

EXHIBIT E
(Standard Agreement)

ADDITIONAL PROVISIONS

A. Intellectual Property Rights

1. All deliverables as defined in Exhibit A, Scope of Work, originated or prepared by the Contractor pursuant to this Agreement, including papers, reports, charts, and other documentation, but not including Contractor's administrative communications and records relating to this Agreement, shall, upon delivery and acceptance by the California Health Benefit Exchange (Exchange), become the exclusive property of the Exchange and may be copyrighted by the Exchange.
2. All inventions, discoveries or improvements of the techniques or programs or materials developed pursuant to this Agreement shall be the property of the Exchange.
3. This Agreement shall not preclude the Contractor from developing materials outside this Agreement which are competitive, irrespective of their similarity to materials which might be delivered to the Exchange pursuant to this Agreement. All preexisting intellectual property, copyrights, trademarks and products shall be the sole property of the Contractor.

B. Confidentiality

The Contractor agrees to protect the personal information of all individuals by following applicable federal and State privacy and security requirements.

All financial, statistical, personal, technical, and other data and information related to the Exchange's operations that are not publicly available and that become available to Contractor shall be protected by Contractor during or after its relationship with the Exchange from unauthorized use and disclosure. Contractor agrees that Contractor shall not use any confidential information for any purpose other than carrying out the provisions of the Agreement.

Confidential information includes, but is not limited to, all non-public information, including proprietary information, of the Exchange including without limitation: the deliverables; trade secrets; know-how; concepts; methods; techniques; designs; drawings; specifications; computer programs, including the State's software; support materials; information regarding the State's business operations and plans; client, customer, or supplier lists; pricing information; marketing plans or information; or other records concerning the State's finances, contracts, services, or personnel.

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At the conclusion of its relationship with the Exchange, Contractor shall return any and all records or copies of records relating to the Exchange, or its business, or its confidential information. Contractor shall take such steps as may be reasonably necessary to prevent disclosure of confidential information to others and shall not disclose confidential information to others without the prior written consent of the Exchange. Contractor agrees that confidential information disclosed to it under the terms of this Agreement may be disclosed only to its employees or agents who have a need to know such confidential information.

This provision not to disclose confidential information will continue to apply after termination of this Agreement, and until such time as the confidential information becomes public knowledge through no fault of its own. Contractor will report to the Exchange any and all unauthorized disclosures of confidential information. Contractor acknowledges that any publication or disclosure of confidential information to others may cause immediate and irreparable harm to the Exchange, and if Contractor should publish or disclose confidential information to others, the Exchange shall be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without posting a bond.

C. Resumés

Resumés of personnel the Contractor will use to provide services under this Agreement are included as **Exhibit E – Attachment 1**, and made a part herein by this reference.

D. Evaluation of Contractor

Contractor is hereby notified that the State will evaluate the Contractor's performance for compliance with the terms of this Agreement within 60 calendar days of the completion of the Agreement. The evaluation shall be prepared on a "Contract/Contractor Evaluation," STD. Form 4. If the performance of the Contractor is not satisfactory, the State shall send a copy of the evaluation to the California Department of General Services, Office of Legal Services, within five working days after the completion of the evaluation. Contractor shall be notified and sent a copy of the unsatisfactory evaluation within 15 calendar days after its completion.

E. Review of Deliverables

The Exchange reserves the right to review the deliverables following Contractor's delivery of each to the Exchange to determine whether the deliverables conform to the specifications and to the Exchange's satisfaction, and to either reject a deliverable if it fails to conform to the specifications and to the Exchange's

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satisfaction or has defects (collectively, “errors”), or to accept each deliverable if it has no such errors (“acceptance”). If the Exchange rejects the deliverables, Contractor shall, at the Exchange’s request, promptly correct all such errors and, thereafter, the Exchange shall again have the opportunity to review the deliverables. If Contractor is not able to correct all errors in the deliverables within 30 calendar days following their receipt by the Exchange, the Exchange shall have the right to terminate this Agreement, which termination shall be deemed due to Contractor’s default. In the event of any such termination, Contractor shall return all payments previously made to Contractor under this Agreement.

F. Severability

If any provision in this Agreement is invalid or unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to effectuate the purpose and intent of this Agreement, and the invalidity or unenforceability of any provision in this Agreement in any jurisdiction shall not affect the validity or enforceability of any such provision in any other jurisdiction.

G. Waiver of Breach

The waiver by the Exchange of any breach by Contractor of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by Contractor.

H. Contractor Limitations

Contractor acknowledges that in governmental contracting even the appearance of a conflict of interest is harmful to the interest of the State. Thus, Contractor agrees to refrain from any practices, activities or relationships that could reasonably be considered to be in conflict with Contractor's fully performing his/her obligations to the State under the terms of this Agreement. Contractor shall inquire about and require disclosure by its staff and subcontractors of all activities that may create an appearance of conflict. In the event that Contractor is uncertain whether the appearance of a conflict of interest may reasonably exist, Contractor shall submit to the State Project Manager a full disclosure statement setting forth the relevant details of any activity which the Contractor reasonably believes may have the appearance of a conflict of interest for the State's consideration and direction. Failure to promptly submit a disclosure statement setting forth the relevant details for the State consideration and direction shall be grounds for termination of this Agreement.

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Consistent with the Public Contract Code section 10365.5, no person, firm or subsidiary who has been awarded a consulting services contract may submit a bid, nor be awarded a contract, for the provision of the services, procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the product of the consulting service contract. This does not apply to:

1. Any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.
2. Consulting services contracts subject to Chapter 10 (commencing with sec. 4525) of Division 5 of Title 1 of the Government Code.

The services performed under this Agreement may provide a basis for future services. If directed by the Exchange at the Exchange's sole discretion and agreed upon by the Contractor, and subject to Board approval, the parties may amend this Agreement's Statement of Work (Exhibit A) and Budget Detail and Payment Provisions (Exhibit B) to include additional services, including services arising out of the Agreement.

I. Statement of Economic Interests

The Contractor understands that the Contractor's key staff (defined as those individuals who fall within the definition of consultant pursuant to Government Code section 18701(a)(2)(A) or (B)) performing work under this Agreement are required to file a Form 700, Statement of Economic Interests, with the Exchange within 30 calendar days of execution of this Agreement. If any key staff are added to work on this Agreement, such staff must file the Form 700 within 30 calendar days of their addition.

The Contractor understands that the Contractor's key staff performing work under this Agreement may be required to file a Form 700 Statement of Economic Interest with the Exchange as follows:

1. Within 30 days of execution of this Agreement or prior to commencing work under the Contract, whichever occurs first;
2. Annual statement required to be filed for the fiscal year by April 1 of the following year;
3. Leaving office statement must be filed within 30 days of the end date of the contract and submitted with the final billing.