

HEALTHCARE SERVICES

1. INTRODUCTION

- A. Contractor shall provide temporary/relief services, on an as-needed basis, to the California Department of Veterans Affairs (CalVet). Contractor shall provide services for the benefit and care of residents at the Veterans Home of California located at 10900 Telephone Rd. Ventura CA 93004. Contractor shall provide all labor, materials, staff, transportation, license, permits and every other item of expense necessary, unless otherwise stated. Services shall be provided at the Contractor's place of business located at the Ventura County Medical Center, 300 Hillmont Avenue, Ventura, CA 93003.
- B. Contracted services shall be used to fill temporary vacancies, substitute for full-time CalVet employees while on extended leave, provide temporary services when appropriate staffing levels cannot be maintained with civil service staff, or when the requested services are not available within state civil service.
- C. Provider must be able to perform the tasks associated with providing services under the scope of their license. Contractor agrees that all Providers will be required to render health services as stated below and as required by law on an as needed basis. Providers will perform services in accordance with federal and state laws and regulations and CalVet policies and procedures and shall at all times comply with universal safety precautions and maintain CalVet security measures and a safe work environment.
- D. Contractor agrees that, unless otherwise stated, all expenses associated with travel to and from the Veterans Home, lodging, and all training expenses for Providers shall be borne by the Contractor or the Provider, and will not be reimbursed separately by CalVet. Any and all services performed outside the scope of this Agreement will be at the sole risk and expense of the Contractor.

2. CONTRACTOR'S RESPONSIBILITIES

- A. Services and all requirements as stated below and as required by law shall be provided by the Contractor for the contracted services, at the request of the Contract Manager, or designee. The services shall include, but are not limited to the following:
- B. Contractor must meet the requirements and have the ability to adequately provide services to the Home's Residents. Contractor may use Providers to perform services who meet the requirements specified in this Agreement. Contractor must provide the State with proof of any required training, licenses, permits, certifications and any other documents required by law including documents for each Provider performing services under this Agreement.
- C. Services shall include but is not limited to:
 - 1. Contractor shall provide healthcare services to include hospital and clinical services as indicated in Exhibit A - Attachment 1, Healthcare Services.
 - 2. Contractor shall provide hospital services to the Home residents in accordance with Medicare and Medi-Cal standards, requirements and reimbursement schedules.
 - 3. Upon discharge orders from a physician on Contractor's medical staff, Contractor shall contact a Veterans Home physician, Supervising Nurse, or other authorized representative to coordinate transfer of resident to the Veterans Home or other provider as indicated. Transport costs shall be the responsibility of the Home. In the event the Home cannot accept the resident's transfer and no other transfer option is available for the resident which then requires the resident to remain with the Contractor, the Home shall compensate Contractor until such time a clinically appropriate

- transfer of the resident can be made.
4. Contractor shall obtain any applicable and/or required Medicare and Medi-Cal authorizations.
 5. Contractor shall not transfer residents to any facility or provider without the Home primary care physician, Administrator, CMO or his/her designee prior authorization and provision of a prior authorization number.
 6. Services shall be provided twenty-four (24) hours a day including weekends and holidays, on an as- needed basis, in accordance with CalVet policies and procedures, to ensure the best quality of treatment to meet the needs of residents at the Home.
 7. Contractor shall have a telephone number and a contact person available by telephone twenty-four (24) hours per day, seven days per week for the duration of the contract. Contractor and Providers as provided by the Contractor shall ensure that all ordered services have prior authorization in accordance with the Home and are mutually agreed upon between the CMO, Contract Manager, or designee and the Contractor.
 8. Contractor shall provide services to Home within twenty-four (24) hours notification by CalVet or as mutually agreed upon between the Home Contract Manager or designee and Contractor.
 9. Contractor shall ensure resident medical record information is maintained as "CONFIDENTIAL" and shall be held in trust and confidence. Information shall be used only for the purposes contemplated under this contract.
 10. Contractor shall obtain the approval and authorization from the Home's primary care physician through the CMO, SNF Administrator, Contract Manager, or designee, prior to referring resident to other health care/medical vendors/contractors. Referral shall be made only to those health care/medical vendors/contractors set forth on the Home's health care/medical vendor/contract list. Prior Authorization Documentation shall include, but is not limited to the following:
 - a. Veterans Home Referral process
 - b. Residents progress notes/summary pertinent to reason for referral.

D. Reports

After the initial consultation, the Contractor shall send all critical findings and the doctor's report to the Home within twenty-four (24) hours to ensure the resident receives the appropriate quality of care. Information may be transmitted by phone or fax to the Primary Care Provider, Contract Manager, or designee. All tests ordered by the Specialist shall have the Primary Care Provider at the Home as a recipient of the test results. Routine consultation notes will be communicated by fax to the Home within 72 hours.

CalVet reserves the right to request Contractor provide reports or information as needed. The reports shall be submitted in electronic format and sent via electronic mail as requested by CalVet. If electronic mail is not available, arrangements will be mutually agreed upon by the Contractor and CalVet Contract Manager or designee.

3. PROVIDER'S QUALIFICATIONS

Contractor must have the required licenses, insurance, permits, and/or certifications noted herein.

Any Contractor who fails to meet the qualifications shall not be permitted to perform service. The Home's CMO, SNF Administrator, Contract Manager, or designee, shall state in writing the reason(s) the Provider does not meet qualifications. After notification of failure to meet qualifications has been provided, CalVet shall not pay the Contractor for additional services identified as not meeting the qualifications

4. LICENSES, PERMITS, AND CERTIFICATION REQUIREMENTS

- A. Prior to providing services specified in this Agreement, Contractor or Contractor's Provider shall possess and maintain throughout the term of this Agreement, all licenses, permits, and certification requirements.
- B. If, during the course of this Agreement, any of the licenses and/or requirements are found to be inactive or not in compliance, CalVet may withhold payment for services rendered during the expiration period and/or immediately terminate this Agreement.
- C. Assume responsibility for verifying, through the appropriate licensing boards, that no current or unresolved adverse actions have been taken by the State licensing authorities against any Provider(s) assigned to CalVet, and that all licenses are active and void of misconduct. CalVet may, at its discretion, verify the current status of Provider(s) assigned.

5. INDEPENDENT CONTRACTOR STATUS

The Contractor/Providers shall be considered "Independent Contractors" in relation to CalVet and the State. Therefore, the Contractor/Providers shall not be considered employee(s) of the Home and shall not be entitled to any employee benefits from the CalVet or the State including, but not limited to, the following:

- 1. Premium Pay, Overtime Pay, or Holiday Pay,
- 2. Medical Insurance,
- 3. Vacation or Sick Leave,
- 4. Worker's Compensation, and
- 5. Other employee benefits.

6. CONTACT INFORMATION

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

- 1. **CalVet Representative/Contract Manager:**
California Department of Veterans Affairs
Veterans Home of California- Ventura
Selena Garcia Lopez, RN
Supervising Registered Nurse
10900 Telephone Road
Ventura, CA 93004
(805) 659-7533 Direct
Selena.lopez@calvet.ca.gov

2. **Contractor Representative:**

County of Ventura
Barry L. Zimmerman, HCA Director
800 S Victoria Ave
Ventura, CA 93009
(805) 677-5102
Barry.Zimmerman@ventura.org

- B. Contract Representatives, addresses, and phone/fax numbers may be changed by issuing a 20-day prior written notification and shall not require a formal amendment to this Agreement. The notifying party shall provide complete contact information for the replacement Contract Representative including, name, title, mailing address, phone/fax numbers, and email address. All other changes require a formal written amendment to this Agreement.

HOSPITAL SERVICES

1. **PROVIDER'S RESPONSIBILITIES**

Under the direction of the Home's SNF Administrator, Contract Manager, or designee, Provider shall provide services as permitted within the scope of practice for Hospital Services in accordance with CalVet/Home policies and procedures.

A. Duties/Responsibilities shall include, but are not limited to:

1. Hospital Services:

- a. Emergency Room
- b. Intensive Care Unit
- c. Inpatient Psych Unit
- d. Physical, Occupational and Speech Therapy
- e. Respiratory
- f. Cardiology
- g. Radiology Services
- h. Mammography
- i. CT Scan
- j. MRI
- k. Ultrasound
- l. Laboratory Services
- m. Surgical Services (Outpatient and Inpatient)
- n. General
- o. Neurosurgery
- p. ENT
- q. Orthopedic
- r. Urology
- s. Gynecology
- t. Oncology
- u. Plastic
- v. Pharmacy Services

2. Clinics – Primary Care Clinic Services:

- a. General Medicine
- b. Internal Medicine
- c. Geriatrics
- d. X-Rays
- e. Radiology
- f. Laboratory

3. Specialty Clinics:

- a. Cardiology
- b. Gynecology
- c. Radiology
- d. Urology
- e. Dermatology
- f. Neurology
- g. Rheumatology
- h. Pulmonology
- i. Dental Laboratory Services

- j. Nephrology
- k. Orthopedic
- l. General Surgery
- m. Endocrinology
- n. Ophthalmology
- o. Oncology
- p. Oral Surgery
- q. ENT
- r. Optometry
- s. Podiatry

1. STANDARD BUDGET DETAIL AND PAYMENT PROVISIONS

A. Invoicing and Payment

1. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for services rendered in accordance with the rates in Exhibit B-1.
2. Invoices shall include the Agreement Number and shall be submitted in not more frequently than monthly in arrears to:

Original Invoice

Approval Copy

| | |
|--|--|
| Department of Veterans Affairs CalVet Accounting Office 1227 "O" Street Room 402 Sacramento, CA 95814 APInvoices@calvet.ca.gov | Veterans Home of California – Ventura Attn: Selena Lopez 10900 Telephone Road Ventura, CA 93004 |
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B. Budget Contingency Clause

1. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further form and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
2. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

C. Prompt Payment Clause

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

2. SPECIAL BUDGET DETAIL AND PAYMENT PROVISIONS

Submissions of Invoices/Claims

1. All invoices/claims must be completed thoroughly and legibly, with all applicable fields completed. Invoices/claims that are submitted to the appropriate location but have been altered, or are inaccurate, or do not provide all necessary information will not be accepted and will be returned to the Contractor for correction.
2. Any changes to this provision relating to the invoice/claim submittal process, including but not limited to an address, form, or process change, shall be an administrative change managed through the appropriate designated CalVet office **and shall not require a contract amendment.**
3. Contractor shall submit monthly invoices to the CalVet Contract Manager for approval and processing. Invoices/claims submitted shall include the following information in order to be considered complete and acceptable for processing, or the invoice/claim will be returned:
 - a) Contractor's Company name exactly as it appears on the Payee Data Record (STD.204)
 - b) Contractor's Company address, phone number and e-mail
 - c) Date of invoice/claim
 - d) Invoice/claim number
 - e) CalVet location where services were performed

- f) Contract/Agreement Number
- g) Date(s) of Service
- h) Total dollar amount being billed
- i) First and Last name of Contractor or Provider performing services, if applicable
- j) Contractor's or Provider's Classification, whichever is applicable
- k) When applicable, Contractors shall include the following information on the invoice/claim submitted for hourly reimbursement:
 - 1. Hourly Rate
 - 2. Time in and time out
 - 3. Total hours worked
 - 4. Any other information or documentation reasonably required to verify and substantiate the provision of services and the charges for such services.

3. **CONTRACTOR OVERPAYMENTS**

- 1. If the State determines that an overpayment has been made to the Contractor, the State will seek recovery immediately upon discovery of the overpayment by: (a) calling the Contractor's accounting office to request a refund of the overpayment amount, or (b) offsetting subsequent Contractor payments by the amount of the overpayment if Contractor repayment or credit is not received within thirty (30) days from the date of notice.
- 2. If Contractor discovers it has received an overpayment, Contractor must notify the State and refund the overpayment immediately.

1. EXCISE TAX

The State of California is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Contract. California may pay any applicable sales or use tax imposed by another state.

2. STATUTORY AND REGULATORY PROVISIONS

A. This Contract shall be governed and construed in accordance with all applicable statutory and regulatory provisions including, but not limited to:

- 1) Title XVIII of the Federal Social Security Act
- 2) Title XIX of the Federal Social Security Act
- 3) Chapters 7 and 8 (commencing with Section 14000), Part 3, Division 9, Welfare and Institutions Code
- 4) Division 3, Title 22, California Code of Regulations (CCR)
- 5) Health and Safety Code Section 1340 et seq.
- 6) All applicable Federal provisions which regulate the administration of health care programs and budget revisions, as contained in the Code of Federal Regulations (CFR), Title 42, and Title 45, Part 74, Title 42 United States Code, Sections 1395 et seq. and 1396 et seq.
- 7) Sub-chapter 13 (commencing with Section 6800), Chapter 4, Part 1, Title 17, CCR; and
- 8) All other applicable laws and regulations.

B. Any provision of this Contract in conflict with the applicable laws and regulations is hereby amended to conform to the provisions of those laws and regulations. Such amendment of the Contract shall be effective on the effective date of the statutes or regulations necessitating it, and shall be binding on the parties even though the amendment may not have been reduced to writing and formally agreed upon and executed by the parties. If, due to amendment in laws of regulations, Contractor is unable or unwilling to comply with the provisions of the amendment(s), State or Contractor may terminate this Contract in accordance with the Termination provision of this Contract.

3. EXAMINATION AND AUDIT

A. Contractor shall allow the State and its related entities, the Comptroller General of the United States, Department of Justice (DOJ), and the Bureau of Medi-Cal Fraud, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract, and to inspect, evaluate, and audit any and all books, records, and facilities maintained by the Contractor and Subcontractors pertaining to services under this Contract at any time during normal business hours.

B. Contractor shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under this Contract in accordance with *Government Code, Section 85467.7*. The examination and audit shall be confined to those matters directly connected with the performance of the contract, including, but not limited to, the costs of administering the Contract.

C. Books and records include, but are not limited to, all physical records originated or prepared pursuant to the performance under this Contract, including working papers, reports, financial records, and books of account, Medical Records, prescriptions files, Subcontracts, and any other documentation pertaining to medical and non-medical services for residents of the Home. Upon request, at any time during the term of this Contract, the Contractor shall furnish any record or copy.

4. RESOLUTION OF DISPUTES

- A. The Contractor may dispute and appeal a decision or action by the State arising out of the Interpretation or administration of this Contract. A written dispute notice shall be submitted to the Contract Manager within thirty (30) calendar days from the date the Contractor receives notice of the decision or action in dispute.

The Contractor's dispute notice shall state the following, based on the most accurate information available to the Contractor:

- 1) That it is a dispute pursuant to this Section.
 - 2) The date, nature, and circumstances of the conduct, which is the subject of dispute.
 - 3) The names, telephone numbers, function, and activity of each contractor, subcontractor, State official, or employee involved in or knowledgeable about the conduct.
 - 4) The identification of any documents and the substance of any oral communications involved in the conduct. Copies of all identified documents shall be attached.
 - 5) The reason why the Contractor is disputing the conduct.
 - 6) The cost impact to the Contractor directly attributable to the alleged conduct, if any.
 - 7) The Contractor's desired remedy.
- B. The State and the Contractor agree to try to resolve all contractual issues by negotiation and mutual agreement at the Contract Manager level. The parties recognize that the implementation of this policy depends on open-mindedness, and the need for both sides to present adequate supporting information on matters in question. The Contract Manager, in a written decision stating the factual basis for the decision, will decide any disputes concerning performance of this Contract. Before issuance of the Contract Manager's decision, informal discussions between the parties by the individuals who have not participated substantially in the matter in dispute will be considered by the parties in efforts to reach mutual agreement.
- C. The Contract Manager will render a decision or request additional substantiating documentation from the Contractor within thirty (30) days of receipt of the Contractor's appeal. A copy of the decision will be provided to the Contractor. The decision shall be final and conclusive unless, within thirty (30) days from the date of the decision, the Contractor files a written appeal addressed to the Undersecretary, California Department of Veterans Affairs.
- D. The Undersecretary's decision shall be final and conclusive unless the decision is arbitrary, capricious, grossly erroneous or if any determination of fact is unsupported by substantiating evidence. The Undersecretary's decision will be in writing and may encompass facts, interpretations of the Contract, and determination or application of law. The Contractor may, prior to the Undersecretary's decision, present oral or documentary evidence, and arguments in support of the Contractor's appeal. The decision will either:
- 1) Find in favor of the Contractor, in which case the Undersecretary may:
 - a) Countermand the earlier conduct which caused the Contractor to file a dispute; or
 - b) Reaffirm the conduct and, if there is a cost impact sufficient to constitute a change in obligations pursuant to the payment provisions, direct the State to comply with that Section.
 - 2) Deny the Contractor's dispute and, where necessary, direct the manner of future performance; or
 - 3) Request additional substantiating documentation in the event the information in the Contractor's dispute or appeal is inadequate to permit a decision to be made under paragraphs (1) or (2) above, advise the Contractor as to what additional information is required, and establish how that information will be furnished. The Contractor shall have thirty (30) days to respond to the Undersecretary's

request for further information. Upon receipt of this additional requested information, the Undersecretary will have thirty (30) days to respond with a decision. Failure to supply additional information required by the Undersecretary within the time period specified above shall constitute waiver by the Contractor of all claims.

- E. Attorney's fees and costs for any dispute or subsequent trial shall be borne by the respective parties. Both parties waive trial by jury, and any trial in superior or municipal court shall be by a judge alone. Any litigation arising out of this Contract shall be conducted in a California Court pursuant to California law.
- F. Contractor shall continue with the responsibilities under this Contract during any dispute.

5. AGENCY LIABILITY (Applies only to Federally Funded Contracts)

The Contractor warrants by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Contract without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

6. POTENTIAL SUBCONTRACTORS

For all Agreements, with the exception of Interagency Agreements and other governmental entities/auxiliaries exempt from bidding, nothing contained in this Contract or otherwise shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of Contractor's responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them, as it is for the acts and omissions of persons directly employed by the Contractor.

The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or enforce the payment of any moneys to any subcontractor.

7. INSURANCE REQUIREMENTS

- A. Upon contract award, contractor must furnish to the State an original certificate(s) of insurance stating that the contractor has the following types of coverage, if applicable:
 - 1) Commercial General Liability: Combined Single Limit (CSL) for no less than \$1,000,000 per occurrence for bodily injury and property damage. The policy must include coverage for liabilities arising out of premises, operations, independent contractors, products/completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the contractor's limit of liability.
 - 2) Professional Liability: (Applies to any contract in which the work is of a professional nature such as, but not limited to, physicians, architects, engineers, accountants, or consultants) Covering any damages caused by an error, omission, or any negligent acts. Limits of not less than \$1,000,000 per occurrence and \$3,000,000 aggregate.
 - 3) Automobile Liability (Applies to any contract in which the contractor will likely use a vehicle to complete the project or drive a vehicle onto State property): Limits of not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of an automobile including owned, hired, and non-owned autos.
 - a) MCS90 endorsement on the Automobile policy (**required whenever contractor will be transporting Hazardous materials i.e. Pest Control and Waste contracts.**)

- 4) Pollution Liability/Environmental Impairment Liability (Applies only to Pollution Contracts – i.e. Pest Control and Waste Contracts): In addition, the certificate evidencing general liability must include evidence of one of the following if applicable to the service:
 - a) Pesticide/Herbicide Endorsement, OR
 - b) An endorsement deleting the general liability pollution exclusion, OR
 - c) A separate environmental/pollution liability policy with limits not less than \$1,000,000 covering bodily injury and property damage from pollution and related clean-up costs incurred arising out of the work or services to be performed under this contract.
- 5) Workers' Compensation (Mandatory for all Contractors who have at least one employee): Contractor shall maintain workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the contract, including special coverage extensions where applicable. Contractor shall furnish a certificate for Workers' Compensation issued by an insurance carrier licensed to write Workers' Compensation insurance in the State of California, including the name of the carrier and the date of expiration of insurance, or a Certificate of Consent to Self-Insure issued by the Department of Industrial Relations.
- 6) Fidelity Bond/Crime Insurance: (Applies only to contracts handling State money or securities – i.e. Armored Car Service Contracts) Contractor shall maintain Employee Dishonesty and, when applicable, Inside/Outside Money & Securities coverages for state-owned property in the care, custody and control of the Contractor. Coverage limits shall not be less than the amount scheduled in the contract. The policy shall include as Contractor. Coverage limits shall not be less than the amount scheduled in the contract. The policy shall include as loss payee the California Department of Veterans Affairs
- 7) The certificate(s) of insurance shall be on an ACORD form, or equivalent, and must show "occurrence" coverage. The certificates of insurance must also contain all of the following provisions:
 - a) Name and address of the insurance company, policy number, and beginning and ending dates of the policy.
 - b) Statement that the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.
 - c) Statement that the State of California, its officers, agents, employees, and servants are included as additional insured on the policy, but only insofar as the operations under this contract.
- 8) Contractor agrees that any insurance herein provided shall be in full force and effect at all times during the term of the contract. In the event said insurance coverage expires at any time during the term of this contract, Contractor agrees to provide, at least ten (10) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. In the event contractor fails to keep in effect at all times insurance coverage herein provided, State may, in addition to any other remedies it may have, terminate the contract upon the occurrence of such event, subject to the provisions of the contract.
- 9) Contractor shall notify the State within five (5) days if any insurance coverage identified in the contract is altered in any way.

8. RIGHT TO TERMINATE

- A. The State reserves the right to terminate this Contract subject to thirty (30) days written notice to the Contractor. Contractor may submit a written request to terminate this Contract only if the State should substantially fail to perform its responsibilities as provided herein. However, the Contract can be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the

terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.

- B. This Contract may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service, or in the event the Contractor is unable to render service as a result of any action by any governmental authority.

9. FORCE MAJEURE

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of, performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods, and other natural disasters such that performance is impossible.

10. EVALUATION OF CONTRACTOR

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

11. SB/DVBE PARTICIPATION

In accordance with requirements set forth by the State, the CalVet shall enforce all laws, rules, and regulations pertaining to this program. It is the Contractors responsibility to provide CalVet with all required documents as outlined in this agreement. The CalVet reserves the right to contact each SB and DVBE identified by the Contractor to verify compliance. Failure to meet SB/DVBE requirements under Exhibit B, and Exhibit C (GTC 04/2017), paragraphs 19.a and 19.b. may deem the Contractor to be non-responsible and rejected from future bid and contract opportunities with the CalVet.

12. LICENSES AND PERMITS

The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this contract.

If you are a Contractor located within the State of California, a business license from the city/county in which you are headquartered is necessary; however, if you are a corporation, a copy of your incorporation documents/letter from the Secretary of State's Office can be submitted. If you are a Contractor outside the State of California, you will need to submit to the California Department of Veterans Affairs a copy of your business license or incorporation papers for your respective State showing that your company is in good standing in that state.

In the event any license(s) and/or permit(s) expire at any time during the term of this contract, Contractor agrees to provide agency a copy of the renewed license(s) and/or permit(s) within 30 days following the expiration date. In the event the Contractor fails to keep in effect at all times all required license(s) and permit(s), the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

13. CONSULTANT – STAFF EXPENSES

The Contractor represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with any governmental entity.

14. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

For the purpose of this contract, contractor shall comply with the federal Health Insurance Portability and Accountability Act (HIPAA), as well as State and Federal requirements for privacy protection. The definitions and obligations required by the HIPAA Standards for Privacy of Individually Identified Health Information (U.S.C. 1320d et seq.), and implementing regulations including but not limited to 45 Code of Federal Regulations parts 142, 160, 162, and 164, hereinafter referred to as the Privacy Rule, remain enforce and applicable for access to protected health information, including electronic protected health information.

15. Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order [N-6-22](#) (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

16. LEGAL CONTRACTS (applies only to Legal Services Contracts)

In accordance with (Public Contract Code Section (10353.5) The Contractor shall:

- A. Agree to adhere to legal cost and billing guidelines designated by the State.
- B. Adhere to litigation plans designated by the state agency.
- C. Adhere to case phasing of activities designated by the state agency.
- D. Submit and adhere to legal budgets as designated by the state agency.
- E. Maintain legal malpractice insurance in an amount not less than the amount designated by the state agency.
- F. Submit to legal bill audits and law firm audits if requested by the state agency. The audits may be conducted by employees and designees of the state agency or by any legal cost control providers retained by the state agency for purpose.
- G. Submit to a legal cost and utilization review, as determined by the state agency.

1. **Recitals – STANDARD RISK**

- A. This Contract (Agreement) has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act (“HIPAA”) and its implementing privacy and security regulations at 45 CFR Parts 160 and 164 (“the HIPAA regulations”).
- B. The California Department of Veterans Affairs (CalVet) wishes to disclose to Business Associate (BA) certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information (“PHI”) and confidential information protected by Federal and/or state laws.
- C. “Business Associate” or “BA” shall generally have the same meaning as the term “business associate” at 45 CFR §160.103, and in reference to the party to this agreement, shall mean the Contractor. A “business associate” also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate.
- D. “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental condition of an individual, the provision of health and dental care to an individual, or the past, present, or future payment for the provision of health and dental care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI shall have the meaning given to such term under HIPAA and HIPAA regulations, as the same may be amended from time to time. “Confidential Information” means information protected by Federal and/or state laws identified in this Agreement.
- E. “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI, or confidential data that is essential to the ongoing operation of the Business Associate’s organization and intended for internal use; or interference with system operations in an information system.
- F. As set forth in this Agreement, the Contractor, herein after, is the Business Associate of CalVet that provides services, arranges, performs or assists in the performance of functions or activities on behalf of CalVet and creates, receives, maintains, transmits, uses or discloses PHI.
- G. CalVet and Business Associate desire to protect the privacy and provide for the security of PHI created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, in compliance with HIPAA and HIPAA regulations and other applicable laws.
- H. The purpose of the Agreement is to satisfy certain standards and requirements of HIPAA and the HIPAA regulations.
- I. The terms used in this Agreement, but not otherwise defined, shall have the same meanings as those terms in the HIPAA regulations.

In exchanging information pursuant to this Addendum, the parties agree as follows:

2. **Permitted Uses and Disclosures of PHI by Business Associate**

- A. ***Permitted Uses and Disclosures.*** Except as otherwise indicated in this Agreement, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of CalVet, provided that such use or disclosure would not violate the HIPAA regulations, if done by CalVet.
- B. ***Specific Use and Disclosure Provisions.*** Except as otherwise indicated in this Agreement, Business Associate may:
 - 1) ***Use and disclose for management and administration.*** Use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or the Business Associate

obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

- 2) **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to CalVet. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of CalVet with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of CalVet.

3. **Responsibilities of Business Associate**

Business Associate agrees:

- A. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as required by law.
- B. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses or transmits on behalf of CalVet; and to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and which incorporates the requirements of Section C, Security, below. Business Associate will provide CalVet with its current and updated policies.
- C. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI, and provide data security procedures for the use of CalVet at the end of the contract period. These steps shall include, at a minimum:
 - 1) Complying with all of the data system security precautions listed in this Agreement or in an Exhibit incorporated into this Agreement; and
 - 2) Complying with the safeguard provisions in the Department's Information Security Policy, embodied in the Security and Risk Management Policy in the Information Technology Section of the State Administrative Manual (SAM), §4840 et seq., in so far as the security standards in these manuals apply to Business Associate's operations. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means, safeguards which provide the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these security standards that occur after the effective date of this Agreement.

Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with CalVet.
- D. **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Agreement.
- E. **Business Associate's Agents.** To ensure that any agents, including subcontractors, to whom Business Associate provides PHI received from or created or received by Business Associate on behalf of CalVet, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including implementation of reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI; and to incorporate, when applicable, the relevant provisions of this Agreement into each subcontract with agents or subcontractors.

- F. **Availability of Information to CalVet and Individuals.** To provide access as CalVet may require, and in the time and manner designated by CalVet (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to CalVet (or, as directed by CalVet), to an Individual, in accordance with 45 CFR §164.524. Designated Record Set means the group of records maintained for CalVet that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for CalVet health plans; or those records used to make decisions about individuals on behalf of CalVet. Business Associate shall use the forms and processes developed by CalVet for this purpose and shall respond to requests for access to records transmitted by CalVet within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.
- G. **Amendment of PHI.** To make any amendment(s) to PHI that CalVet directs or agrees to pursuant to 45 CFR §164.526, in the time and manner designated by CalVet.
- H. **Internal Practices.** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from CalVet, or created or received by Business Associate on behalf of CalVet, available to CalVet or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by CalVet or by the Secretary, for purposes of determining CalVet's compliance with the HIPAA regulations.
- I. **Documentation of Disclosures.** To document and make available to CalVet or (at the direction of CalVet to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with 45 CFR §164.528.
- J. **Notification of Patient Confidential Communications.** Notify CalVet (within 2 days of request) of any patient (or patient's representative) preferences (or changes to) regarding method of or how to communicate with the patient.
- K. **Notification of Breach.** During the term of this Agreement:
- 1) **Discovery of Breach.** To notify CalVet **immediately by telephone call plus email or fax** upon the discovery of breach of security of PHI in computerized form if the PHI was, or is reasonably believed to have been, acquired by an unauthorized person, or **within 24 hours by email or fax** of any suspected security incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the CalVet contract manager, the CalVet Privacy Officer and the CalVet Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notification shall be provided by calling the CalVet ISD Help Desk at (916) 653-2521. Business Associate shall take:
 - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment and
 - ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
 - 2) **Investigation of Breach.** To immediately investigate such security incident, breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, to notify the CalVet contract manager(s), the CalVet Privacy Officer, and the CalVet Information Security Officer of:
 - i. What data elements were involved and the extent of the data involved in the breach,
 - ii. A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data,
 - iii. A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized,
 - iv. A description of the probable causes of the improper use or disclosure; and

- v. Whether Civil Code §1798.29 or §1798.82 or any other federal or state laws requiring individual notifications of breaches are triggered.
- 3) **Written Report.** To provide a written report of the investigation to the CalVet contract managers, the CalVet Privacy Officer, and the CalVet Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall include, but not be limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.
- 4) **Notification of Individuals.** To notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and to pay any costs of such notifications, as well as any costs associated with the breach. The CalVet contract managers, the CalVet Privacy Officer, and the CalVet Information Security Officer shall approve the time, manner and content of any such notifications.
- 5) **CalVet Contact Information.** To direct communications to the above referenced CalVet staff, the Business Associate shall initiate contact as indicated herein. CalVet reserves the right to make changes to the contact information below by giving written notice to the Business Associate. Said changes shall not require an amendment to this Agreement.

| CalVet Contract Manager | CalVet Privacy Officer | CalVet Information Security Officer |
|--|--|--|
| See Exhibit A for Contract Manager information | Privacy Officer 1227 O Street Sacramento, CA 95814 Email: PrivacyOfficer@calvet.ca.gov Telephone: (916) 657-0091 | Information Security Officer 1227 O Street Sacramento, CA 95814 Email: ISO@calvet.ca.gov Telephone: (916) 651-2165 |

- L. **Employee Training and Discipline.** To train and use reasonable measures to ensure compliance with the requirements of this Agreement by employees who assist in the performance of functions or activities on behalf of CalVet under this Agreement and use or disclose PHI; and discipline such employees who intentionally violate any provisions of this Agreement, including by termination of employment. In complying with the provisions of this Section K, Business Associate shall observe the following requirements:
- 1) Business Associate shall provide information privacy and security training, at least annually, at its own expense, to all its employees who assist in the performance of functions or activities on behalf of CalVet under this Agreement and use or disclose PHI.
 - 2) Business Associate shall require each employee who receives information privacy and security training to sign a certification, indicating the employee's name and the date on which the training was completed.
 - 3) Business Associate shall retain each employee's written certifications for CalVet inspection for a period of three years following contract termination.

4. **Obligations of CalVet**

CalVet agrees to:

- A. **Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that CalVet produces in accordance with 45 CFR §164.520, as well as any changes to such notice. Visit this Internet address to view the most current Notice of Privacy Practices:
<https://www.calvet.ca.gov/about-us/privacy>
- B. **Permission by Individuals for Use and Disclosure of PHI.** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.

- C. **Notification of Restrictions.** Notify the Business Associate of any restriction to the use or disclosure of PHI that CalVet has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- D. **Notification of Patient Confidential Communications.** Notify the Business Associate of any patient (or patient's representative) preferences (or changes to) regarding method of or how to communicate with the patient.
- E. **Requests Conflicting with HIPAA Rules.** Not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by CalVet.

5. **Audits, Inspection and Enforcement**

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

- A. Failure to detect; or
- B. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitutes acceptance of such practice or a waiver of CalVet's enforcement rights under this Agreement.

6. **Termination**

- A. **Termination for Cause.** Upon CalVet knowledge of a material breach of this Agreement by Business Associate, CalVet shall:
 - 1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by CalVet;
 - 2) Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - 3) If neither cure nor termination is feasible, report the violation to the Secretary of the U.S. Department of Health and Human Services.
- B. **Judicial or Administrative Proceedings.** Business Associate will notify CalVet if it is named as a defendant in a criminal proceeding for a violation of HIPAA. CalVet may terminate this Agreement if Business Associate is found guilty of a criminal violation of HIPAA. CalVet may terminate this Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.
- C. **Effect of Termination.** Upon termination or expiration of this Agreement for any reason, Business Associate shall return or destroy all PHI received from CalVet (or created or received by Business Associate on behalf of CalVet that Business Associate still maintains in any form, and shall retain no copies of such PHI or, if return or destruction is not feasible, shall continue to extend the protections of this Agreement to such information, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

7. **Miscellaneous Provisions**

- A. **Disclaimer.** CalVet makes no warranty or representation that compliance by Business Associate with this Agreement, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or

received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

- B. **Amendment.** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon CalVet's request, Business Associate agrees to promptly enter into negotiations with CalVet concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA regulations or other applicable laws. CalVet may terminate this Agreement upon thirty (30) days written notice in the event:
- 1) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by CalVet pursuant to this Section, or
 - 2) Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that CalVet in its sole discretion deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- C. **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to CalVet at no cost to CalVet to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CalVet, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.
- D. **No Third-Party Beneficiaries.** Nothing expressed or implied in the terms and conditions of this Agreement is intended to confer, nor shall anything herein confer, upon any person other than CalVet or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- E. **Interpretation.** The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA regulations.
- F. **Regulatory References.** A reference in the terms and conditions of this Agreement to a section in the HIPAA regulations means the section as in effect or as amended.
- G. **Survival.** The respective rights and obligations of Business Associate under Section 6(C) of this Agreement shall survive the termination or expiration of this Agreement.
- H. **No Waiver of Obligations.** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.