

EXHIBIT C
(Agent Agreement)

GENERAL TERMS AND CONDITIONS

A. Approval:

This Agreement is of no force or effect until signed by both parties.

B. Indemnification:

Contractor agrees to indemnify, defend and save harmless the State, its officers, trustees, agents and employees from any and all claims, losses, costs, liabilities, damages or deficiencies, including interest, penalties and attorneys' fees, which:

1. Arise out of, are due to, are alleged to arise out of or be due to, a breach by the Contractor of any of its representations, warranties, covenants or other obligations contained in this Agreement, or
2. Are caused by or result from or are alleged to arise out of or result from, the Contractor's acts or omissions constituting bad faith, willful misfeasance, negligence or reckless disregard of its duties under this Agreement, or
3. Accrue or result, or are alleged to accrue or result, to any and all contractors, 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, or
4. Arise out of, are due to, or are alleged to arise out of or be due to, any claim or allegation of infringement, misappropriation or violation of any patent, copyright, trademark, trade secret, domain name or other intellectual property right comprising or involving any of the Subject Inventions, Prior Inventions or other Inventions provided in any way by Contractor and used, reproduced or otherwise exploited by the State in connection with any of the Agreement Programs or any Turnover thereof; or
5. Arise out of, are due to or are alleged to arise out of or be due to, any violation of HIPAA, the HIPAA Regulations, HITECH Act, other security or privacy laws, or any other laws, by Contractor or any contractor or agent under Contractor's control.

If and to the extent that the Contractor has knowledge of a claim that it believes may develop into an action that would be subject to this Agreement, the Contractor shall

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- a. A description of the dispute;
 - b. A reference to pertinent Contract provisions, if applicable;
 - c. A statement of the factual areas of agreement or disagreement; and
 - d. A statement of the State's decision with supporting rationale
3. If the Contractor is not satisfied with the decision of the Exchange, the Contractor may, within 15 calendar days of the Exchange's decision, submit a written appeal to the Exchange Executive Director. The Executive Director shall then issue a final decision on the dispute within 30 days after receiving Contractor's written appeal. If the Executive Director fails to render a final decision within 30 days after receipt of Contractor's written appeal, it shall be deemed a final decision adverse to the Contractor's contentions. The Executive Director'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 30 days following the date of the final decision.
 4. 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, in accordance with the Exchange's instructions. Contractor's failure to diligently proceed in accordance with the Exchange's instructions shall be considered a material breach of this Agreement.

D. Modification

The Exchange may modify this Agreement upon thirty (30) days prior written notification. Any such modification shall not affect Agent's rights in connection with business written with effective dates prior to the effective date of modification of this Agreement.

E. Termination

1. Termination For Cause:

The Exchange may terminate this Agreement for cause and be relieved of any payments at any time. Upon notice from the Exchange terminating this Agreement for Cause, Contractor shall immediately discontinue all activities affected, unless the notice directs otherwise, and the Exchange may proceed with the work in any manner deemed proper by the Exchange. In such event, the Exchange shall not be liable to pay Contractor any compensation from the date

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of termination, and all costs to the Exchange shall be remitted to the Exchange within 30 days. The Exchange may, at its sole discretion, offer an opportunity to cure any breach prior to terminating for default. A failure to terminate this Agreement for cause shall not be a waiver of the right to do so with respect to any past, current or future default. Such right of termination shall be without prejudice to any other remedies available to the Exchange. The Exchange may terminate this Agreement for cause without prior written notice to Agent at any time for any of the following occurrences:

- a. The death of Agent. If this Agreement is terminated because of the death of an Agent, Agent's legal heirs may elect to, within one-hundred-eighty (180) days following the death of Agent, exercise the Assignment of Commission Rights set out in Section A, sub-section c of Exhibit B;
- b. Revocation, suspension or expiration of Agent license by the California Department of Insurance ;
- c. Revocation, suspension or expiration of Agent's certification by the Exchange.
- d. Commission of a fraudulent, illegal, deceitful or dishonest act as determined the Exchange;
- e. Termination of the Agent Agreement pursuant to the Business Associate Agreement, Exhibit D, Section III;
- f. Agent's failure to comply with any provision of this Agreement; or
- g. Threatening or acting in an abusive manner toward the Exchange or any of its employees, agents, representatives, or Consumers.

Although termination is effective immediately, Agent may dispute the Termination for Cause decision pursuant to Section C of this Exhibit, Dispute Provisions.

2. Termination Without Cause:

This Agreement may be terminated at any time by either party upon giving thirty (30) days prior written notice thereof to the other party. The effective date of termination shall be the first day of the month following the 30-day notice period unless said notice specifies a later date. In the instance that an Agent's contract is terminated Without Cause, Agent shall continue to be compensated in accordance with this Agreement after the date of termination if Agent:

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unauthorized manner.

- 9. Safeguards.** Contractor shall have in place administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Personally Identifiable Information that it creates, receives, maintains or transmits pursuant to the Agreement and to prevent the use or disclosure of Personally Identifiable Information other than as provided for in this Agreement, or as required by law. In furtherance of compliance with such requirements, specific safeguards and procedures that Contractor shall comply with are:
- a. Contractor shall encrypt all Personally Identifiable Information that is in motion or at rest, including but not limited to data on portable media devices, using commercially reasonable means, consistent with applicable Federal and State laws, regulations and agency guidance, including but not limited to the U.S. Department of Health and Human Services Guidance Specifying the Technologies and Methodologies That Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements or issued by the National Institute for Standards and Technology ("NIST") concerning the protection of identifiable data such as Protected Health Information and/or Personally Identifiable Information. Data centers shall be encrypted or shall otherwise comply with industry data security best practices.
 - b. Contractor shall implement a contingency plan for responding to emergencies and/or disruptions to business that in any way affect the use, access, disclosure or other handling of Personally Identifiable Information.
 - c. Contractor shall maintain and exercise a plan to respond to internal and external security threats and violations, which shall include an incident response plan. Contractor shall respond to privacy and security incidents, including breaches, as set out in section I.12, above.
 - d. Contractor shall maintain technology policies and procedures that provide reasonable safeguards for the protection of Personally Identifiable Information stored, maintained or accessed on hardware and software utilized by Contractor and its subcontractors and agents.
 - e. Contractor shall mitigate to the extent practicable, any harmful effect that is known to Contractor of any Security Incident related to Personally Identifiable Information or of any use or disclosure of Personally Identifiable Information by Contractor or its subcontractors or agents in

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violation of the requirements of this Exhibit or applicable privacy and security laws and regulations and agency guidance.

- f. Contractor shall destroy Personally Identifiable Information in a manner consistent with applicable State and Federal laws, regulations, and agency guidance on the destruction of Personally Identifiable Information.
 - g. If Contractor receives data from the Exchange that was provided by the Social Security Administration (SSA), Contractor shall comply with the substantive privacy and security requirements in the Computer Matching and Privacy Protection Act Agreement between the SSA and the California Health and Human Services Agency (CHHS) and in the Agreement between the SSA and the California Department of Health Care Services, known as the Information Exchange Agreement (IEA), which are attached as Attachment B and incorporated into this Exhibit. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA. Upon request, Contractor shall provide the Exchange with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.
- 10. Accountability.** Contractor shall monitor compliance with the fair information practices set out in this section and shall take appropriate actions to ensure adherence with them.

III. Termination of Agreement.

- 1. Termination Upon Material Breach.** The Covered Entity may, in its sole discretion, terminate the Agreement, including this Agreement, upon determining that Business Associate violated a material term of this Agreement. If the Covered Entity makes such a determination, it shall inform Business Associate in writing that the Covered Entity is exercising its right to terminate this Agreement under this Section II.1 and such termination shall take effect immediately upon Business Associate receiving such notification of termination.
- 2. Reasonable Steps to Cure Material Breach.** At the Covered Entity's sole option, the Covered Entity may, upon written notice to Business Associate, allow Business Associate an opportunity to take prompt and reasonable steps