7.2.1 The final Status Report cannot be disputed; if the Contractor disagreed with the Department's determination of compliance with any Performance Incentive Standard, the Contractor must have disputed that result based on the Reporting Period Status Report.

7.3 Each Reporting Period Status Report and the final Status Report will be sent to the county human/social services director and will act as the official notification of the Contractor's compliance with the Performance Incentives Standards.

7.4 Status Reports for each Reporting Period will be sent within ten (10) calendar days after the Semi-Annual Reporting due date for each Reporting Period as found in Section 5, Semi-Annual Reporting. The date on which the Status Report for each Reporting Period is sent to the Contractor will be considered the Status Report Date.

7.4.1 If unusual circumstances have delayed the Contractor's Reporting Period or final Status Reports, the Department will inform the Contractor of the delay and an anticipated date of resolution.

7.5 The final Status Report will be sent upon the Department's determination of final Performance Incentive Payment amounts.

7.6 The Contractor will have the opportunity to dispute the Status Report results as defined in section 8, Dispute Resolution.

8 DISPUTE RESOLUTION

8.1 Opportunity and Timeframe for Dispute Resolution

8.1.1 In the event the Contractor disagrees with the findings of the official notification as found in section 7, Notifications, the Contractor will have the opportunity to dispute the Reporting Period Status Report for the Reporting Period in question.

8.1.2 The final Status Report cannot be disputed per section 7.2.

8.1.2.1 The Contractor will have ten (10) calendar days from the Status Report Date to review each Reporting Period Status Report and dispute the results.

8.1.2.2 If the Contractor fails to dispute the Reporting Period Status Report within ten (10) calendar days from the Status Report Date, the Status Report results will be deemed final. No further disputes will be allowed, and compensation will be made per section 9 based on the results of the non-disputed Status Report.

8.2 Allowable Disputes

8.2.1 The Contractor will be allowed to dispute the results of the Status Report based on the following reasons:

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

8.2.1.1 The Contractor submitted documentation that was required for a Performance Incentive Standard, so long as the Contractor has proof that the required documentation was submitted on or before the contractually-required due date.

8.2.1.2 The Contractor requests a re-review of the Contractor's submitted documentation that was used to determine compliance with any Performance Incentive Standard.

8.2.1.3 The Contractor has available data, such as systems reports or other tracking methodologies, that conflicts with the Department's available data that will utilized to determine compliance with a Performance Incentive Standard.

8.2.1.3.1 The Contractor will be responsible for providing all necessary and relevant data available to the Department in order to determine if the Contractor's data actually conflicts with the Department's data.

8.2.1.3.2 The Department will make the final determination when a conflict of data occurs and will make Performance Incentive Standard Payments based on its final determination.

8.2.2 The Department reserves the right to add additional allowable dispute reasons throughout the fiscal year based on additional information made available from the Department and/or Contractor. These additional allowable dispute reasons will be considered on a case-by-case basis, and the Department's determination of additional allowable dispute reasons are final and not subject to the Dispute Resolution process as outlined in section 8.

8.3 Nonallowable Disputes

8.3.1 The Contractor will not be allowed to dispute the results of the Status Report based on the following reasons:

8.3.1.1 The Contractor failed to meet contractually-specified requirements relating to the content of submission of deliverables and the timely submission of deliverables.

8.3.1.2 The Contractor failed to meet contractually-specified requirements relating to performance benchmarks of any Performance Incentive Standard.

8.3.1.3 The Contractor's failure to review and utilize County Incentives Program documentation, including policy, informational, and operational guidance issued through the HCPF Memo Series, that resulted in the Contractor failing to meet performance benchmarks and deliverables relating to any Performance Incentive Standard.

8.3.1.4 The Department's final determination of the Contractor's exemption request(s) for the Accuracy Performance Incentive Standard.

8.3.2 The Department reserves the right to deny a Contractor's dispute based on any reason not included under section 8.3.1. The Department's determination is final and is not subject to dispute or appeal.

9 COMPENSATION

9.1 Compensation

9.1.1 Performance Incentive Payment

9.1.1.1 The Department shall pay the Contractor, after the end of the fiscal year in which the work was performed, a Performance Incentive Payment for each Performance Incentive Standard it meets during the applicable Reporting Period as follows:

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

9.1.1.1.1 The Department shall pay the Contractor an Accuracy Performance Incentive Payment, if applicable, as shown in Exhibit B for each Reporting Period that the Contractor meets the requirements for that Performance Incentive Standard.

9.1.1.1.2 The Department shall pay the Contractor a Performance Compliance Performance Incentive Payment as shown in Exhibit B for each Reporting Period that the Contractor meets the requirements for that Performance Incentive Standard.

9.1.1.1.3 The Department shall pay the Contractor a Cyber Security Performance Incentive Payment as shown in Exhibit B for each Reporting Period that the Contractor meets the requirements for that Performance Incentive Standard.

9.1.1.1.4 The Department shall pay the Contractor a Continuous Coverage Performance Incentive Payment as shown in Exhibit B for each Reporting Period that the Contractor meets the requirements for that Performance Incentive Standard.

9.1.2 Remaining Funds Incentive Pool Payment

9.1.2.1 The Department will create a Remaining Funds Incentive Pool each SFY.

9.1.2.1.1 The Remaining Funds Incentive Pool shall include the following:

9.1.2.1.1.1 The total amount of all base Performance Incentive Payments allocated to any Contractor that selected to not participate in the Performance Incentive Standards Program for that SFY.

9.1.2.1.1.2 Each of the Performance Incentive Payments the Accuracy Performance Incentive Standard, Performance Compliance Performance Incentive Standard, the Cyber Security Performance Incentive Standard and the Continuous Coverage Performance Incentive Standard that were not earned by the Contractor during a Reporting Period in that SFY.

9.1.2.1.1.2.1 The Contractor shall be eligible for Remaining Funds Incentive Pool payments.

9.1.2.1.2 If the Remaining Funds Incentive Pool is zero dollars ($0.00) for any SFY, the Contractor shall not receive a Remaining Funds Incentive Pool Payment for that SFY.

9.1.2.2 The Remaining Funds Incentive Pool will be paid as follows:

9.1.2.2.1 The Contractor shall be eligible for payment from the Remaining Funds Incentive Pool based on the dollar amount of Incentives met during that SFY.

9.1.2.2.2 Based on the proportion of total Incentive funds that the Contractor is eligible to be paid in each SFY, the Contractor shall receive the same proportion of funds from the Remaining Funds Incentive Pool.

9.1.2.2.3 The Contractor's payment of funds from the Remaining Funds Incentive Pool shall never exceed the county's share of Medicaid expenditure, as specified in Section 2, County Determinations.

9.2 Payment Procedures

9.2.1 The Contractor shall receive Performance Incentive Payments for each Reporting Period within ninety days (90) days following the end of the fiscal year in which the Performance Incentive Standards were met. This allocation will reflect the maximum the Contractor can earn for each Performance Incentive Standard per Reporting Period.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

9.2.1.1 If the Contractor's county administration line item is over-expended during the county administration closeout process, Settlement Accounting and the Department may utilize the Contractor's earned Performance Incentive Payments during the closeout process.

9.2.2 Actual Performance Incentive Payment maximums are dependent on the Contractor's share of Medicaid county administration expenditure. In no event shall the Contractor be paid more than the Contractor's county share of Medicaid county administration expenditure in any Reporting Period or fiscal year.

9.2.3 The Department may add any unearned funds from the First Reporting Period into the Second Reporting Period allocation for any SFY.

9.2.4 The Contractor shall be paid the Performance Incentive Payments through the County Financial Management System (CFMS).

9.2.5 The Department may use any unearned Second Reporting Period Performance Incentive Payments during the county administration close out process.

9.2.5.1 The Incentive Payment earned is unrestricted, and the Contractor may utilize the fund per the Contractors discretion.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

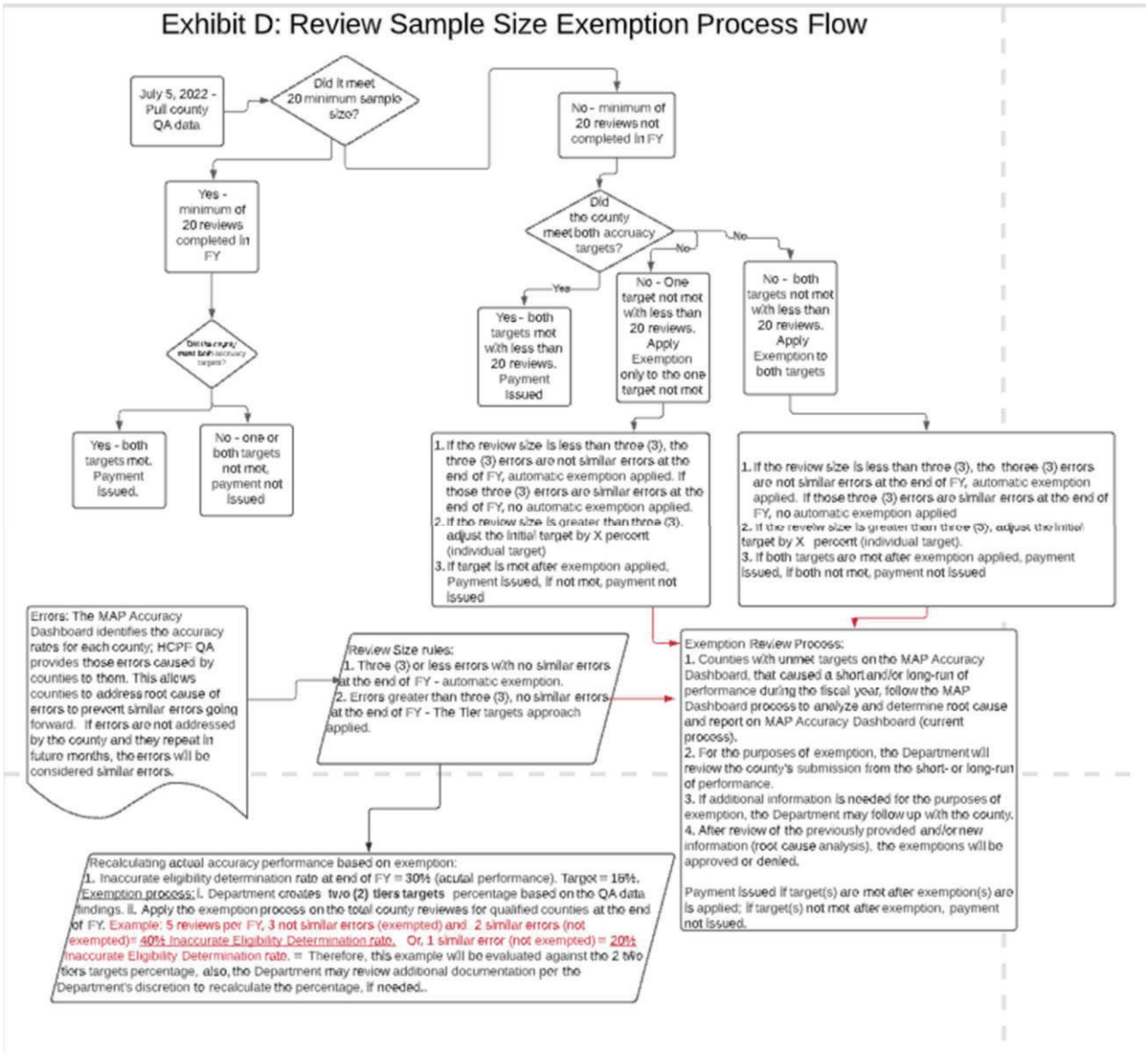
EXHIBIT C, RATES

SFY 2021-22 Incentives Payment Table

Incentive Payment Name	% of Funding	PAYMENT AMOUNT
Accuracy Performance Incentive Payment	35%	$324,650.01
Performance Compliance Performance Incentive Payment	25%	$231,892.86
Continuous Coverage Performance Incentive Payment	20%	$185,514.29
Cyver Security Performance Incentive Payment	20%	$185,514.29
Total		$927,571.46

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

Exhibit D: Review Sample Size Exemption Process Flow



DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

EXHIBIT F, SAMPLE OPTION LETTER

OPTION LETTER

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

1. Options

A. Option to extend for an Extension Term.
B. Option to change the quantity of Goods under the Contract.
C. Option to change the quantity of Services under the Contract.
D. Option to modify the Contract rates.
E. Option to initiate next phase of the Contract.

2. Required Provisions

A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current contract expiration date shown above, at the rates stated in the Original Contract, as amended.

B. **For use with Options 1(B and C):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Contract, as amended.

C. **For use with Option 1(D):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to modify the Contract rates specified in Exhibit/Section Number/Letter. The Contract rates attached to this Option Letter replace the rates in the Original Contract as of the Option Effective Date of this Option Letter.

D. **For use with Option 1(E):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.

E. **For use with all Options that modify the Contract Maximum Amount:** The Contract Maximum Amount table on the Contract's Signature and Cover Page is hereby deleted and replaced with the Current Contract Maximum Amount table shown above.

3. Option Effective Date

a. The Effective Date of this Option Letter is upon approval of the State Controller or the Effective Date of this Option Letter, whichever is later.

DocuSign Envelope ID: C6A72DF7-5B18-4671-A26E-1A4CD60BD6FC

STATE OF COLORADO John W. Hickenlooper, Governor Department of Health Care Policy and Financing Kim Bimestefer, Executive Director _____ By: Kim Bimestefer, Executive Director Date: _____	In accordance with C.R.S. §24-30-202, this Option is not valid until signed and dated below by the State Controller or an authorized delegate. **STATE CONTROLLER** **Robert Jaros, CPA, MBA, JD** By:_____ Greg Tanner, Controller; Department of Health Care Policy and Financing Option Effective Date:_____

Contract Control Number: SOCSV-202263930-00
Contractor Name: State of Colorado; Acting by and through the Department of Health Care and Public Financing

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By: _____

_____

APPROVED AS TO FORM:

Attorney for the City and County of Denver

By: _____

REGISTERED AND COUNTERSIGNED:

By: _____

By: _____

Contract Control Number: SOCSV-202263930-00
Contractor Name: State of Colorado; Acting by and through the Department of Health Care and Public Financing

By: Already signed by the State (see enclosed contract)

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)