STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER	PURCHASING AUTHORITY NUMBER (If Applicable)
25-26096	

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

CONTRACTING AGENCY NAME
Department of Health Care Access and Information

CONTRACTOR NAME
Baby2Baby

2. The term of this Agreement is:

START DATE
May 1, 2026, or the date the Agreement is fully executed, whichever is later.

THROUGH END DATE
June 30, 2027

3. The maximum amount of this Agreement is:
$6,200,000.00

4. 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	8
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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/OLS/Resources

IN 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.)
Baby2Baby

CONTRACTOR BUSINESS ADDRESS	CITY	STATE	ZIP
5830 Jefferson Blvd	Los Angeles	CA	90016

PRINTED NAME OF PERSON SIGNING	TITLE
Jen Armstrong	COO

CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED
DocuSigned by: Jen Armstrong 1F0FC8B2BF11411...	4/23/2026

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME
Department of Health Care Access and Information

CONTRACTING AGENCY ADDRESS	CITY	STATE	ZIP
2020 West El Camino Avenue	Sacramento	CA	95833

PRINTED NAME OF PERSON SIGNING	TITLE
Scott Christman	Chief Deputy Director

CONTRACTING AGENCY AUTHORIZED SIGNATURE	DATE SIGNED
J. Scott Christman J. Scott Christman (Apr 28, 2026 11:06:02 PDT)	04/28/2026

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable)
	~~Health and Safety Code Section 127692(b)~~ Provision 4(b) of SEC. 126. Item 4140-001-0001 of Section 2.00 of the Budget Act of 2025 (RZ 5-20-2026)

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EXHIBIT A
SCOPE OF WORK

1. Background to the Diaper Access Initiative

   The California Department of Health Care Access and Information ("HCAI") is committed to expanding equitable access to quality, affordable health care for all Californians, ensuring every community has the health workforce they need, safe and reliable health care facilities, and health information that can help make care more effective and affordable.

   The California Budget Act of 2025 (as amended)[1] directed HCAI to enter into a partnership to develop and implement the Diaper Access Initiative.[2] Approximately 420,000 infants are born annually in California[3], with families incurring around $1,000 in diaper expenses per child each year. Nearly half of U.S. families report difficulty affording diapers, with one quarter of families reducing food consumption to meet diaper needs[4]. Inadequate diaper access can result in delayed changes or reuse, elevating health risks for children.

2. Purpose of this Agreement

   The purpose of this Agreement is to establish a comprehensive partnership between the State of California and Baby2Baby ("Contractor") to implement the Diaper Access Initiative ("Program") throughout California. The Program aims to:

   - Provide up to four hundred (400) free diapers to families of babies born in California regardless of family income level;
   - Distribute diaper sizes Newborn and One through Participating Organizations, as defined herein;
   - Reduce financial hardship and health risks associated with inadequate diaper access.

3. State Contracting Exemption

   This Agreement is executed pursuant to the California Budget Act of 2025, which exempts the Agreement from certain requirements for state contracts. Provision 4(b) of SEC. 126. Item 4140-001-0001 of Section 2.00 of the Budget Act of 2025 provides:

   > "Contracts entered into or amended pursuant to this provision shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and shall be exempt from the review or approval of any division of the Department of General Services."

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[1] Assembly Bill No. 102, Chapter 5, Item 4140-001-0001, Section 2.00.
[2] State of California Budget Change Proposal, Diaper Access Initiative.
[3] California Health Care Almanac, Maternity Care in California, November 2023
[4] The National Diaper Bank Network, Diaper Check 2023: Diaper Insecurity among U.S. Children and Families, June 15, 2023

4. Period of Performance

a) The term of this Agreement shall commence on May 1, 2026, or the date the Agreement is fully executed, whichever is later (the "Effective Date") and shall continue until the close of business on June 30, 2027.

b) Nothing in this Agreement prohibits the renewal or extension of this Agreement through an amendment that is executed pursuant to the terms of this Agreement.

5. Contract Representatives

The contract representatives (the "Representatives") during the term of this Agreement shall be:

State Agency: HCAI	**Contractor**: Baby2Baby
Name: Vishaal Pegany	**Name**: Jennifer Armstrong
Phone: [redacted]	**Phone**: [redacted]
Email: [redacted]	**Email**: [redacted]

The Representatives will serve as the primary contact points between the Parties regarding the activities described in this Agreement. The Representatives will facilitate the flow of information and otherwise promote communication, and coordination between the Parties, providing a single point of communication within each Party's respective organization, including facilitating review of communications, and addressing disputes in a timely manner. Each Party may replace its Representative by written notice to the other Party without amending this Agreement.

Direct all inquiries concerning the terms and conditions of this Agreement to:

State Agency: HCAI **Section**: Legal Office	**Contractor**: Baby2Baby
Attention: James Yi, Attorney IV	**Attention**: Beau Boudreaux, Esq.
Address: 2020 W El Camino Avenue, Suite 800 Sacramento, CA 95833	**Address**: 433 N. Camden Dr., 4th Floor Beverly Hills, CA 90210
Phone: [redacted]	**Phone**: [redacted]
Email: [redacted]	**Email**: [redacted]

6. Definitions

The following definitions apply to the entire Agreement, unless stated otherwise in a specific part.

a) “Diaper” means a personal absorbent hygiene product designed to collect and contain baby urine and feces. Contractor diapers are designed to fit babies per the following weight guide as submitted to HCAI during the request for information process.

   i. Up to 10 lbs. (up to 4.5 kg) for Size 0 Newborn;

   ii. From 8 to 14 lbs. (4 to 6 kg) Size 1 Small;

   iii. Contractor diapers to perform to the following standards for size, wetness capacity and absorbency as submitted to HCAI during the request for information process. These performance methodologies are based on contractor diapers' test protocol.

PRODUCT DIMENSIONAL & PHYSICAL PROPERTIES:

Property	Unit of Measure	Test Method*	Targets								Limits
			S0	S1	S2	S3	S4	S5	S6	S7	
Diaper Length	mm	GRP-INS-241	310	370	400	430	475	500	520	550	+ / - 15mm
Diaper Width	mm	GRP-INS-241	180	180	210	210	230	230	230	230	+ / - 15mm
Absorbent Capacity	grams	GRP-INS-306	210	280	330	430	600	620	680	710	- 20% Min.
2nd Void Strikethrough	seconds	GRP-INS-322	7	7	7	7	7	7	7	7	20 s Max
2nd Void Rewet	grams	GRP-INS-322	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	3.0 Max.
Combined AQT	seconds	GRP-INS-155	<75	<75	<75	<75	<75	<75	<75	<75	140 Max.
Combined Rewet	grams	GRP-INS-155	<3.5	<3.5	<3.5	<3.5	<3.5	<3.5	<3.5	<3.5	10 Max.

   iv. In addition, contractor diapers meet the standards of the Consumer Product Safety Improvement Act (CPSIA). Contractor diapers will be free from: Natural latex, Phthalates, Parabens, Bisphenol a (BPA), Polyvinyl chloride (PVC), Bromine- and chlorine-based compounds (elemental chlorine), Antimicrobial/antibacterial agents, Non-halogenated flame retardants (FRs), Metals (mercury, lead, cadmium, or organotin compounds, Perfluorinated chemicals (PFCs), Lotions/skin protectants, and Fragrances.

b) “Diaper Packaging” means a corrugate box with writing using one color black logo, with the State’s diaper brand, “Golden State Start”.

c) “Participating Organizations” means hospitals and other organizations, including Federally Qualified Health Centers, Welcome Baby programs, and community clinics, participating in the Program.

d) “Product” means two boxes containing 200 diapers each.

e) “Parties” means Contractor and HCAI.

f) “State” means HCAI, the California Health and Human Services Agency (“CalHHS”), or any other departments, agencies or offices of the State of California.

g) “Diaper Start Date” means the first date when diapers will be available through the Program.

h) “Diaper End Date” means the last date, when diapers will be delivered to Participating Organizations under this Agreement. The Diaper End Date shall be at least 60 days before the end of this Agreement to allow Contractor sufficient time to submit and be paid for invoices. If diapers are committed but not delivered before the Diaper End Date due to circumstances beyond the Contractor's reasonable control, Contractor may include the cost of those diapers on their final invoice provided Contractor is able to submit proof of delivery within fifteen (15) days. All unused Diapers in the possession of Contractor as of Diaper End Date can rollover to the following contract year, if the Agreement is extended beyond Program Year 1.

i) "Diaper Supply" means the supply of diapers that each eligible baby receives from a Participating Organization. The Diaper Supply shall be 400 diapers.

7. <u>Contractor's Primary Responsibilities</u>

HCAI may be consulted on one or more of the Contractor's responsibilities, such as any public facing written materials or the priority of Participating Organizations. The Contractor shall have the primary responsibility to manage and implement the Program, including:

b) Contact and recruit California Participating Organizations to participate in the Program.

c) Develop and lead a virtual kick-off meeting with all California hospital sites (and other healthcare entities) and HCAI.

d) Identify the Diaper Start Date and Diaper End Date in consultation with HCAI.

e) Develop written educational materials which will be hosted on the Program website for the onboarding of Participating Organizations.

   i. Develop an enrollment process designed to provide hospitals with clear information about Program details.

   ii. Develop and maintain a Program website to share information, resources, and updates with hospitals.

f) Conduct comprehensive readiness assessments for hospitals and potential Participating Organizations seeking to participate in the Program, including gathering information regarding hospital storage requirements.

   i. Based on the results of the readiness assessment, Contractor shall develop an appropriate plan, determined in Contractor's good faith and reasonable discretion, for each Participating Organization incorporating their feedback.

   ii. Based on the results, Contractor shall develop a statewide distribution model plan and site-level distribution plans, if necessary.

g) Establish, maintain, and manage warehousing, inventory control, and distribution of diapers to Participating Organizations.

   i. In consultation with each Participating Organization, ensure adequate inventory levels at each hospital to maintain continuous product availability.

   ii. If storage capacity presents a concern, Contractor shall collaborate with the Participating Organization to resolve the issue.

h) Ensure that each participating family receives one Diaper Supply with appropriate sizing for baby.

  i. Contractor shall serve as the primary contact for Participating Organizations and family inquiries made to Contractor directly or via Program website and respond to inquiries in a timely manner.

  ii. In consultation with HCAI, Contractor shall develop all educational materials for Participating Organizations and consumers to be hosted on Program website.

    1. All materials shall be available in English, Spanish, Tagalog, Vietnamese, and Korean, and in alternative formats upon request through translation services provided by the State. The Contractor shall submit all materials to HCAI for review and written approval prior to posting on website.

    2. Contractor shall include information on Program website regarding how families can access free diapers and additional resources outside of Program via the 211 system.

    3. Contractor shall ensure the Program website is accessible and complies with the requirements outlined in Government Code section 11546.7(a).

  iii. Contractor shall develop and maintain appropriate communication channels for Participating Organizations to reach out with questions and orders, including email, phone, and website contact support. This may include hospital “office hours” if necessary.

  iv. The State is not responsible for any shortages of diapers at Participating Organizations.

i) Solicit feedback, for example through quarterly surveys, from participating hospitals to evaluate Program effectiveness and identify opportunities for improvement.

j) Provide an opportunity for families to provide feedback through the Program website to assess impacts on financial stability and family well-being

k) Collect data and other metrics as outlined in Exhibit A, Section 13.

8. Program Eligibility

a) The Program shall be available to as many human babies as possible born in California on or after the Diaper Start Date until the Diaper End Date at Participating Organizations, regardless of family income level.

b) The Program shall make available one Diaper Supply for each eligible baby identified prior to hospital discharge; however, Participating Organizations shall determine their own distribution timeframe with the understanding that diapers must be given within two (2) weeks post discharge. Participating Organizations shall provide the Diaper Supply to the parents or guardians of each baby.

c) Babies born before the Diaper Start Date or after the Diaper End Date are not eligible for participation in the Program.

i. The Parties may mutually agree in writing to extend the Program dates as future budget appropriations allow.

d) Program eligibility is subject to the availability of diapers at the Participating Organization.

e) Families are not required to provide any income verification to participate in the Program.

f) Each baby shall receive only one Diaper Supply of 400 diapers.

g) There is no right to return or exchange diapers through the Program.

9. Diaper Packaging

a) Within ten (10) days of the Effective Date of the Agreement, HCAI shall provide branding requirements for the Diaper Packaging to Contractor.

b) Within ninety (90) days of receipt of the Diaper Packaging branding requirements from HCAI, Contractor shall submit the proposed design for the Diaper Packaging and labeling to HCAI for review and written approval or disapproval. Production may not begin until HCAI provides written approval of the final design.

c) Within one hundred eighty (180) days of HCAI's written approval of the Diaper Packaging, Contractor shall supply the Golden State Start-branded Products in accordance with this Agreement.

d) Unless approved in writing by HCAI, Contractor shall not utilize Golden State Start logo and/or word marks beyond what is allowed by this Agreement.

10. Hospital Distribution Targets

a) Participating Organizations shall opt-in to the Program on a voluntary basis. Contractor shall work with HCAI to identify Participating Organizations to onboard with the following Program targets in mind:

   a. Program Year 1 (months 1-12 from the Diaper Start Date): up to 40 million diapers; approximately 25 percent of births in California.

11. Shipping

a) Contractor shall ship Products within four (4) weeks of receiving an order from Participating Organizations and Contractor shall utilize either their own or a third-party logistics company to deliver products to the shipping location within four (4) weeks of receipt of an order. No additional costs will be billed by Contractor to hospitals for shipping or other costs. Contractor is responsible for any costs associated with faulty shipping.

b) All prices are Free on Board (FOB) destination; freight shall be prepaid by Contractor and delivered to the Participating Organization's receiving point. Title, responsibility and liability for loss or damage for all orders will pass to the Participating Organization upon delivery.

c) The State is not responsible for any shortages of diapers at Participating Organizations.

12. Joint Steering Committee

As soon as reasonably practicable, the Parties will establish a joint steering committee (the "JSC") to coordinate and oversee the distribution of Products in California. The JSC will be composed of representatives from each Party and who have the appropriate and direct knowledge and requisite decision-making authority.

a) Each Party's representatives on the JSC will inform and coordinate within their respective organization to enable each Party to fulfill its obligations as agreed upon between the Parties under this Agreement, including within the time frames set forth thereunder. HCAI has the right to use Third-Party consultants to serve on the JSC on their behalf with assurances that any Third-Party consultant meets all HCAI conflict of interest requirements. Each Party will appoint one of its JSC representatives to act as a co-chairperson of the JSC. All information shared with the JSC will be subject to the Information Sharing requirements below.

b) The scope of the JSC's responsibilities, decision-making and final approval authority includes:

   i. Monitoring the hospital onboarding and distribution process for the Products;
   ii. Administration of the HCAI Funding in accordance with the terms of this Agreement;
   iii. Overseeing and establishing the communications strategy concerning the collaboration to the public and outside entities (such as through websites, news releases);
      1. Baby2Baby and HCAI will align on a mutually approved communications strategy document that outlines talking points, verbiage and best practices surrounding communications about this Program.
   iv. Discussing and evaluating potential future priority hospitals for participation in the Program; and
   v. Performing such other functions as expressly set forth in this Agreement or assigned to it by the Parties' written agreement.

c) The JSC will hold monthly meetings for life of the Agreement. If the Agreement extends beyond one year, the JSC will come to a mutual agreement on the frequency of meetings required. Each Party may call additional Committee meetings with reasonable advance notice to the other Party. Meetings of each Committee may be held in person, by audio or video teleconference as determined by the mutual agreement of the Parties. Each Party will be responsible for all its own expenses of participating in each Committee meetings. No action taken at any Committee meeting will be effective unless at least one representative from each Party is participating in such Committee meeting.

d) The JSC established hereunder will only have the powers expressly assigned to such Committees in this Exhibit A, Section 12 or otherwise expressly provided in this Agreement and will not have the authority to: (a) modify or amend the terms of this Agreement; or (b) waive either Party's compliance with or rights under the terms of this Agreement. If after reasonable discussion and good faith consideration of each Party's view on a particular matter before the JSC, the JSC cannot reach a decision as to such matter within 30 days after such matter was brought to the JSC for resolution, such matter will be referred to the HCAI Director and the CEO of Contractor for resolution.

e) The JSC is necessary to implement this Agreement. The JSC is not a "state body" within the meaning of Government Code section 11121. JSC meetings are not open or public meetings within the meaning of the Bagley-Keene Open Meeting Act (Gov. Code section 11120 et seq).

13. Reporting to HCAI

a) Contractor shall submit a monthly report to HCAI's contract representative within fifteen (15) days after the end of the prior month containing the following information:

   i. Number (and list) of hospitals/organizations enrolled in the Program;

   ii. Number of enrolled sites with repeat order fulfilment;

   iii. Number (and list) of counties reached with the Program;

   iv. Total number of diapers shipped;

      1. Breakdown Size Newborn and Size 1

   v. Number of children served (total diapers/400);

   vi. Number of Program Website Visits;

   vii. Raw data and anecdotes from Participating Organization and parent feedback survey.

b) Contractor shall meet with HCAI through the JSC to provide an update on the program, share family and Participating Organizations' feedback and results of satisfaction surveys, and discuss any program implementation challenges and successes.

EXHIBIT B
BUDGET DETAIL & PAYMENT PROVISIONS

1. Total Cost of Agreement

   a) The total cost of this Agreement shall not exceed $6,200,000.00 for Program Year 1.

2. Invoicing and Payment

   a) For services satisfactorily rendered, and upon receipt and approval of Contractor's invoices, HCAI agrees to compensate Contractor for actual costs incurred up to the total amounts allowable for each State Fiscal Year in accordance with the costs stated in **Exhibit B1**. Contractor shall provide sufficient supporting documentation with each invoice to substantiate all charges billed under this Agreement. Such documentation must reasonably demonstrate that the amounts invoiced are accurate and consistent with the terms of this Agreement. HCAI reserves the right to request additional documentation necessary to verify any invoiced charges.

   b) Payments made pursuant to this Agreement shall be made in accordance with the State of California's Prompt Payment Act (Government Code sections 927 et seq.). The Act requires the State to pay properly submitted, undisputed invoices within forty-five (45) days of receipt of an undisputed invoice.

   c) Invoices shall be electronically submitted, in arrears, not later than thirty (30) days after the end of month to the following email addresses: [redacted] and [redacted].

   d) Invoices shall include all fees itemized by category as outlined in **Exhibit B1**.

   e) ALL invoices submitted by Contractor must identify this Agreement Number 25-26096.

   f) ANY invoices submitted without the above required information MAY be returned to Contractor for further reprocessing.

3. Budget Contingency Clause

   a) It is mutually agreed that if the Budget Act of the current year or any subsequent years covered under this Agreement does not appropriate funds for the Program, Program Year 2 of this Agreement shall be of no further force and effect as stated in **Exhibit C, Section 19**. 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. Notwithstanding anything to the contrary, the State shall pay to Contractor all costs and outstanding invoices in connection with Program Year 1, regardless of whether the Program is cancelled.

   b) Except as otherwise provided in Section 3(a), above, 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.

EXHIBIT B1
COST WORKSHEET

Budget Categories	**Program Year 1 (up to 40 million Diapers)**	
COST DESCRIPTION	**PER UNIT COST**	**ANNUAL TOTAL (Not to exceed)**
Diaper Procurement including Golden State Start branding	Size N: $0.07615 Size 1: $0.09065	$3,888,000
Distribution/Shipping	$0.019 per diaper	$750,000
Warehousing	$0.016 per diaper	$610,000
Program Personnel[1]	$78,541.67 per month	$917,000
Communications	Actual costs	$35,000
AGREEMENT TOTAL		**$6,200,000**

Contractor may reallocate up to 10% of funds in a budget category to other budget categories set forth in the Cost Totals section as reasonably necessary to perform the Services, provided that the total compensation payable under this Agreement is not increased. Such reallocations shall not require a formal amendment to this Agreement but shall require HCAI's prior approval for such reallocations.

[1]Program Personnel includes:

- Director Operations
- Finance Lead
- Program Director
- Program Coordinator
- Program Specialist
- Program Assistant(s)
- Shipping Manager
- Senior Inventory Coordinator
- Head of Inventory
- Third Party Logistics Manager
- Head of Warehouse Operations
- Senior Director Disaster Relief, Strategy, and Response

EXHIBIT C
GENERAL CONTRACT TERMS AND CONDITIONS

1. Applicability of this General Contract Terms and Conditions

   If there is an inconsistency or contradiction between this Exhibit C and the other exhibits of this Agreement, the terms and conditions in all other exhibits shall take precedence over the general contract terms and conditions in this Exhibit C.

2. Approval

   This Agreement is of no force or effect until signed by the Parties. Contractor may not commence performance until the Agreement is fully executed by the Parties.

3. Entire Agreement

   The Agreement contains the entire understanding of the Parties with respect to the subject matter of this Agreement. All express or implied agreements and understandings, either oral or written, with regard to the subject matter of this Agreement, are superseded by the terms of this Agreement. Neither Party is relying on any representation, promise, or warranty not expressly set forth in this Agreement.

4. Severability

   If any one or more of the provisions contained in this Agreement is held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein will not in any way be affected or impaired thereby, unless the absence of the invalidated provision(s) adversely affects the substantive rights of the Parties. The Parties will in such an instance use their best efforts to replace the invalid, illegal or unenforceable provision(s) with valid, legal, and enforceable provision(s) which, insofar as practical, implement the purposes of this Agreement.

5. 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 HCAI, DHCS, CalHHS, or the State of California.

6. Governing Law

   This Agreement shall be governed by and shall be interpreted in accordance with the laws of the State of California. Venue of any action brought with regard to this Agreement shall be the Superior Court of California, County of Sacramento. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

7. Compliance with Statutes and Regulations

   Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the State against any loss, cost, damage, or liability by reason of Contractor's violation of this provision.

8. Contractor's Power and Authority

Contractor warrants that it has full power and authority to grant the rights herein granted and will hold HCAI and the State of California harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) ("Losses") arising out of any breach of this warranty, except to the extent such Losses were caused due to the gross negligence or willful misconduct of HCAI and the State of California or the gross negligence or willful misconduct of its or their employees, officers, agents or contractors. Further, Contractor avers that it will not knowingly enter into any arrangement with any third party which might abridge any rights of HCAI or the State of California under this Agreement.

9. Assignment

This Agreement is not assignable by Contractor, either in whole or in part, without the prior written consent of HCAI. For the purpose of this paragraph, HCAI will not unreasonably prohibit Contractor from freely assigning its right to payment, provided that Contractor remains responsible for its obligations hereunder.

10. Waiver of Rights

Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of this Agreement, shall not be construed to be a waiver of the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.

11. Packing and Shipment

a) All goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:

   i. show the number of the container and the total number of containers in the shipment; and

   ii. the number of the container in which the packing sheet has been enclosed.

b) Unless otherwise stated in Exhibit A, all shipments by Contractor or its subcontractors must include packing sheets identifying: the HCAI's number for this Agreement; item number; quantity and unit of measure; part number and description of the goods shipped; and appropriate evidence of inspection, if required.

c) Shipments must be made as specified in this Agreement, as it may be amended, or otherwise directed in writing by the State.

12. Transportation Costs and Other Fees or Expenses

No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in this Agreement.

a) Contractor shall follow this Agreement's requirements regarding Free on Board (FOB), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the buyer.

b) If "prepay and add" is selected, supporting freight bills are required when over $50, unless an exact freight charge is approved by the State and a waiver is granted.

c) On "FOB Shipping Point" transactions, should any shipments under this Agreement be received by product recipients in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

13. Delivery

Contractor shall adhere to the delivery and completion schedules specified in this Agreement. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. If Contractor delivers in excess of the quantities specified, the State shall not be required to make any payment for the excess goods and may return them to Contractor at Contractor's expense or utilize any other rights available to the State at law or in equity.

14. Substitutions

Substitution of goods may not be tendered without advance written consent of the State. Contractor shall not use any specification in lieu of those contained in this Agreement without written consent of the State.

15. Inspection, Acceptance and Rejection

a) Contractor and its subcontractors, if any, will provide and maintain a quality assurance system acceptable to HCAI covering goods and services under this Agreement and will tender to the State or recipients of the goods only those goods that have been inspected and found to conform to this Agreement's requirements. Contractor will keep records evidencing inspections and their result and will make these records available to HCAI during the performance of this Agreement and for three (3) years after final payment. Contractor shall permit HCAI to review procedures, practices, processes, and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of this Agreement.

b) All goods may be subject to inspection and test by HCAI or its authorized representatives.

c) During any on-site inspection, Contractor and its subcontractors, if any, shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to HCAI. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.

d) All goods to be delivered hereunder may be subject to final inspection, test, and acceptance by HCAI at destination, notwithstanding any payment or inspection at source.

e) HCAI shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. If HCAI does not provide such notice of rejection within thirty (30) days, unless otherwise specified in the Scope of Work, of delivery, such goods and services will be deemed to have been accepted. Acceptance by HCAI will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that HCAI might have at law or by express reservation in this Agreement with respect to any nonconformity.

16. Samples

a) Samples of items may be required by HCAI for inspection and specification testing and must be furnished free of expense to HCAI. The samples furnished must be identical in all respects to the products specified in this Agreement.

b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

17. Warranty

Unless otherwise specified, the warranties contained in this Agreement begin after acceptance of Products has occurred.

a) Contractor warrants that goods and services furnished hereunder will conform to the requirements of this Agreement (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by HCAI, free from defects in design. HCAI’s approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.

b) All warranties, including special warranties specified elsewhere herein, shall inure to HCAI, the State of California, their successors, assigns, customer agencies and users of the goods or services.

c) All documentation provided by Contractor to HCAI in connection with entry into this Agreement is true, accurate and complete in all material respects, and there has been no material adverse change in such documentation.

18. Safety and Accident Prevention

In performing work under this Agreement on State of California premises, Contractor shall conform to any specific safety requirements contained in this Agreement or as required by law or regulation. Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Agreement in accordance with the default provisions in this Agreement.

19. Termination for Non-Appropriation of Funds

a) If the term of this Agreement extends into fiscal years subsequent to that in which it is approved, such continuation of this Agreement is contingent on the appropriation of funds for such purpose by the Legislature. If funds to affect such continued payment are not appropriated or reappropriated, Contractor agrees to take back any affected goods furnished under this Agreement, terminate any services supplied to the State under this Agreement, and relieve the State of any further obligation therefor.

b) THE STATE AGREES THAT IF PARAGRAPH (a) ABOVE IS INVOKED, GOODS SHALL BE RETURNED TO CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, AND TRANSPORTATION TO CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.

c) HCAI shall notify Contractor within five (5) business days of HCAI becoming aware that funds will not be appropriated or will be reappropriated which would affect Contractors' ability to order or pay for Products.

20. Termination for Convenience

a) HCAI may terminate performance of work under this Agreement for its convenience in whole or, from time to time, in part, if HCAI determines that a termination is in the interest of the State of California. HCAI shall terminate by delivering to Contractor a Notice of Termination specifying the extent of termination and the effective date thereof. The Parties agree that, as to the terminated portion of this Agreement, the Agreement shall be deemed to remain in effect until such time as the termination settlement, if any, is concluded and the Agreement shall not be void.

b) After receipt of a Notice of Termination, and except as directed by HCAI, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. Contractor shall:

   i. Stop work as specified in the Notice of Termination.

   ii. Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continued portion of the Agreement.

   iii. Terminate all subcontracts to the extent they relate to the work terminated.

iv. Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification of which will be final for purposes of this clause.

c) In the event of any termination pursuant to this Section 20, HCAI shall reimburse Contractor for the following costs reasonably incurred in connection with the Program prior to or as a result of such termination: (i) the cost of Products already produced or purchased, to the extent not previously reimbursed at the costs set forth in Exhibit B1; (ii) warehousing commitments that cannot be cancelled or mitigated; and (iii) other documented third-party costs directly related to the Program that cannot reasonably be avoided or recovered. Contractor shall use commercially reasonable efforts to mitigate such costs and shall provide HCAI with documentation supporting any reimbursement request.

d) This subsection applies if this Agreement is amended to add additional years of diaper distribution beyond the first year. Contractor, for its convenience, shall have the right to terminate this Agreement at the end of the first year of diaper distribution. In the event Contractor desires to terminate this Agreement pursuant to this subsection, Contractor shall provide HCAI with written notice thereof at least 30 days prior to the end of the first year of diaper distribution.

21. Termination for Default

a) HCAI may, subject to the Force Majeure paragraph contained herein, by written notice of default to Contractor, terminate this Agreement in whole or in part if Contractor fails to:

   i. Deliver Products, including the number of Products ordered, or to perform the services within the time specified in the Agreement or any amendment thereto;

   ii. Make progress, so as to endanger performance of the Agreement; or

   iii. Perform any of the other provisions of this Agreement.

b) HCAI's right to terminate this Agreement under subparagraphs (a) above, may be exercised if Contractor does not cure such failure within a reasonable time frame as stated in the cure notice issued by HCAI.

c) If this Agreement is terminated for default, HCAI may require Contractor to transfer title and deliver to the State, as directed by the buyer, any completed goods.

d) HCAI shall pay this Agreement's price for completed goods delivered and accepted. HCAI may withhold from these amounts any sum the buyer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

e) If, after termination, it is determined that Contractor was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of HCAI.

f) The rights and remedies of each Party in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

22. Force Majeure

a) Except for defaults of subcontractors at any tier, Contractor shall not be liable for any breaches of this Agreement or excess costs if the failure to perform this Agreement arises from causes beyond the control and without the fault or negligence of Contractor. Examples of such causes include, but are not limited to:

i. Acts of God or of the public enemy, and

ii. Acts of the federal or state government in either its sovereign or contractual capacity.

b) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both Contractor and subcontractor, and without the fault or negligence of either, Contractor shall not be liable for any breaches of this Agreement or excess costs for failure to perform.

23. Rights and Remedies of State for Default

a) In the event any goods furnished or services provided by the Contractor in the performance of the Agreement should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.

b) In addition to any other rights and remedies the State may have, the State may require Contractor, at Contractor's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.

c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor.

d) HCAI reserves the right to offset the reasonable cost of all damages caused to HCAI or the State of California against any outstanding invoices or amounts owed to Contractor or to make a claim against Contractor, therefore.

24. Contractor’s Liability for Injury to Persons or Damage to Property

a) Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of HCAI or the State of California, HCAI/State employees, persons designated by HCAI for training, or any other person(s) other than agents or employees of Contractor, designated by HCAI for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the goods either at Contractor's site or at HCAI’s/the State of California’s place of business, provided that the injury or damage was caused by the fault or negligence of Contractor.

b) Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by Contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the goods provided by Contractor during this Agreement.

25. Indemnification

a) Contractor agrees to indemnify, defend, and save harmless HCAI, the State of California, its officers, agents and employees from any loss, cost, liability, or expense (including reasonable attorney fees) ("Losses"):

i. accruing or resulting to any and all of its 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;

ii. accruing or resulting to any person, firm or corporation which may be injured or damaged by Contractor in the performance of this Agreement;

iii. accruing or resulting to any person, firm or corporation from the use, re-sale, or distribution of Contractor's products, including, but not limited to, product liability claims from consumers;

iv. by reason of Contractor's violation of provision 7, "Compliance with Statutes and Regulations," above;

v. arising out of any breach of Contractor's warranty under provision 8, "Contractor's Power and Authority," above; and

vi. liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with this Agreement.

A. Contractor shall have no liability to the HCAI or the State of California under this subpart (vi) with respect to any claim of patent, copyright or trade secret infringement which is based upon the combination or utilization of products furnished hereunder with equipment or devices not made or furnished by Contractor; or the modification by HCAI or the State of California of the products furnished under this Agreement.

b) Contractor, at its own expense, shall defend any action brought against HCAI or to the State of California to the extent that such action is based upon losses, damages, costs, expenses, claims, or liability covered by (a) above. Contractor shall pay those costs and damages finally awarded against HCAI or the State of California in any such action. Such defense and payment shall be conditioned on the following:

i. That Contractor shall be notified within a reasonable time in writing by HCAI/State of any notice of such claim; and,

ii. Contractor will have sole control of the defense of any action on such claims and all negotiations for its settlement or compromise; provided that (A) when principles of government or public law are involved, when litigation might create precedent affecting future HCAI or State of California operations or liability, or when involvement of HCAI/State is otherwise mandated by law, HCAI/State of California may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (B) HCAI/State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (C) HCAI/State will reasonably cooperate in the defense and in any related settlement negotiations.

26. Products Subject to Intellectual Property, Patent, Copyright, Trade Secret or Similar Claims

a) Should Contractor’s products furnished under this Agreement, or the operation thereof, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, HCAI shall permit Contractor at its option and expense either to procure for HCAI/State the right to continue using the products, or to replace or modify the same so that they become non-infringing.

b) If none of the options in (a) can reasonably be taken, or if the use of such products by HCAI/State shall be prevented by injunction, Contractor agrees to take back such products and make every reasonable effort to assist HCAI/State in procuring substitute products.

c) If, in the sole opinion of HCAI, the return of such infringing products makes the retention of other products acquired from Contractor under this Agreement impractical, HCAI shall then have the option of terminating this Agreement, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such products and refund any sums HCAI has paid Contractor less any reasonable amount for use or damage.

27. Limitation of Liability

SUBJECT TO AND WITHOUT LIMITING THE INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, NO PARTY WILL BE LIABLE TO THE OTHER PARTY UNDER THIS AGREEMENT OR ANY WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, MULTIPLIED OR CONSEQUENTIAL DAMAGES OR FOR LOST PROFITS (EVEN IF DEEMED DIRECT DAMAGES) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

28. Taxes

Unless otherwise required by law, the State of California, including HCAI, is exempt from federal excise taxes. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or goods supplied to the State pursuant to this Agreement.

29. Newly Manufactured Goods

All goods furnished under this Agreement shall be newly manufactured goods; used or reconditioned goods are prohibited, unless otherwise specified.

30. Amendment

Unless specifically stated otherwise in this Agreement, 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 this Agreement is binding on any of the Parties.

31. Publicity

Neither Party shall issue any press release concerning this Agreement or the subject matter hereof, nor will either Party use the other Party's name, trademarks, or logos in any advertising, press release, websites, or promotional materials, except with the prior written consent of the other Party.

32. Dispute Process

a) The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Contractor shall submit to the HCAI Director or designee a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to or involving this Agreement. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to this Agreement, Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the adjustment for which Contractor believes the State is liable.

b) Within ten (10) business days of receipt of Contractor's written demand, the HCAI Director shall meet with Contractor's and HCAI's Contract Representatives for purposes of resolving the dispute. The decision of the HCAI Director shall be final.

c) Pending the final resolution of any dispute arising under, related to or involving this Agreement, Contractor agrees to diligently proceed with the performance of this Agreement, including the delivery of products or providing of services in accordance with HCAI's instructions. Contractor's failure to diligently proceed in accordance with HCAI's instructions shall be considered a material breach of this Agreement.

d) Any final decision of HCAI shall be expressly identified as such, shall be in writing, and shall be signed by the HCAI Director or designee. If HCAI fails to render a final decision within ninety (90) calendar days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. HCAI's final decision shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

33. Stop Work

a) HCAI may, at any time, by written Stop Work Order to Contractor, require Contractor to stop all, or any part, of the work called for by this Agreement for a period up to ninety (90) days after the Stop Work Order is delivered to Contractor, and for any further period to which the Parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision.

b) Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the Parties shall have agreed, the State shall either:

i. Cancel the Stop Work Order; or

ii. Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clauses of this Agreement.

c) If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume work. HCAI shall make an equitable adjustment in the delivery schedule, the price, or both, and this Agreement shall be modified, in writing, accordingly, if:

iii. The Stop Work Order results in an increase in the time required for, or in Contractor's cost properly allocable to the performance of any part of this Agreement; and

iv. Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if HCAI decides the facts justify the action, HCAI may receive and act upon a proposal submitted at any time before final payment under this Agreement.

d) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled, “Termination for the Convenience of the State,” HCAI shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.

e) HCAI shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this provision.

34. Covenant Against Gratuities

Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of HCAI or the State of California with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement. For breach or violation of this warranty, HCAI shall have the right to terminate this Agreement, either in whole or in part, and any loss or damage sustained by HCAI in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of the State provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

35. Potential Subcontractors

This Agreement shall not create any contractual relationship between HCAI and any of Contractor’s subcontractors, and the use of a subcontractor shall not relieve Contractor of its responsibilities and obligations under this Agreement. Contractor's obligation to pay its subcontractors is an independent obligation from HCAI's obligation to make payments to Contractor. As a result, HCAI shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

36. Health and Safety Protocol at HCAI Property

Contractor personnel will be required to follow all applicable state and public health requirements and related State policies when in a State location.

37. Headings

The captions to the several sections in this Agreement are not a part of this Agreement, but are merely for convenience to assist in locating and reading the sections of this Agreement

38. Waiver Rule of Construction

Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Agreement. Accordingly, the rule of construction that any ambiguity in this Agreement will be construed against the drafting Party will not apply.

39. Counterparts

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Counterparts may be delivered via electronic mail, including Adobe™ Portable Document Format (PDF) or any electronic signature complying with the U.S. Federal ESIGN Act of 2000, and any counterpart so delivered will be deemed to be original signatures, will be valid and binding upon the Parties, and, upon delivery, will constitute due execution of this Agreement.

40. Insurance

a) Contractor shall maintain or cause to be maintained and in effect, at all times during the term of the Agreement, a valid certificate of Commercial General Liability Insurance with the following requirements:

   i. Evidence of insurance shall be of a form and content acceptable to Department of General Services, Office of Risk and Insurance Management (ORIM).

   ii. The certificate of insurance shall be issued by an insurance company, or be provided through partial or total self-insurance, acceptable to ORIM.

   iii. The certificate of insurance shall state an amount of Commercial General Liability of no less than $1,000,000 per occurrence for bodily injury and property damage liability combined.

   iv. The certificate of insurance shall provide that the insurer shall not cancel the insured's coverage without thirty (30) days prior written notice to the HCAI.

   v. The certificate of insurance shall provide that the State of California, its officers, agents, employees, and servants are included as additional insured.

   vi. The certificate of insurance shall meet such additional standards as may be determined by HCAI, either independently or in consultation with ORIM, for protection of the state.

b) Contractor shall maintain statutory workers' compensation insurance for all its employees who will be engaged in the performance of the Agreement, including special coverage extensions where applicable.

c) In the event said insurance coverage lapses, expires, or is canceled at any time or times during the term of the Agreement, Contractor shall provide at least thirty (30) days prior to said date a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of HCAI. Contractor agrees that no work or services shall be performed prior to such approval. In the event Contractor fails to keep current and in effect at all times, insurance coverage as herein provided, HCAI may, in addition to any other remedies, terminate the Agreement.

d) All certificates of insurance shall clearly indicate this Agreement number and be submitted to the HCAI Project Representative by email.

EXHIBIT D
TERMS AND CONDITIONS REQUIRED BY CALIFORNIA LAW

1. Examination and Audit (Cal. Gov. Code section 8546.7 and Cal. Code Regs., title 2, section 11116)

   a) Contractor agrees that the State or their designated representative shall have the right to review and copy any records and supporting documentation pertaining to performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment under this Agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records.

   b) Contractor agrees to include a similar right of HCAI/State to audit records and interview staff in any subcontract related to performance of this Agreement.

2. Statement of Compliance with Nondiscrimination Program Requirements (Cal. Gov. Code section 12990 and Cal. Code Regs., title 2, section 11109)

   By signing this Agreement, Contractor, under penalty of perjury, certifies that it has, unless exempted, complied with the nondiscrimination program requirements in California Code of Regulations, title 2, section 11102.

3. Nondiscrimination Clause (Cal. Code Regs, title 2, section 11105)

   a) During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decision making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.

   b) Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code sections 12900 *et seq*.) and the applicable regulations promulgated thereunder (California Code of Regulations, title 2, sections 11000 *et seq*.). The applicable regulations of the Civil Rights Council implementing Government Code section 12990, set forth in Subchapter 5 of Division 4.1 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

   c) 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.

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

4. Americans with Disabilities Act

Contractor assures HCAI that it complies with the Americans with Disabilities Act of 1990. (42 U.S.C. sections 12101 et seq.)

5. Drug-Free Workplace Requirements (Cal. Gov. Code sections 8355 to 8357)

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 all of the following:

   i. the dangers of drug abuse in the workplace;

   ii. the Person's policy of maintaining a drug-free workplace;

   iii. any available counseling, rehabilitation, and employee assistance programs; and,

   iv. penalties that may be imposed upon employees for drug abuse violations.

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

   i. receive a copy of the company's drug-free workplace policy statement; and,

   ii. 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: Contractor has made false certification or violated the certification by failing to carry out the requirements as noted above.

6. Sweatfree Code of Conduct (Cal. Public Contract Code section 6108)

a) Contractor declares under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to HCAI or the State of California pursuant to this Agreement have been 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. 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 http://www.dir.ca.gov/, and California Public Contract Code section 6108.

b) Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of HCAI, the

State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under (a).

7. Child Support Compliance Act (Cal. Public Contract Code section 7110)

Contractor acknowledges in accordance that:

a) 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 California Family Code; and

b) 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.

8. Air or Water Pollution Violations (Cal. Gov. Code section 4477)

a) HCAI cannot contract with any entity that is (i) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (ii) 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 (iii) finally determined to be in violation of provisions of federal law relating to air or water pollution.

b) Contractor certifies that it is not an entity described in (a) above and is eligible to contract with HCAI pursuant to California Government Code section 4477. Should HCAI determine that it cannot contract with Contractor pursuant to section 4477, that shall be grounds for termination of this Agreement. HCAI 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 HCAI.

9. Civil Rights Law Certification (Cal. Public Contract Code section 2010)

Contractor certifies under penalty of perjury under the laws of the State of California that, at the time it submitted a bid or proposal to HCAI for this Agreement or otherwise proposed to enter into this Agreement with HCAI, all the following were true:

a) Contractor was in compliance with the Unruh Civil Rights Act (California Civil Code section 51 and the Fair Employment and Housing Act (California Government Code section 12960, *et seq.*); and

b) If Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, that such policies were not used in violation of the Unruh Civil Rights Act or the Fair Employment and Housing Act.

Iran Contracting Act of 2010 (Cal. Public Contract Code sections 2200, *et seq.*)

Unless exempted, entities that have engaged in certain investment activities in Iran are ineligible to contract with HCAI for goods or services of one million ($1,000,000) or more. California law requires all entities seeking to contract with HCAI to make certain certifications about this.

Prior to executing this Agreement, Contractor was required to complete the "Iran Contracting Act Verification Form" to meet the requirements of the Iran Contracting Act of 2010. Among other remedies, should HCAI determine that Contractor submitted a false certification pursuant to this Act, that shall be grounds for termination of this Agreement. HCAI 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 HCAI or the California Department of General Services.

10. Payee Data Record (California State Administrative Manual section 8422.190)

Contractor must complete and file the form Std. 204, "Payee Data Record," with the State of California before any payments can be disbursed under this Agreement.

11. Russia Sanctions (Cal. Executive Order N-6-22)

Contractor shall comply with 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 HCAI 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. HCAI 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 HCAI.

12. GenAI Disclosure Obligations (Cal. Executive Order N-12-23)

a) "Generative AI (GenAI)" means an artificial intelligence system that can generate derived synthetic content, including text, images, video, and audio that emulates the structure and characteristics of the system's training data. (Gov. Code § 11549.64.)

b) Contractor shall immediately notify the State in writing if it: (1) intends to provide GenAI as a Deliverable to the State; or (2) intends to utilize GenAI, including GenAI from third parties, to complete all or a portion of any Deliverable that materially impacts: (i) functionality of the System, (ii) risk to the State, or (iii) Agreement performance. For avoidance of doubt, the term "materially impacts" as used in this section shall have the same meaning set forth in State Administrative Manual (SAM) 4986.2 Definitions for GenAI.

c) Notification shall be provided to the State designee identified in this Agreement.

d) At the direction of the State, Contractor shall discontinue the provision to the State of any previously unreported GenAI that results in a material impact to the functionality of the System, risk to the State, or Agreement performance, as determined by the State.

e) If the use of previously undisclosed GenAI is approved by the State, then Contractor will update the Deliverable description, and the Parties will amend the Agreement accordingly, which may include incorporating the GenAI Special Provisions into the Agreement, at no additional cost to the State.

f) The State, at its sole discretion, may consider Contractor's failure to disclose or discontinue the provision or use of GenAI as described above, to constitute a material breach of the Agreement when such failure results in a material impact to the functionality of the System, risk to the State, or Agreement performance. The State is entitled to seek any and all remedies available to it under law as a result of such breach, including but not limited to termination of the Agreement.