

## **NURSING STUDENT CLINICAL INTERNSHIP PROGRAM**

### **1. INTRODUCTION/SERVICES**

- A. The parties to this Agreement are Napa Valley Unified School District - Napa Valley Adult Education (NVAE or Contractor) and the California Department of Veterans Affairs. A Nursing Student Clinical Internship Program (Certified Nursing Assistant (CNA) Program) shall be provided at the Yountville California Veterans Home (Home), located at 100 California Drive, Yountville, CA 94599 for the mutual benefit of the Contractor's students and the residents of the Home.
- B. Contractor is not authorized to deliver or commence performance of services as described in the Agreement until written approval has been obtained from Contract Manager/Designee and the Contractor has received an executed contract from CalVet. Any delivery or performance of service commenced prior to the Contractor obtaining all written approvals shall be considered voluntary on the part of the Contractor.
- C. NVAE students engaged in practical learning experiences pursuant to this agreement shall not displace any regular employees or cause an employee to have reduced hours; nor shall the students' training activities preclude the hiring of additional employees of the Home.
- D. The parties agree that the CNA Program experience will be provided for qualified nursing student interns enrolled in course work with NVAE for clinical experience.
- E. The term of this Agreement may be extended for two additional one-year periods, upon mutual agreement of CalVet and Contractor.

### **2. CONTRACTOR RESPONSIBILITIES**

- A. **Student Practicum:** Contractor shall provide Contract Manager/Designee with a statement of its educational goals, of appropriate learning experiences, and of its expectations for student performance in the practicum. When and if necessary, that statement may be re-specified by mutual consent.
- B. **Field Instruction Consultant:** Contractor shall assign a representative of its faculty as the Field Instruction Consultant to the Home. The Field Instruction Consultant shall be a liaison between the Contractor and the Home and shall develop and execute the CNA Program, evaluate student performance, and engage in activities of mutual concern in the provision of student training.
- C. **Student Placement and Performance Evaluation:** Contractor shall be responsible for the selection, placement and/or removal, and final grading of program students. These decisions shall be made in consultation with the Contract Manager/Designee, in accordance with the respective responsibilities of each part to this Agreement.
  - 1) Contractor shall assume full responsibility for the content of the education program in compliance with California Department of Health Care Services requirements. Instruction and training shall be in accordance with a plan that includes specific performance objectives and the expected duration for each objective. Skills will be evaluated in the clinical setting with patients and recorded on the student record.
  - 2) Contractor shall designate and provide a Registered Nurse (RN) to conduct general supervision of the CNA Program.
  - 3) Contractor shall be responsible for student training in its entirety; Home staff shall not train, teach, monitor, shadow, or proctor students. However, Home staff have authority to direct students to cease behavior that is in violation of any Home rule and/or regulation.
- D. **Student Supervision:** All students shall be under the discipline and authority of Contractor. Contractor shall ensure that students are properly supervised and comply with the rules and regulations of the Home.
  - 1) Contractor shall provide RN instructors to provide direct and immediate supervision of the students at the Home during clinical training.

- 2) Contractor shall provide necessary and qualified instructors to ensure that student to instructor ratio at the Home shall be no more than 15:1.
  - 3) NVAE instructors shall be responsible for all student progress reports and performance evaluations during the practical learning experience.
  - 4) NVAE instructors shall orient the students to the Home's site.
  - 5) Contractor shall ensure that instructors and students:
    - a. Wear photo identification supplied by the Contractor identifying them as members of the program
    - b. Comply with the Home's dress code requirements
- E. **Pre-Practicum Requirements:** Contractor shall ensure students meet all pre-practicum requirements prior to commencing work at the Home.
- 1) Contractor shall verify that students have all of the following and shall provide Contract Manager/ Designee documentation or written certification thereof:
    - a. Criminal record clearance
    - b. Medical history
    - c. Tuberculosis (TB) clearance based on TB skin test PPD or chest x-ray completed no earlier than six months prior to the student reporting to the Home
    - d. Physical examination results signed by the clinician performing the examination, indicating that the student does not have any health condition that would interfere with the student's ability to perform care duties and that the student is free from signs or symptoms of infectious diseases
    - e. Valid cardiopulmonary resuscitation (CPR) card
  - 2) Contractor shall provide at least 16 hours of federally-mandated training to students in the following areas:
    - a. Introduction to Aide and Agency Role
    - b. Interpretation of Medical and Social Needs of People Being Served
    - c. Personal Care Services
    - d. Cleaning and Care Tasks in the Home
    - e. Nutrition
  - 3) Contractor shall ensure that students familiarize themselves with the Home's policies and methods of delivering care and receive and read the Home's policies on elder abuse, sexual harassment, discrimination, confidentiality, and resident's rights.
    - a. Students shall provide signature verification of receiving and reading the Home's policies.
    - b. Contractor shall provide student signature verifications to Contract Manager/Designee.
  - 4) All Pre-Practicum requirements shall be obtained at no cost to CalVet.
- F. **Scheduling:** Contractor shall work collaboratively with Contract Manager/Designee to establish a clinical training schedule.
- 1) Contractor shall provide Contract Manager/Designee with a list of student names and training schedule (dates and times) at least 14 days in advance of students reporting to the Home.
    - a. Contractor shall only provide names of students that have met all Pre-Practicum requirements.
    - b. Contractor shall coordinate provision of Pre-Practicum compliance documentation with Contract Manager/Designee.

- 2) Clinical schedule shall be subject to Contract Manager/Designee approval and shall not interfere with normal business functions of the Home.

### 3. CALVET RESPONSIBILITIES

- A. The Home shall accept students enrolled in the program for a practicum in nursing work education at times, in numbers, and at such locations of the Home as shall be agreed upon by both parties.
- B. Prior to students commencing work at the Home, Home staff (as designated by Contract Manager/Designee) shall provide Health Insurance Portability and Accountability Act (HIPAA) training and basic orientation to the students.
- C. Home shall direct students to cease behavior that is in violation of any Home rule and/or regulation and Contract Manager/Designee shall notify NVAE instructors and NVAE Field Liaison Consultant of such behavior.

### 4. STUDENT REMOVAL

- A. Contract Manager/Designee may request that the Contractor remove any student(s) whose performance the Contract Manager/Designee deems, in her/his sole judgment, unfit to meet the demands of the Home's service program or whose conduct otherwise interferes with its primary mission.
- B. Upon request of Contract Manager/Designee, Contractor shall immediately remove such student(s) from the Home and shall not allow said student(s) to participate in further training at the Home.

### 5. INDEPENDENT CONTRACTOR STATUS

- A. Contractor's shall not be considered employees or agents of CalVet and shall not be entitled to any employee benefits including, but not limited to the following:
  - 1) Overtime Pay
  - 2) Premium Pay
  - 3) Medical Insurance
  - 4) Vacation
  - 5) Sick Leave
  - 6) Worker's Compensation
  - 7) Other Employee benefits
- B. Students shall be responsible for ensuring that all resident medical record information encountered is identified and maintained as "CONFIDENTIAL," held in trust and confidence, and used only for the purposes contemplated by this Agreement.

### 6. CONTACT INFORMATION

- A. Contract Managers during the term of this Agreement shall be:
  - 1) CalVet Contract Manager:  
Yountville California Veterans Home  
Robyn Lo, Supervising Registered Nurse II  
220 California Drive  
Yountville, CA 94599  
Phone: 707-944-4713 / Fax: 707-944-5085  
[Robyn.lo@calvet.ca.gov](mailto:Robyn.lo@calvet.ca.gov)

2) Contractor's Contract Manager:

Napa Valley Unified School District - Napa Valley Adult Education  
Rick Jordan, Principal  
1600 Lincoln Avenue  
Napa, CA 94558  
Phone: 707-253-3594 / Fax: 707-253-3828

- B. Contract Managers, addresses, and phone/fax numbers shall 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 Managers including, name, title, mailing address, phone/fax numbers, and email address. All other changes require a formal written amendment to this Agreement.

**Rate Sheet**

1. This agreement shall not incur payable costs.
2. The California Veterans Home – Yountville (Home) shall assess no fees to the Contractor for the use of the Home's resources; likewise, the Contractor shall receive no remunerations from the Home for the services incidental to their provision of a nursing student internship clinical program.

# General Terms and Conditions (GTC 04/2017)

## EXHIBIT C

1. **APPROVAL**: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT**: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT**: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT**: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION**: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. **DISPUTES**: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE**: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
12. **TIMELINESS:** Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
  - a. The Government Code Chapter on Antitrust claims contains the following definitions:
    - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
    - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
  - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
  - c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
  - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. **CHILD SUPPORT COMPLIANCE ACT:** For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:
- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
  - b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
17. **UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
18. **PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
19. **SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**
- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
  - b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. **LOSS LEADER**: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

**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 or 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 610), 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. 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.

**I. 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:

**1. 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.

## 2. 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.

### 3. 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/Pages/HIPAA-Notice-of-Privacy-Practices.aspx>.
- 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.

### 4. 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.

### 5. 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.

## 6. 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.

CCC 04/2017

**CERTIFICATION**

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

Contractor/Bidder Firm Name (Printed) <i>Napa Valley Adult Education</i>		Federal ID Number <i>52-1550087</i>
By (Authorized Signature) 		
Printed Name and Title of Person Signing <i>Rick Jordan, Principal</i>		<i>Mary Ann Valles, Asst Supt of Instruction</i>
Date Executed <i>4/30/19</i>	Executed in the County of <i>Napa</i>	

**CONTRACTOR CERTIFICATION CLAUSES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. SWEATFREE CODE OF CONDUCT:

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

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

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

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

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

### **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

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

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

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

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

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

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

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

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

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

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

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

**5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

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

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

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

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

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

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

**Darfur Contracting Act**

Pursuant to Public Contract Code (PCC) section 10478, if a Bidder currently or within the previous three (3) years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in PCC section 10476.

Your bid will be disqualified unless your bid includes this form with either #1 or #2 initialed, or #3 initialed and certified. Therefore, to be eligible to submit a bid, please complete only one of the following (#1 and #2 only require initials and #3 requires initials and certification):

1. RJ  
 Initials We do not currently have, or we have not had within the previous three (3) years, business activities or other operations outside of the United States.

OR

2. \_\_\_\_\_  
 Initials We are a "scrutinized" company as defined in PCC section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid pursuant to PCC section 10477(b). A copy of the written permission from DGS is included with our bid.

OR

3. \_\_\_\_\_  
 Initials + Certification Below We currently have, or we have had within the previous three (3) years, business activities or other operations outside of the United States, but we certify below that we are not a "scrutinized" company as defined in PCC section 10476.

**CERTIFICATION FOR #3 ONLY**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind this company to the clause listed above. This certification is made under the laws of the State of California.

Company Name (Printed) Napa Valley Adult Education		Federal ID Number 52-1550087
By (Authorized Signature) <u>RJ</u>		
Printed Name and Title of Person Signing Rick Jordan, Principal		Mary Ann Valles Asst Supt Instruction
Date Executed 4/30/19	Executed in the County and State of Napa	

## STANDARD AGREEMENT

TO 213 (Rev. 03/2019)

AGREEMENT NUMBER

18YS0076

PURCHASING AUTHORITY NUMBER (if Applicable)

This Agreement is entered into between the Contracting Agency and the Contractor named below:

## CONTRACTING AGENCY NAME

California Department of Veterans Affairs

## CONTRACTOR NAME

Napa Valley Unified School District - Napa Valley Adult Education

The term of this Agreement is:

## START DATE

April 1, 2019 or upon approval, whichever is later

## THROUGH END DATE

March 31, 2022

The maximum amount of this Agreement is:

0.00

Zero Dollars and Zero Cents

The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Scope of Work	4
Exhibit B	Budget Detail and Payment Provisions	1
Exhibit C *	General Terms and Conditions (GTC 04/2017)	•
Exhibit D	Special Terms and Conditions	6
Exhibit E	HIPAA Business Associate Agreement	7

Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLSR/resources>

I WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

## CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Napa Valley Unified School District - Napa Valley Adult Education

## CONTRACTOR BUSINESS ADDRESS

600 Lincoln Avenue

## CITY

Napa

## STATE

CA

## ZIP

94558

## PRINTED NAME OF PERSON SIGNING

Nick Jordan

## TITLE

Principal

## CONTRACTOR AUTHORIZED SIGNATURE

## DATE SIGNED

12-12-19

**STANDARD AGREEMENT**

TD 213 (Rev. 03/2019)

AGREEMENT NUMBER <b>18YS0076</b>	PURCHASING AUTHORITY NUMBER (if Applicable)
-------------------------------------	---

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME California Department of Veterans Affairs				
CONTRACTING AGENCY ADDRESS 227 O Street		CITY Sacramento	STATE CA	ZIP 95814
PRINTED NAME OF PERSON SIGNING David Gerard		TITLE Chief, Facilities and Business Services Division		
CONTRACTING AGENCY AUTHORIZED SIGNATURE 		DATE SIGNED 06/20/19		
CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL		EXEMPTION (if Applicable) SCM, Vol 1, 4.04 A.1.		