

AGREEMENT NUMBER

14-N-53

REGISTRATION NUMBER

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

STATE AGENCY'S NAME

California Health Benefit Exchange

CONTRACTOR'S NAME

San Mateo County

2. The term of this October 1, 2014 through June 30, 2015

Agreement is:

3. The maximum amount \$300,000.00
of this Agreement is: Three hundred thousand dollars and no cents

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.

Exhibit A – Scope of Work	13 Pages
Exhibit B – Budget Detail and Payment Provisions	3 Pages
Exhibit C – General Terms and Conditions	17 Pages
Exhibit D – Privacy and Security Requirements	11 Pages
Exhibit E – Branding Guidelines	6 Pages

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 www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

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

San Mateo County

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

The Honorable David Pine, President, San Mateo County Board of Supervisors

ADDRESS

225 37th Avenue, 1st Floor, Rm. 178.8, San Mateo, CA, 94403

STATE OF CALIFORNIA

AGENCY NAME

California Health Benefit Exchange

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

LaVonne Coen, Deputy Chief Operations Officer

ADDRESS

1601 Exposition Blvd, Sacramento, CA 95815

**California Department of General
Services Use Only**

☒ Exempt per:
**Government Code
Section 100505**

EXHIBIT A
Navigator Agreement
Scope of Work

This Agreement is made between the State of California, acting by and through the California Health Benefit Exchange, hereafter referred to as the “Exchange” and San Mateo County Health System, an entity duly organized, existing and acting pursuant to the laws of the State of California, hereafter referred to as “Grantee.”

The term of this Agreement is October 1, 2014 through June 30, 2015.

The Exchange may, at its sole discretion, extend the term of this contract for an additional one (1) year. If mutually agreed upon by the Exchange and the Grantee, this Agreement shall be amended to include additional funding. This extension shall be done through the formal amendment process.

A. Purpose

The mission of the Exchange is to increase the number of insured Californians, improve health care quality, lower costs, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose the health plan and providers that give them the best value.

The purpose of this Agreement is to provide funds for Grantee to perform the Navigator duties defined by the Affordable Care Act and its implementing regulations including, but not limited to, outreach, education, enrollment, and post enrollment services to consumers eligible for enrollment in a Covered California Health Insurance Plan.

The authority to enter this agreement arises from Government Code Section 100502, subparagraph (I), where the Exchange is directed to “Establish the Navigator program in accordance with subdivision (i) of Section 1311 of the federal act.” Furthermore, under 45 CFR 155.210, the Secretary of the United States Health and Human Services has promulgated regulations requiring the Exchange to establish a Navigator program.

B. Definitions

1. Certified Educator: An individual who works for an organization supported through the Navigator Program. An educator delivers in-depth messages designed to provide eligible consumers with program information about their subsidy eligibility, eliminate barriers, link them to an enrollment and assistance resources, including the use of an on-line calculator, and motivate them to enroll in coverage.
2. Certified Enrollment Counselor: An individual who is certified by the Exchange pursuant to Title 10, Chapter 12, Article 8, Section 6656, of the California Code of Regulations.

EXHIBIT A
Navigator Agreement
Scope of Work

3. Certified Enrollment Entity: An organization or individual certified by the Exchange pursuant to Title 10, Chapter 12, Article 8, Section 6656, of the California Code of Regulations.
4. Consumer: A person or entity seeking information on eligibility and enrollment or seeking application assistance with a health insurance or health related product available through the Exchange. The term consumer includes, but is not limited to, an applicant, an application filer, authorized representative, employer, qualified employee, qualified employer, qualified individual, small employer, or enrollee as defined in Title 10, Chapter 12, Article 4, Section 6410 of the California Code of Regulations.
5. Consumer Assistance: The programs and activities created under 45 C.F.R. § 155.205(d) to provide one-on-one assistance to consumers.
6. Covered California Health Insurance Plan: A health plan as defined in the Patient Protection and Affordable Care Act Section 1301 (42 USC section 18021) and Government Code section 100501(g).
7. Effectuated Enrollment: Successful Enrollment of an individual consumer into a Covered California Health Insurance Plan, including plan selection and payment of the first month's premium.
8. Grantee: An organization awarded a grant to participate in the Navigator Program.
9. Navigator Program: The Program whereby Certified Enrollment Entities are awarded a grant to conduct the activities described in Government Code section 100502 (l) in accordance with subdivision (i) of Section 1311 of the federal act and 45 C.F.R.155.210.

C. Scope of Work

1. Reach consumers eligible for enrollment in a Covered California Health Insurance Plan.
2. Strategic Workplan and Campaign Strategy: Within 60 days of notification of contract award, the Grantee shall submit a Strategic Workplan and Campaign Strategy to the Exchange for review and approval. The Strategic Workplan and Campaign Strategy shall include, but not be limited to, the following information:
 - a. Outreach, Education, Enrollment activities for the Grantee;
 - b. Description of Activity;

EXHIBIT A
Navigator Agreement
Scope of Work

- c. Frequency of Activity;
 - d. Location;
 - e. City;
 - f. Zip Code;
 - g. Date and Hours; and
 - h. Comments (if necessary).
- 3. List of Community Events: The Grantee shall report to the Exchange at least monthly and not more often than weekly, a list of all activities that are open to the public and can be posted on the Community Event Calendar on the www.CoveredCA.com website. The List of Community Events shall include, but not be limited to, the following:
 - a. Organization Attending;
 - b. Event Name;
 - c. Address;
 - d. City;
 - e. Zip Code;
 - f. County;
 - g. Date;
 - h. Start Time; and
 - i. End Time.
- 4. The Grantee shall perform the following essential duties:
 - a. Maintain expertise in eligibility, enrollment, and program specifications and conduct public education activities to raise awareness about the Exchange;
 - b. Provide information and services in a fair, accurate, and impartial manner, which includes providing information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including Covered California Health Insurance Plan; and helping consumers make informed decisions during the health coverage selection process. Such information must acknowledge other health programs;
 - c. Facilitate selection of a Covered California Health Insurance Plan;
 - d. Provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section

EXHIBIT A
Navigator Agreement
Scope of Work

2793 of the PHS Act, or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage;

- e. Comply with the privacy and security standards established by the Exchange pursuant to 45 C.F.R. § 155.260;
- f. Provide post enrollment support to ensure successful enrollment and retention, including increasing health literacy, assisting with renewals, and educating consumers on how to avoid disenrollment for non-payment;
- g. Prior to receiving access to any consumer's personally identifiable information as defined in Section 6650, Title 10 of the California Code of Regulations, the Certified Enrollment Counselor shall:
 - i. Inform the consumer that the Certified Enrollment Counselor must obtain his or her authorization prior to accessing any personally identifiable information;
 - ii. Inform each consumer of the roles and responsibilities of the Certified Enrollment Counselor as set forth in Section 6664 (a)(1)-(5), (7), Title 10 of the California Code of Regulations;
 - iii. Obtain oral or written authorization from the consumer to access the consumer's personally identifiable information;
 - 1. Written authorization shall contain a signature and a written attestation completed by the Certified Enrollment Counselor affirming under penalty of perjury that the Certified Enrollment Counselor:
 - a. Is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity or Navigator Program as defined in Title 10, Chapter 12, Article 8, Section 6650, of the California Code of Regulations;
 - b. Conveyed all the information required under this subdivision to the consumer in a language and manner which he or she understands; and
 - c. Obtained written authorization from the consumer consenting to the release of his or her personally identifiable information in order to fulfill the duties as described in Title 10, Chapter 12, Article 8, Section 6664, of the California Code of Regulations.
 - 2. Oral authorization shall be accompanied by a written attestation completed by the Certified Enrollment Counselor

EXHIBIT A
Navigator Agreement
Scope of Work

affirming under penalty of perjury that the Certified Enrollment Counselor:

- a. Is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity or Navigator Program as defined in Title 10, Chapter 12, Article 8, Section 6650, of the California Code of Regulations;
 - b. Conveyed all the information required under this subdivision to the consumer in a language and manner which he or she understands; and
 - c. Obtained oral authorization from the consumer consenting to the release of his or her personally identifiable information in order to fulfill the duties as described in Title 10 Chapter 12, Article 8, Section 6664, of the California Code of Regulations.
- iv. Inform the consumer that the Certified Enrollment Counselor cannot choose a health insurance plan on the consumer's behalf;
 - v. Inform the consumer that the Certified Enrollment Counselor will provide the consumer with information regarding the health insurance options and insurance affordability programs for which he or she may be eligible;
 - vi. Inform the consumer that his or her personally identifiable information will be kept private and secure in accordance with the standards set forth in § 45 C.F.R. 155.260;
 - vii. Inform the consumer that if the Certified Enrollment Counselor cannot assist the consumer, he or she will refer the consumer to another Certified Enrollment Counselor or the Covered California Call Center;
 - viii. Inform the consumer that the Certified Enrollment Counselor will not charge a fee in exchange for performing the duties described in Title 10, Chapter 12, Article 8, Section 6664, of the California Code of Regulations;
 - ix. Inform the consumer that the assistance is based only on the information provided by the consumer, and if the information given is inaccurate or incomplete, the Certified Enrollment Counselor may not be able to offer assistance;
 - x. Inform the consumer that the authorization set forth in Title 10, Chapter 12, Article 8, Section 6664 (a)(6)(C), of the California Code of Regulations, may be revoked at any time; and

EXHIBIT A
Navigator Agreement
Scope of Work

- xi. Maintain a record of such authorization for a minimum of six (6) years. Records of authorization may be retained electronically.
 - h. Maintain a physical presence in the state of California so that face-to-face assistance can be provided to applicants and enrollees;
 - i. Ensure that voter registration assistance is available as required under Title 10, Chapter 12, Article 4, Section 6462, California Code of Regulations; and
 - j. Comply with any applicable federal or state laws and regulations.
- 5. Enrollment Milestones:
 - a. The enrollment goal for the term of this Agreement is 1,250 New Effectuated Enrollments.
 - b. Newly eligible effectuated enrollments must be delegated to the Grantee, using the Navigator Certified Enrollment Entity Identification Number, in order to receive credit toward the enrollment goals.
 - c. Unless otherwise determined by the exchange, the following will not count toward the Grantee's enrollment goals:
 - i. Enrollments into the Medi-Cal Program;
 - ii. Renewals or re-enrollments into a Covered California Health Insurance Plan; and
 - iii. Conducting consumer assistance with changes to address, income, health status, tax or household information, or any other changes that would not constitute a new enrollment.
- 6. To ensure that information provided as part of any consumer assistance is culturally and linguistically appropriate to the needs of the population being served, including individuals with limited English proficiency as required by 45 CFR §§ 155.205(c)(2) and 155.210(e)(5), the Grantee shall:
 - a. Develop and maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group's diverse cultural health beliefs and practices, preferred languages, health literacy, and other needs;
 - b. Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken;
 - c. Provide consumers with information and assistance in the consumer's preferred language, at no cost to the consumer, including the provision of oral interpretation of non-English languages and the translation of

EXHIBIT A
Navigator Agreement
Scope of Work

- written documents in non-English languages when necessary or when requested by the consumer to ensure effective communication. Use of a consumer's family or friends as oral interpreters can satisfy the requirement to provide linguistically appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services;
- d. Provide oral and written notice to consumers with limited English proficiency, in their preferred language, informing them of their right to receive language assistance services and how to obtain them;
 - e. Receive ongoing education and training in culturally and linguistically appropriate service delivery; and
 - f. Implement strategies to recruit, support, and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.
7. To ensure that consumer assistance is accessible to people with disabilities, Grantee and its affiliated Certified Enrollment Counselors shall:
- a. Ensure that any consumer education materials, Web sites, or other tools utilized for consumer assistance purposes, are accessible to people with disabilities, including those with sensory impairments, such as visual or hearing impairments, and those with mental illness, addiction, and physical, intellectual, and developmental disabilities;
 - b. Provide auxiliary aids and services for individuals with disabilities, at no cost, when necessary or when requested by the consumer to ensure effective communication. Use of a consumer's family or friends as interpreters can satisfy the requirement to provide auxiliary aids and services only when requested by the consumer as the preferred alternative to an offer of other auxiliary aids and services;
 - c. Provide assistance to consumers in a location and in a manner that is physically and otherwise accessible to individuals with disabilities;
 - d. Ensure that authorized representatives are permitted to assist an individual with a disability to make informed decisions; and
 - e. Acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and supports programs when appropriate.
8. To ensure that no consumer is discriminated against, the Grantee and its affiliated Certified Enrollment Counselors shall provide the same level of service to all individuals regardless of age, disability, culture, sexual orientation, or gender identity and seek advice or experts when needed.

EXHIBIT A
Navigator Agreement
Scope of Work

9. The Grantee shall ensure that its affiliated Certified Enrollment Counselors wear the badge issued by the Exchange at all times when providing consumer assistance.
10. The Grantee shall ensure that it and any affiliated Certified Enrollment Counselors never:
 - a. Have a conflict of interest as defined in paragraph E of this Exhibit.
 - b. Mail the paper application for the consumer;
 - c. Coach the consumer to provide inaccurate information on the application regarding income, residency, immigration status, and other eligibility rules;
 - d. Coach or recommend one plan or provider over another;
 - e. Accept any premium payments from the consumer;
 - f. Input any premium payment information on behalf of the consumer;
 - g. Pay any part of the premium or any other type of consideration to or on behalf of the consumer.
 - h. Induce or accept any type of direct or indirect remuneration from the consumer;
 - i. Intentionally create multiple applications from the same household, as defined in 45 C.F.R. § 435.603(f);
 - j. Invite, influence, or arrange for an individual whose existing coverage through an eligible employer-sponsored plan is affordable and provides minimum value, as described in 26 USC § 36B(c)(2)(C)) and in 26 C.F.R. § 1.36B-2(c)(3)(v) and (vi), to separate from employer-based group health coverage.
 - k. Provide gifts, including gift cards or cash or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee as an inducement for enrollment. Gifts, gift cards, or cash may be provided for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses;
 - l. Use Exchange funds to purchase gifts or gift cards, or promotional items that market or promote the products or services of a third party, that would be provided to any applicant or potential enrollee;
 - m. Solicit any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment

EXHIBIT A
Navigator Agreement
Scope of Work

assistance without the consumer initiating the contact, unless the individual has a pre-existing relationship with the individual Certified Enrollment Counselor or Certified Enrollment Entity and other applicable State and Federal laws are otherwise complied with; Outreach and education activities may be conducted by going door-to-door or through other unsolicited means of direct contact, including calling a consumer or

- n. Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice, except in cases where the individual Certified Enrollment Counselor or Certified Enrollment Entity has a relationship with the consumer and so long as other applicable State and Federal laws are otherwise complied with.
11. The Grantee shall notify the Exchange of every individual to be added or removed as an affiliated Certified Enrollment Counselor. Such notification shall include:
- a. Grantee's Name and Certified Enrollment Entity Number.
 - b. Name and signature of Grantee's Authorized Contact;
 - c. Name, e-mail, and primary phone number of the individual to be added or removed;
 - d. Effective date for the addition or removal of the individual; and
 - e. An indication of whether the individual is certified as an Certified Enrollment Counselor, and if so, the following information:
 - i. Certification number; and
 - ii. When adding an individual, site(s) to be served by the individual.
12. Notify the Exchange of any change in Contact information for Grantee or its affiliated Certified Enrollment Counselors.
13. All individuals including, but not limited to, employees, contractors, or subcontractors who perform services under this agreement shall agree to criminal background checks in compliance with Government Code section 1043, and its implementing regulations set forth in California Code of Regulations, Title 10, Section § 6456.
14. Training
- a. Prior to any of its affiliated Certified Enrollment Counselors carrying out any consumer assistance functions, Grantee shall:

EXHIBIT A
Navigator Agreement
Scope of Work

- i. Complete management training for the Navigator Program administered by the Exchange within 30 calendar days of notification of Grant award; and
 - ii. Ensure that all Certified Enrollment Counselors are prepared to serve both the individual Exchange and the Small Business Health Options Program by completing the training and passing the certification exam administered by the Exchange per Title 10, Chapter 12, Article 8, Section 6660, of the California Code of Regulations.
 - b. Upon completion of management training, Grantee shall be registered as a Certified Enrollment Entity by the Exchange and assigned a Certified Enrollment Entity Number.
 - c. Grantee shall ensure that affiliated Certified Enrollment Counselors do not perform any consumer assistance functions if more than twelve (12) months, or the time frame indicated by the Exchange, have passed since the Certified Enrollment Counselor passed the certification exam administered by the Exchange.
15. Performance Summary Report: The Grantee shall report the following information related to Navigator Program activities to the Exchange upon meeting the milestones identified in Item 5:
- a. Total Reach;
 - b. General Feedback; and
 - c. Total Number of Outreach and Education Activities.
16. The Grantee shall ensure compliance with performance standards, applicable laws and regulations, and quality service by:
- d. Cooperating with all mandated monitoring and evaluation activities, including, not limited to, site visits as necessary, by the Exchange or its designee.
 - e. Establishing an internal system to monitor and evaluate the performance and compliance of personnel responsible for performing the activities contained within this Agreement, including subcontractors.
 - f. Conducting due diligence by monitoring the attitude, conduct, and professionalism of employees who perform activities included in this Agreement.
 - g. Immediately reporting instances of non-compliance and specifying plans for corrective action to the Exchange.

EXHIBIT A
Navigator Agreement
Scope of Work

- h. Immediately reporting concerns related to conflicts of interest, fraud, or violations of program standards to the Exchange.
- i. Removing any employee from assignment to the activities within this Agreement should the Exchange deem him or her as no longer eligible to perform under this Agreement.

D. Performance Monitoring and Quality Assurance

- 1. The Exchange shall provide information to the Grantee on a monthly basis to assist the Grantee in monitoring its performance in meeting the enrollment goals as defined Section C, Item 5. This information shall include, but not be limited to, the following:
 - a. Total number of applications assisted by the Grantee and affiliated Certified Enrollment Counselors;
 - b. Total number of individuals determined eligible for Medi-Cal and/or a Covered California Health Insurance Plan; and
 - c. Total number of individuals who effectuated enrollment into a Covered California Health Insurance Plan.

E. Compliance

- 1. Grantee hereby certifies that it is in compliance with the program standards established by this Agreement and Title 10, Chapter 12, Article 8, of the California Code of Regulations. Any change or failure in Grantee's ability to comply shall be reported immediately to the Exchange.

F. Conflicts of Interests

- 1. Grantee hereby certifies that Grantee and all Certified Enrollment Counselors affiliated with Grantee:
 - a. Do not concurrently hold a license issued by the California Department of Insurance;
 - b. Do not employ, are not employed by, in a partnership with, or receive any remuneration arising out of functions performed under this Agreement from any individual or entity currently licensed by the California Department of Insurance;
 - c. Are not:
 - i. Health insurance issuers or stop loss insurance issuers;
 - ii. Subsidiaries of health insurance issuers or stop loss insurance issuers;

EXHIBIT A
Navigator Agreement
Scope of Work

- iii. An association that include members of, or lobby on behalf of, the insurance industry; or
 - iv. Recipients of any direct or indirect consideration from any health insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a Covered California Health Plan or non-Covered California Health Plan.
 - d. Will provide information to consumers about the full range of Covered California Health Plan options and insurance affordability programs for which they are eligible; and
 - e. Will disclose the following non-prohibited conflicts of interest to the Exchange in Exhibit C. Any changes to these disclosures must be reported to the Exchange within 10 business days. In addition, Grantee shall disclose the following non-prohibited conflicts of interest in plain language to each consumer who receives application assistance:
 - i. Any lines of insurance business, not covered by the restrictions on participation and prohibitions on conduct in this Section E of this Exhibit which Grantee intends to sell while carrying out the consumer assistance functions;
 - ii. Any existing employment relationships, or any former employment relationships within the last five years, with any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance, including any existing spouse or domestic partner and any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance; and
 - iii. Any existing or anticipated financial, business, or contractual relationships with one or more health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance.
2. Grantee certifies that it has a written plan to remain free of conflicts of interest while carrying out consumer assistance functions under this Agreement. This plan shall be made available upon request to the Exchange.
3. This Section shall prevail over any conflicting provisions in this Agreement, including, but not limited to, Exhibit C.

EXHIBIT A
Navigator Agreement
Scope of Work

G. Consumer Messaging

1. Grantee agrees to be compliant with the Exchange's branding guidelines as set forth in Exhibit E.
2. The Exchange shall provide the Grantee with collateral materials in limited quantities, free of charge. Grantee shall
 - a. Order collateral materials from the Exchange;
 - b. Maintain adequate supply levels of collateral materials at all times; and
 - c. Maintain compliance with established policies regarding the ordering and use of collateral materials.
3. The Grantee may use up to ten percent (10%) of contract award on supplemental marketing and media activities with prior review and approval by the Exchange.

H. Letters of Instruction

The Exchange shall provide additional instructions and clarifications to the requirements in this Agreement through Letters of Instruction (LOIs). LOIs will not impose any additional requirements.

The Grantee is expected to follow the instructions in the LOI and ensure compliance by all affiliated Certified Enrollment Counselors and Certified Educators, where applicable. Any new requirements to the provisions of this Agreement would be completed through an Amendment.

I. Program Representative

The representative for this project, during the term of this Agreement, shall be:

California Health Benefit Exchange
Attn: Lezlie Micheletti, Grant Program Manager
1601 Exposition Boulevard
Sacramento, CA 95815

EXHIBIT B
Navigator Agreement
Budget Detail & Payment Provision

BUDGET DETAIL AND PAYMENT PROVISIONS

A. Invoice and Payment:

- A. The maximum amount payable under this Agreement shall not exceed \$300,000.
- B. On a monthly basis, the Exchange shall review the Contractor's performance in meeting the Scope of Work in Exhibit A and the enrollment goal identified in Exhibit A, Item C.5. Upon satisfactorily meeting the milestones identified below, the Exchange shall submit an invoice to the Contractor for signature and attestation that the Contractor has not received other funds for the same or similar activities.

Payment Number	Milestones	Payment Amount
1	Strategic Workplan and Campaign Strategy	25% of contract amount = \$75,000
2	Reaching 25% of enrollment goal and receipt and approval of Outreach and Education Summary Report	25% of contract amount = \$75,000
3	Reaching 75% of enrollment goal and receipt and approval of Outreach and Education Summary Report	25% of contract amount = \$75,000
4	Reaching 100% of enrollment goal and receipt and approval of Outreach and Education Summary Report	25% of contract amount = \$75,000

- C. If the Contractor exceeds the enrollment goal identified in Exhibit A, Item C.5 the Contractor will be eligible for a bonus payment in the amount of \$7,500 for each additional 100 Effectuated Enrollments, as long as funding is available.

B. User Fees Contingency Clause:

1. It is mutually agreed that if the collection of fees assessed from Covered California Health Insurance Plans is not sufficient to provide the funds for this program, this Agreement shall be of no further force and effect. In this event, the Exchange shall have no liability to pay any funds whatsoever to

EXHIBIT B
Navigator Agreement
Budget Detail & Payment Provision

Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

2. If collection of fees assessed from Covered California Health Insurance Plans is not sufficient to provide the funds for this program, the Exchange shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to the Contractor to reflect the reduced amount.

C. Federal Funding and Qualified Health Plan (QHP) Assessment Contingency Clause:

If the receipt of federal grant funds and the collection of fees assessed from QHPs are collectively not sufficient to provide the funds for this program, the Exchange shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to the contractor to reflect the reduced amount.

D. Prompt Payment Clause:

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

E. Use of Funds:

1. Appropriate Use of Funds: Contractor's total grant award shall only be used to conduct the activities contained within this Agreement. In addition, the following restrictions apply:
 - a. Contractor shall allocate at least 10% of the Contractor's total grant award towards outreach and education activities.
 - b. Administrative overhead shall not exceed the lesser of actual administrative overhead expenditures or 15% of Contractor's total grant award.
 - c. No more than 10% of the total grant award may be used to acquire equipment and in no case shall equipment expenditures exceed \$50,000.
 - d. Contractor shall allocate no more than 10% of the total grant award towards media and marketing expenses. Marketing and media expenses must be approved in advance by Covered California.

EXHIBIT B
Navigator Agreement
Budget Detail & Payment Provision

2. Inappropriate Use of Funds: Any acquisitions made the funds provided through this Agreement shall be in compliance with state law. The State shall recoup or withhold all or part of the Contractor's funding for failure to comply with the standards set forth in this Agreement. Funds provided through this Agreement shall not supplant any other federal, state, private funds to conduct the same or similar work contained within this Agreement.

F. Non-resident Tax Withholdings:

Payments to all nonresidents may be subject to withholding. Non-resident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California shall have seven percent of their total payments withheld for state income taxes. No withholding is required, however, if total payments to the payee are \$1,500 or less for the calendar year.

EXHIBIT C
Navigator Agreement
Terms and Conditions

A. Approval:

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

B. Assignment:

This Agreement is not assignable by the Grantee, either in whole or in part, without the consent of the State in the form of a formal written amendment.

C. Indemnification:

Grantee 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 attorney fees, which:

1. Arise out of, are due to, are alleged to arise out of or be due to, a breach by the Grantee 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 Grantee'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 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 Grantee 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 Grantee 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 Grantee or any Grantee or agent under Grantee's control.

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

EXHIBIT C
Navigator Agreement
Terms and Conditions

promptly notify the Exchange of the claim by written notice to the Project Representative as identified in Exhibit A, Section I.

Right to Tender or Undertake Defense. If the State is named a party in any judicial, administrative, or other proceeding arising out of or in connection with a breach of this Agreement or a matter for which the Grantee is obligated to indemnify the State under this Agreement, then the State shall have the option at any time to either (i) tender its defense to Grantee, in which case Grantee shall provide qualified attorneys, consultants, and other appropriate professionals to represent the State's interests at Grantee's expense, or (ii) undertake its own defense, choosing the attorneys, consultants, and other appropriate professionals to represent its interests, in which case Grantee shall be responsible for and shall pay reasonable fees and expenses of such attorneys, consultants, and other appropriate professionals. If the State elects option (ii) above, the Grantee shall be afforded a reasonable opportunity to participate in the defense and attend the legal proceedings at its own expense; however, the State shall have sole control of the defense.

Right to Control Resolution. Notwithstanding that the State may have tendered its defense to the Grantee, neither party shall settle, compromise or resolve any claims, causes of action, liabilities or damages against the State without the consent of the other party, which consent shall not be unreasonably withheld. Any such resolution shall not relieve the Grantee of its obligation to indemnify the State.

D. Dispute Provisions:

1. The parties shall deal in good faith and attempt to resolve disputes informally. If the dispute persists, Grantee shall submit a written dispute notice to Exchange Project Representative within 15 calendar days after the date of the action causing the dispute. The written dispute notice shall contain the following information:
 - a. The decision or issue under dispute;
 - b. The reason(s) Grantee believes the decision or position taken by the Exchange is in error (if applicable, reference pertinent Contract provisions);
 - c. Identification of all documents and substance of all oral communication which support Grantee's position; and
 - d. The dollar amount in dispute, if applicable.

EXHIBIT C
Navigator Agreement
Terms and Conditions

2. Within 15 calendar days after receipt of the dispute notice, the Exchange shall issue a written decision regarding the dispute. The written decision shall include the following information:
 - 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 Grantee is not satisfied with the decision of the Exchange, the Grantee 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 Grantee's written appeal. If the Executive Director fails to render a final decision within 30 days after receipt of Grantee's written appeal, it shall be deemed a final decision adverse to the Grantee's contentions. The Executive Director's final decision shall be conclusive and binding regarding the dispute unless Grantee 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, Grantee agrees to diligently proceed with the performance of this Agreement, in accordance with the Exchange's instructions. Grantee's failure to diligently proceed in accordance with the Exchange's instructions shall be considered a material breach of this Agreement.

E. Modification

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

F. 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, Grantee shall immediately discontinue all activities affected, unless the notice directs otherwise, and the Exchange may proceed

EXHIBIT C
Navigator Agreement
Terms and Conditions

with the work in any manner deemed proper by the Exchange. In such event, the Exchange shall not be liable to pay Grantee any compensation from the date 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 Grantee at any time for any of the following occurrences:

- a. Revocation, suspension or expiration of Navigator's certification by the Exchange.
- b. Commission of a fraudulent, illegal, deceitful or dishonest act as determined the Exchange;
- c. Termination of this agreement pursuant to Exhibit D, Privacy and Security Requirements, Section K;
- d. Navigator's failure to comply with any provision of this Agreement; or
- e. Threatening, harassing, or acting in an abusive manner toward the Exchange or any of its employees, agents, representatives, or Consumers.

Although termination is effective immediately, Grantee 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.

G. Independent Contractor:

In the performance of this Agreement, Grantee and the agents and employees of Grantee shall act in an independent capacity and not as officers or employees or agents of the State except for purposes of Civil Code Section 1798.24.

EXHIBIT C
Navigator Agreement
Terms and Conditions

H. Grantee Certification Clauses:

1. Compliance:

Grantee certifies that it is in compliance and will remain in compliance with all applicable federal and state laws.

2. Nondiscrimination Clauses

Grantee certifies that it will comply with all Federal and state statutes and regulations relating to nondiscrimination. These include, but are not limited to, the following:

- a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 80), to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which Federal financial assistance is provided by the Department of Health and Human Services.
- b. Title IX of the Education Amendments of 1972 (Pub. L. 92-318), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 86), to the end that, in accordance with Title IX and the Regulation, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any education program or activity for which Federal financial assistance is provided by the Department of Health and Human Services.
- c. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 84), to the end that, in accordance with Section 504 of that Act and the Regulation, no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which Federal financial assistance is provided by the Department of Health and Human Services.
- d. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 91), to the end that, in

EXHIBIT C
Navigator Agreement
Terms and Conditions

accordance with the Act and the Regulation, no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity for which Federal financial assistance is provided by the Department of Health and Human Services.

- e. Americans With Disabilities Act (ADA) of 1990, as amended, 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.).
- f. The Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (Title 2, California Code of Regulations, Section 11000 et seq.) require that during the performance of this Agreement, Grantee and its subcontractors, as well as their agents and employees, shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including health impairments related to or associated with a diagnosis of cancer for which a person has been rehabilitated or cured), age (over 40), marital status, and use of family and medical care leave pursuant to state or federal law. Grantee and subcontractors, as well as their agents and employees, shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 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. Grantee 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; and
- g. The requirements of any other nondiscrimination statute(s) which may apply to this Agreement.

3. Conflict of Interest:

Grantee acknowledges that, in governmental agreements, even the appearance of a conflict of interest is harmful to the interest of the State. Thus, Grantee agrees to refrain from any practices, activities or relationships that could reasonably be considered to be in conflict with Grantee's fully performing his/her obligations to the State under the terms of this Contract. Grantee shall inquire

EXHIBIT C
Navigator Agreement
Terms and Conditions

about and require disclosure by its Staff and subcontractors of all activities that may create an appearance of conflict. In the event that Grantee is uncertain whether the appearance of a conflict of interest may reasonably exist, Grantee shall submit to the Program Representative identified in Section I of Exhibit A full disclosure statement setting forth the relevant details of any activity which the Grantee reasonably believes may have the appearance of a conflict of interest for the State's consideration and direction. Failure to promptly submit a disclosure statement setting forth the relevant details for the State consideration and direction shall be grounds for Termination of this Contract.

4. Conflict Of Interest for Current or Former State Employees:

Grantee acknowledges the following provisions regarding current or former state employees. If Grantee has any questions on the status of any person rendering services or involved with the Agreement, Grantee shall contact the State immediately for clarification.

a. Current State Employees:

- i. 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.
- ii. 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.

b. Former State Employees:

- i. For the two (2)-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, transaction, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- ii. For the twelve (12)-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 twelve (12)-month period prior to his or her leaving state service.

EXHIBIT C
Navigator Agreement
Terms and Conditions

If Grantee violates any provisions of the above paragraphs, such action by Grantee shall render this Agreement void. 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.

5. Labor Code/Workers' Compensation:

Grantee acknowledges the provisions of law which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Grantee agrees to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code Section 3700).

6. Grantee Name Change:

Grantee acknowledges that an amendment is required to change the Grantee name as listed on this Agreement. Upon receipt of legal documentation of the name change the State shall process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

7. Air Or Water Pollution Violation:

Grantee acknowledges that, under the State laws, Grantee shall not be:

- a. In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
- b. 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
- c. Finally determined to be in violation or provisions of federal law relating to air or water pollution.

8. Drug-Free Workplace Requirements:

Grantee shall comply with the requirements of the Drug-Free Workplace Act of 1990 and shall 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

EXHIBIT C
Navigator Agreement
Terms and Conditions

prohibited and specifying actions to be taken against employees for violations.

- b. Establish a Drug-Free Awareness Program to inform employees about:
 - i. The dangers of drug abuse in the workplace;
 - ii. The person's or organization'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 shall:
 - 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 Grantee may be ineligible for award of any future State agreements if the State determines that any of the following has occurred: (1) Grantee has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Govt Code Section 8350 et seq.)

9. National Labor Relations Board Certification:

Grantee certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Grantee within the immediately preceding two (2)-year period because of Grantee's failure to comply with an order of a Federal court which orders Grantee to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

10. Payee Data Record Form Std 204:

Grantee acknowledges that this form must be completed by all Grantees that are not another state agency or other government entity.

EXHIBIT C
Navigator Agreement
Terms and Conditions

11. Computer Software Copyrights:

Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

12. Activities Abroad:

Grantee certifies that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

13. Covenant Against Contingent Fees:

Grantee warrants that no person or selling agency has been employed or retained to solicit/secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Grantee for the purpose of securing business. For breach or violation of this warranty, the Exchange shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

14. Child Support Compliance Act:

In accordance with the Child Support Compliance Act,

- a. Grantee acknowledges 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. Grantee, 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.

EXHIBIT C
Navigator Agreement
Terms and Conditions

15. Union Organizing:

By signing this Agreement, Grantee hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this Agreement except to the extent any of those statutes are made inapplicable by the decision of the U. S. Supreme Court in Chamber of Commerce of U.S. v. Brown (2008) 554 U.S. 60.

16. Recycling Certification:

Grantee certifies in writing under penalty of perjury, if not exact, percentage of recycled content, both post-consumer waste and secondary waste as defined in the Public Contract Code, Sections 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Section 12209. Grantee may certify that the product contains zero recycled content.

17. Resource Conservation and Recovery Act

Grantee certifies that preference shall be given to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) at 40 CFR parts 247-254. (2 CFR 215.16)

18. Antitrust Claims:

The Grantee by signing this Agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Grantee 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:

- i. "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 I of Section 16750 of the Business and Professions Code.
- ii. "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

EXHIBIT C
Navigator Agreement
Terms and Conditions

- 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.

19. Domestic Partners:

Notwithstanding any other provision of law, no state agency may enter into any contract for the acquisition of goods or services in the amount of one hundred thousand dollars (\$100,000) or more with a Grantee who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between employees with spouses or domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminates between same-sex and different-sex domestic partners of employees or between same-sex and different-sex spouses of employees. Grantee hereby certifies that it does not discriminate in any of the ways described in this paragraph.

EXHIBIT C
Navigator Agreement
Terms and Conditions

I. Officials Not to Benefit:

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

J. Timeliness:

Time is of the essence in this Agreement.

K. Governing Law:

This Agreement shall be administered, construed, and enforced according to the laws of the State of California (without regard to any conflict of law's provisions) to the extent such laws have not been preempted by applicable federal law. Any suit brought hereunder (including any action to compel arbitration or to enforce any award or judgment rendered thereby) shall be brought in the state or federal courts sitting in Sacramento, California, the parties hereby waiving any claim or defense that such forum is not convenient or proper. Each party agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by California law.

L. Severability:

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

M. Priority Hiring Considerations for Recipients Of Aid:

If this Grantee is in excess of \$200,000, the Grantee shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353. This requirement shall not interfere with or require a violation of a collective bargaining agreement, a federal affirmative action obligation for hiring disabled veterans of the Vietnam era, or nondiscrimination compliance laws of California and does not require the employment of unqualified recipients of aid.

EXHIBIT C
Navigator Agreement
Terms and Conditions

N. Audit:

Grantee agrees that the awarding department ("the State") and the Bureau of State Audits, Health and Human Services, or their designated representatives, shall have the right to review and to copy any records and supporting documentation directly pertaining to the performance of this Agreement. Grantee agrees to maintain such records for possible audit for a minimum of ten (10) years after final payment, unless a longer period of records retention is stipulated. Grantee 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, Grantee agrees to include the same right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (45 CFR Section 155.1210, GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).

O. Insurance Requirements:

When Grantee submits a signed contract to the State, Contractor shall furnish to the State a certificate of insurance, stating that there is:

1. General liability insurance presently in effect for the Contractor of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined; and
2. Automobile liability, including non-owned auto liability, of not less than \$1,000,000 per occurrence for volunteers and paid employees providing services supported by this Agreement. The certificate of insurance will include provisions a, b, and c, in their entirety:
 - a. That the insurer will not cancel the insured's coverage without 30 days' prior written notice to the State.
 - b. That the State of California, its officers, agents, employees, and servants are included as additional insured, but only insofar as the operations under this contract are concerned.
 - c. That the State will not be responsible for any premiums or assessment on the policy.

Contractor agrees that the general and automobile liability insurance herein provided for shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, Contractor agrees to provide at least 30 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 year. New certificates of

EXHIBIT C
Navigator Agreement
Terms and Conditions

insurance are subject to the approval of the Exchange, and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

The Contractor shall require its subcontractors/vendors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability and automobile liability including non-owned auto liability, and further, the Contractor shall require all of its subcontractors/vendors to hold the Contractor and the Exchange harmless. The subcontractors'/vendors' Certificate of Insurance shall also have the Contractor, not the State, as the certificate holder and additional insured. The Contractor shall maintain certificates of insurance for all its subcontractors/vendors.

The State will not provide for nor compensate Contractor for any insurance premiums or costs for any type or amount of insurance.

By signing this Agreement, the Contractor hereby warrants that it carries Workers' Compensation Insurance on all of its employees who will be engaged in the performance of this Agreement. If staff provided by the Contractor is defined as independent contractors, this clause does not apply.

P. Intellectual Property Rights:

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

EXHIBIT C
Navigator Agreement
Terms and Conditions

Q. Confidentiality:

Grantee agrees to protect the personal information of all individuals by following applicable federal and state privacy and security requirements.

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

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

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

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

R. Waiver of Breach:

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

EXHIBIT C
Navigator Agreement
Terms and Conditions

S. 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.

T. Corporate Qualifications To Do Business In California:

1. Grantee acknowledges that, when agreements are to be performed in the state by corporations, the Exchange will verify that the Grantee is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
2. "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 Grantee performing within the state not be subject to the franchise tax.

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. The Exchange will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

U. Evaluation of Grantee:

1. Grantee is hereby notified that the State may evaluate the Grantee's performance for compliance with the terms of this Agreement within 60 days of the termination of the Agreement. The evaluation shall be prepared on a "Contract/Contractor Evaluation," STD Form 4. Grantee shall be notified and sent a copy of the unsatisfactory evaluation within 15 days after its completion.

EXHIBIT D

Privacy and Security Requirements

A. Purpose of Exhibit:

1. This Exhibit sets forth the privacy and security requirements that apply to all Personally Identifiable Information (PII) that Grantee obtains, maintains, transmits, uses or discloses from the California Health Benefit Exchange ("Exchange" aka Covered California) pursuant to this Agreement.
2. The parties agree to all terms and conditions of this Exhibit in order to ensure the integrity, security, and confidentiality of the information exchanged pursuant to this Agreement, and to allow disclosure and use of such information only as permitted by law and only to the extent necessary to perform functions and activities pursuant to this Agreement.
3. This Exhibit establishes requirements in accordance with applicable federal and state privacy and security laws including, but not limited to, the Information Practices Act (California Civil Code section 1798 et seq.), the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) (herein, the "Affordable Care Act"), and its implementing regulations at 45 C.F.R. Sections 155.260 and 155.270 (the "Exchange Privacy and Security Rules") and, where applicable, the Health Insurance Portability and Accountability Act (42 U.S.C. section 1320d-d8) and the Health Information Technology for Economic and Clinical Health Act and their implementing regulations at 45 C.F.R. Parts 160 and 164 (collectively, "HIPAA").

B. Definitions:

1. The following definitions shall apply to this Exhibit:
 - a. Breach: Shall mean either:
 - i. The loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to PII, whether physical, or electronic; or
 - ii. A reasonable belief that unauthorized acquisition of PII that compromises the security, confidentiality or integrity of the PII has occurred. (OMB M-07-16; California Civil Code section 1798.29)
 - b. Disclosure: The release, transfer, provision of access to, or divulging in any other manner of PII outside the entity holding the information.

EXHIBIT D

Privacy and Security Requirements

- c. **Federal Tax Information:** Any return or return information as defined under the Internal Revenue Service Code, 26 U.S.C. section 6103(b)(1) and (2), received from the IRS or secondary source, such as SSA, Federal Office of Child Support Enforcement or Bureau of Fiscal Service. FTI includes any information created by the recipient that is derived from return or return information. (IRS Pub. 1075, § 1.4.1)
- d. **Personal Information:** Information that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual. (California Civil Code section 1798.3)
- e. **Personally Identifiable Information or "PII":** Information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. (OMB M-07-16.) PII includes Federal Tax Information (FTI), Personal Information (PI) and Protected Health Information (PHI).
- f. **Privacy Incident:** the attempted or successful unauthorized access, acquisition, use, disclosure, modification, or destruction of PII or interference with system operations in an information system that processes, maintains, or stores PII.
- g. **Protected Health Information:** Individually Identifiable Health Information that is transmitted by electronic media, maintained in electronic media, or is transmitted or maintained in any other form or medium, as defined in 45 C.F.R. section 160.103.
- h. **Security Incident:** The act of violating an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification, or destruction. Adverse events such as floods, fires, electrical outages, and excessive heat are not considered incidents. (Computer Matching Agreement, Agreement No. 2013-11, p.5.)

EXHIBIT D

Privacy and Security Requirements

C. Applicable Laws:

1. Grantee shall comply with any and all federal and state privacy and security laws, as well as applicable rules and regulations pertaining to the Exchange including, but not limited to, those arising under the federal Patient Protection and Affordable Care Act and its implementing regulations. To the extent a conflict arises between any laws or other requirements, Grantee agrees to comply with the applicable requirements imposing the more stringent privacy and security standards.
2. Exchange Privacy and Security Rules (45 C.F.R. section 155.260).
 - a. In accessing, collecting, using or disclosing PII in performing functions for the Exchange as authorized by this Agreement, Grantee shall only use or disclose PII to the minimum extent such information is necessary to perform such functions.
 - b. Grantee shall establish and implement privacy and security standards that are consistent with the principles of 45 C.F.R. section 155.260(a)(3) as set forth below in subsections (i) through (viii):
 - i. Individual access. Individuals shall be provided with a simple and timely means to access and obtain their PII in a readable form and format;
 - ii. Correction. Individuals shall be provided with a timely means to dispute the accuracy or integrity of their PII and to have erroneous information corrected or to have a dispute documented if their requests are denied;
 - iii. Openness and transparency. Grantee shall be open and transparent regarding its policies, procedures, and technologies that directly affect individuals and/or their PII;
 - iv. Individual choice. Individuals shall be provided a reasonable opportunity and capability to make informed decisions about the collection, use, and disclosure of their PII;
 - v. Collection, use and disclosure limitations. PII shall be created, collected, used, and/or disclosed only to the extent necessary to accomplish a specified purpose(s) and never to discriminate inappropriately;
 - vi. Data quality and integrity. Grantee will take reasonable steps to ensure that PII is complete, accurate, and up-to-date to the extent

EXHIBIT D

Privacy and Security Requirements

necessary for Grantee's intended purposes and has not been altered or destroyed in an unauthorized manner;

- vii. Safeguards. PII will be protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure; and,
- viii. Accountability. Grantee will use appropriate monitoring and other means and methods to assure accountability with these principles and to report and mitigate non-adherence and breaches.

3. California Information Practices Act. (Civil Code section 1798 et seq.)

- a. Grantee shall comply with the applicable privacy and security provisions of the Information Practices Act of 1977, California Civil Code section 1798 et seq. and shall provide assistance to the Exchange as may be reasonably necessary for the Exchange to comply with these provisions.

4. Health Insurance Portability and Accountability Act ("HIPAA").

- a. Grantee expressly acknowledges and agrees that the Exchange is not a health care provider, a health care plan, or a health care clearinghouse. Accordingly, the parties mutually acknowledge and agree that, for purposes of this Agreement, the Exchange is not a Covered Entity as such term is specifically defined in HIPAA.
- b. Grantee expressly acknowledges and agrees that where the Exchange performs a function required under applicable law pursuant to 45 C.F.R. section 155.200, it is not acting as a Business Associate of any other Covered Entity and Grantee is not acting as the Exchange's Business Associate, as such terms are specifically defined in HIPAA.
- c. For certain programs related to the administration of the Medi-Cal Program, the Exchange has agreed to be the Business Associate of the Department of Health Care Services (DHCS). Therefore, to the extent that Grantee performs services related to the administration of the Medi-Cal program, Grantee is the Exchange's subcontractor, and therefore, also a Business Associate as that term is specifically defined in HIPAA. Accordingly, if in performing functions pursuant to this Agreement Grantee accesses or uses PII that was provided to the Exchange by DHCS or for the purposes of the Medi-Cal program, Grantee shall comply with the applicable terms and conditions of HIPAA.

EXHIBIT D

Privacy and Security Requirements

5. IRS Code section 6103 and Publication 1075

- a. Per the Exchange Privacy and Security Rules (45 CFR 155.260 (a)(4)(iii), return information shall be kept confidential under 26 U.S. Code section 6103. As described by IRS publication 1075, conforming to the guidelines set forth in that publication meets the safeguard requirements of 26 U.S. Code section 6103(p)(4) for FTI.

6. Fingerprinting and Background Checks. (Government Code Section 1043)

- a. All individuals including, but not limited to, employees, Grantees, or subcontractors who perform services under this agreement shall agree to criminal background checks in compliance with Government Code section 1043, and its implementing regulations set forth in California Code of Regulations, Title 10, Section § 6456.
- b. Individuals identified in subdivision a. shall notify the Exchange of any subsequent arrests for which they have been released on bail or personal recognizance, criminal convictions, and administrative actions taken by any other agency, within 30 calendar days of each occurrence.

D. Consumer Rights:

1. Accounting of Disclosures

- a. Grantee shall assist the Exchange in responding to accounting requests by individuals that are made to the Exchange under the Information Practices Act (Civil Code section 1798.25-29) and if Protected Health Information is involved, pursuant to HIPAA, 45 C.F.R. section 164.528.
- b. The obligation of Grantee to provide an accounting of disclosures as set forth herein survives the expiration or termination of this Agreement with respect to accounting requests made after such expiration or termination.

2. Copies of Records Requests

- a. Regardless of whether a request is made to the Exchange or to Grantee, Grantee shall respond to the request with respect to the record Grantee and its subcontractors maintain, if any, in a manner and time frame consistent with requirements specified in the Information Practices Act (Civil Code sections 1798.30-1798.34) and if Protected Health Information is involved, with HIPAA (45 C.F.R section 164.524).

EXHIBIT D

Privacy and Security Requirements

3. Requests to Amend Records

- a. Grantee shall make any amendments to Personally Identifiable information in a record that the Exchange directs or agrees to, whether at the request of the Exchange or an Individual.
- b. Regardless of whether a request to amend records is made to the Exchange or to Grantee, Grantee shall respond to the request with respect to the record Grantee and its subcontractors maintain in a manner and time frame consistent with requirements specified in the Information Practices Act (Civil Code section 1798.35) and if Protected Health Information is involved, with HIPAA (45 C.F.R. section 164.526).

4. Requests to Restrict Use and Disclosure of Personally Identifiable Information

- a. Grantee shall reasonably comply with any requests to restrict the use and disclosure of Personally Identifiable Information.
- b. If Protected Health Information is involved, Grantee shall respond to the request in a manner and time frame consistent with requirements specified in HIPAA (45 C.F.R. section 164.522).

5. Confidential Communications Request

- a. Upon receipt of written notice, Grantee shall reasonably comply with any requests to utilize an alternate address, email, or telephone number when communicating with the individual.
- b. If the request is denied, a written response shall be sent to the individual stating the reasons for denying the request.
- c. If Protected Health Information is involved, Regardless of whether a request is made to the Exchange or to Grantee, Grantee shall respond to the request in a manner and time frame consistent with requirements specified in HIPAA (45 C.F.R. section 164. 522 (b)(1)).

6. In responding to any requests from individuals, Grantee shall verify the identity of the person making the request to ensure that the person is the individual who is the subject of the PII or has authority to make requests concerning the PII before responding to the request.

7. In the event any individual submits any of these requests directly from Grantee, Grantee shall within five (5) calendar days forward such request to the Exchange.

EXHIBIT D

Privacy and Security Requirements

E. Security Controls and Safeguards:

1. Safeguards:

- a. At a minimum, Grantee shall establish and implement operational, technical, administrative and physical safeguards that are consistent with any applicable laws to ensure
 - i. The confidentiality, integrity, and availability of personally identifiable information created, collected, used, and/or disclosed by the Exchange;
 - ii. Personally identifiable information is only used by or disclosed to those authorized to receive or view it;
 - iii. Return information, as such term is defined by section 6103(b)(2) of the Code, is kept confidential under section 6103 of the Code;
 - iv. Personally identifiable information is protected against any reasonably anticipated threats or hazards to the confidentiality, integrity, and availability of such information;
 - v. Personally identifiable information is protected against any reasonably anticipated uses or disclosures of such information that are not permitted or required by law; and
 - vi. Personally identifiable information is securely destroyed or disposed of in an appropriate and reasonable manner and in accordance with retention schedules.
- b. Encryption: Grantee shall encrypt all PII 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 PII 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 PII. Data centers shall be encrypted or shall otherwise comply with industry data security best practices.

EXHIBIT D
Privacy and Security Requirements

- c. Grantee shall update these safeguards as appropriate and as requested by the Exchange.

F. Policies and Procedures:

1. Grantee shall implement and maintain written policies and procedures to ensure the privacy and security of PII stored, maintained, or accessed in compliance with this agreement and any applicable laws. Such policies shall address
 - a. Implementation of consumer rights as required by this Exhibit;
 - b. Reasonable safeguards as required by this Exhibit;
 - c. Monitoring, periodically assessing, and updating security controls and related system risks to ensure the continued effectiveness of those controls;
 - d. Training employees, Grantees, and subcontractors;
2. Upon request, Grantee shall provide the Exchange with a written policies and procedures adopted by Grantee to meet its obligations under this Section.

G. Subcontractors:

1. Grantee shall be bound by and be responsible for the acts and omissions of its subcontractors, agents or vendors in the exchange of data with the Exchange. Grantee shall take reasonable steps to ensure compliance with the terms of this Agreement by its subcontractors, agents and vendors.
2. Grantee agrees to enter into written contracts with its agents and contractors (collectively, "subcontractors") that obligate Grantee's subcontractors to abide by the same privacy and security standards and obligations that Grantee has agreed to in this agreement.
3. Grantee represents and agrees that it shall only request that the Exchange transmit data to subcontractors with whom it has such agreements and only to the extent such information is necessary to carry out the purposes authorized by this Agreement.
4. Upon request, Grantee shall provide the Exchange with a copy of any written agreement or contract entered into by Grantee and its subcontractors to meet the obligations of Grantee under this Exhibit.

EXHIBIT D

Privacy and Security Requirements

H. Privacy and Security Incidents:

1. Grantee shall immediately report to the Exchange Privacy Officer at PrivacyOfficer@covered.ca.gov any actual or suspected Privacy Incident or Security Incident involving PII created or received under this Agreement. Grantee's report shall contain the following information to the extent applicable and known at that time:
 - a. A brief description of what happened including the date of the incident and the date of the discovery of the incident;
 - b. The names or identification numbers of the individuals whose PII has been, or is reasonably believed to have been accessed, acquired, used or disclosed
 - c. A description of the types of PII that were involved in the incident, as applicable;
 - d. Information regarding any information system intrusion and any systems potentially compromised;
 - e. A brief description of Grantee's investigation and mitigation plan; and
 - f. Any other information necessary for the Exchange to conduct an investigation and include in notifications to the individual(s) or relevant regulatory authorities under applicable privacy and security requirements.
2. Upon completion of the initial report, Grantee shall immediately commence an investigation in accordance with applicable law to:
 - a. Determine the scope of the incident;
 - b. Mitigate harm that may result from the incident; and
 - c. Restore the security of the system to prevent any further harm or incidents.
3. Grantee shall cooperate with the Exchange in investigating the actual or suspected incident and in meeting the Exchange's obligations, if any, under applicable laws.
4. Grantee shall mitigate to the extent practicable any harmful effect of any Incident that is known or reasonably discoverable to Grantee.
5. After conducting its investigation, and within fifteen (15) calendar days, unless an extension is granted by the Exchange, Grantee shall file a complete report with

EXHIBIT D

Privacy and Security Requirements

the information listed above in subsection (1), if available. Grantee shall make all reasonable efforts to obtain all relevant information and shall provide an explanation if any information cannot be obtained. The complete report shall include a corrective action plan that describes the steps to be taken to prevent any future reoccurrence of the incident.

6. Grantee shall cooperate with the Exchange in developing content for any public statements and shall not give any public statements without the express written permission of the Exchange.
7. If a Breach requires notifications and reporting under applicable laws, and the cause of the Breach is attributable to Grantee, its agents or subcontractors, Grantee shall:
 - a. Be fully responsible for providing breach notifications and reporting as required under applicable laws;
 - b. Pay any costs of such Breach notifications as well as any costs or damages associated with the incident; and
 - c. Should the Exchange in its sole discretion determine that credit monitoring is an appropriate remedy, arrange for and bear the reasonable, out-of-pocket cost of providing to each such affected individual one (1) year of credit monitoring services from a nationally recognized supplier of such services.
8. If Grantee determines that an impermissible acquisition, use, or disclosure of PII does not require breach notifications or reporting, it shall document its assessment and provide such documentation to the Exchange within one week of its completion. Notwithstanding the foregoing, the Exchange reserves the right to reject Grantee's assessment and direct Grantee to treat the incident as a Breach.

I. Right to Inspect:

1. The Exchange may inspect the facilities, systems, books, and records of Grantee to monitor compliance with this Exhibit at any time. Grantee shall promptly remedy any violation reported to it by the Exchange and shall certify the same to the Exchange Privacy Officer in writing. The fact that the Exchange inspects, fails to inspect, fails to detect violations of this Exhibit or detects but fails to notify Grantee of the violation or require remediation is not a waiver of the Exchange's rights under this Agreement and this Exhibit.

EXHIBIT D

Privacy and Security Requirements

J. Indemnification:

1. Grantee shall indemnify, hold harmless, and defend the Exchange from and against any and all costs (including mailing, labor, administrative costs, vendor charges, and any other costs the Exchange determines to be reasonable), losses, penalties, fines, and liabilities arising from or due to Grantee's failure to comply with the requirements of this Exhibit, including a breach or other non-permitted use or disclosure of PII by Grantee or its subcontractors or agents, including without limitation. Such indemnification shall be conditioned upon the Exchange giving notice of any claims to Grantee after discovery thereof. If Grantee should publish or disclose PII to others, the Exchange shall be entitled to injunctive relief or any other remedies to which it is entitled under law or equity, without posting a bond.

K. Termination of Agreement:

1. If Grantee breaches its obligations under this Exhibit as determined by the Exchange, the Exchange may, at its option:
 - a. Require Grantee to submit to a plan of monitoring and reporting, as the Exchange may deem necessary to maintain compliance with this Agreement;
 - b. Provide Grantee with an opportunity to cure the breach; or
 - c. After giving Grantee an opportunity to cure the breach, or upon breach of a material term of this Exhibit, terminate this Agreement for Cause pursuant to Exhibit C.

A failure of the Exchange to exercise any of these options shall not constitute a waiver of its rights under this section.

2. Upon completion of this Agreement, or upon termination of this Agreement, at the Exchange's direction Grantee shall either return all PII to the Exchange, or shall destroy all PII in a manner consistent with applicable State and Federal laws, regulations, and agency guidance on the destruction of PII. If return or destruction of PII is not feasible, Grantee shall explain in writing to the Exchange's Chief Privacy Officer why return or destruction is not feasible. The obligations of Grantee under this Agreement to protect PII and to limit its use or disclosure shall continue and shall survive until all PII is either returned to the Exchange or destroyed.

EXHIBIT E

Branding Guidelines

All references to the Exchange, Covered California, or Covered CA refer to the California Health Benefit Exchange.

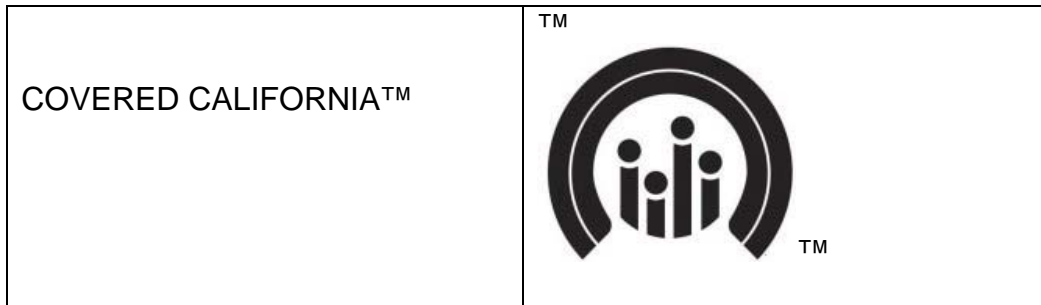
A. Trademark and Brand Usage Guidelines for Communications and Web Sites:

1. Covered California's brand and trademarks, as described below ("Covered California Marks") are valuable intellectual property and important assets of the organization. The Covered California Logo, and any other logo used to identify any product or service offered by Covered California, may not be used in any manner inconsistent with this Exhibit E and the Brand Style Guide (Rev. May 2014) available at www.CoveredCA.com without express written permission from Covered California.
2. The improper or unauthorized use of Covered California Marks or other intellectual property is a violation of Covered California's rights and is strictly prohibited. Unauthorized use or misrepresentation of Covered California, the California Health Benefit Exchange is also a violation of state law Section 100510 to the Government Code, Section 1360.5 of the Health and Safety Code, and Section 790.03 of the Insurance Code.
3. Section 100510 to the Government Code, Section 1360.5 of the Health and Safety Code, and Section 790.03 of the Insurance Code prohibits the holding oneself out as representing, constituting, or otherwise providing services on behalf of the California Health Benefit Exchange established pursuant to Section 100500 et. seq of the Government Code without a valid agreement with the California Health Benefit Exchange to engage in those activities. Any unauthorized use of the Covered California brand is outside of the scope of this agreement.
4. The Exchange reserves the right to revise the Brand Style Guide, and Grantee will be bound to comply with the material contained in the updated guide immediately upon receipt or other notification of the new guide.

B. Non-Exclusive License:

1. Subject to the terms of this Exhibit and Brand Style Guide, Covered CA conveys and Grantee accepts a non-exclusive, royalty-free license in the following Covered California Marks for the purposes specified within the Scope of Work (Exhibit A) of this Agreement.

EXHIBIT E Branding Guidelines



2. Grantee shall be entitled to use the Covered California Marks in conjunction with the marketing materials referenced herein subject to the terms and conditions set forth within this Exhibit and Brand Style Guide for the sole purpose of promoting the services performed by Grantee under Exhibit A.
3. Grantee accepts the above-referenced license “As-Is” without any representations or warranties, including but not limited to warranties of ownership or fitness for a particular purpose.
4. Grantee expressly acknowledges and agrees that nothing in this Exhibit is intended to nor shall result in the transfer of any ownership interests and that the Exchange shall at all times remain the sole and exclusive owner of the Covered California Marks.
5. In addition to the terms and conditions set forth herein, Grantee understands and agrees that the Exchange shall at all times be entitled to impose additional restrictions upon the use of the Covered California Marks for the sole purpose of protecting the goodwill and overall reputation of the Exchange and Covered California Marks.
6. Grantee shall be entitled to sub-license the use of the Covered California Marks; provided, however, that Grantee shall ensure that any and all subcontractors shall execute and strictly abide by the terms of conditions specified within this Exhibit.

C. Non-Affiliation & Non-Endorsement:

1. Neither the above-referenced license nor Grantee’s use of the Covered California Marks shall at any time be interpreted or construed as creating a partnership, co-venture ship or other agency relationship between Grantee and Covered CA. Other than the use of the Covered California Marks in accordance with the license conveyed in this Exhibit, Grantee shall strictly refrain from any representations reasonably calculated to suggest or imply the existence of any such relationship.

EXHIBIT E

Branding Guidelines

2. The above-referenced license shall likewise at no time be interpreted or construed as an express or implied endorsement of any product, service or activity provided by or engaged in by Grantee involving the Covered California Marks.
3. Grantee shall at all times defend, indemnify and hold the Exchange harmless from and against any and all liability or claims arising directly or indirectly from any misrepresentation by Grantee of:
 - a. An agency relationship between the Exchange and Grantee; and
 - b. An endorsement by the Exchange of any product, service or activity provided or engaged in by Grantee for which the Covered California Marks are at any time used.

D. Term & Termination:

1. Unless otherwise terminated earlier, the term of the license conveyed within this Exhibit shall commence on the effective date of the original Navigator Agreement and shall terminate automatically on the date the original Navigator Agreement terminates. Navigator shall immediately discontinue the use of the Covered California Marks upon the termination of this agreement.
2. To protect the goodwill and reputation of the Covered California Marks, the Exchange shall at all times be entitled to terminate the above-referenced license for "good cause", which shall include: i) a material violation of the Navigator Agreement; or ii) any act by Navigator which exposes the Exchange to potential infringement or other liability.

C. Disclaimer:

1. Use of the Covered California Marks in external communications or a web site must be accompanied by the following disclaimer in a conspicuous font which should be placed on each page that displays Covered California Marks:
 - a. "Covered California," "California Health Benefit Exchange", and the Covered California Logo are registered trademarks or service marks of Covered California, in the United States. This web site is owned and maintained by [Navigator Name], which is solely responsible for its content. This site is not maintained by or affiliated with Covered California, and Covered California bears no responsibility for its content. The e-mail addresses and telephone numbers that appear throughout this site belong to [Navigator Name], and cannot be used to contact Covered California.

EXHIBIT E

Branding Guidelines

- b. This statement must also appear on:
 - i. Navigator's home pages; or
 - ii. Any "Who We Are" or "About Us" pages or other pages of similar purpose or content.
- c. For purposes of this section, "conspicuous" means displayed apart from other print on the external communications or web site, in not less than 12-point boldface font type in capital letters that is at least 2-point boldface font type sizes larger than the next largest print used, and in contrasting type, layout, font, or color in a manner that clearly calls attention to the language..

D. Improper Uses of Covered California's Marks:

- 1. Covered California's Marks may not be presented or used:
 - a. In a manner that suggests that editorial content has been authored by, or represents the views or opinions of, Covered California or its representatives, personnel or affiliates;
 - b. In a manner that is misleading, defamatory, obscene, infringing or otherwise objectionable;
 - c. In connection with any material that infringes the trademark, copyright or any other rights of any third party;
 - d. As part of a name of a product or service of a company or organization other than Covered California; or
 - e. In a manner that infringes, derogates, dilutes, or impairs the rights of Covered California in such marks.

E. Improper Uses of California Health Benefit Exchange or Covered California in Navigator's Internet Domain Name:

- 1. Grantee may not use the names California Health Benefit Exchange, Exchange, Covered California, Covered CA, or any derivations thereof in the Grantee's Internet domain name:
 - a. In a manner that creates a likelihood of confusion that the Navigator's web site is sponsored by or affiliated with Covered California; and
 - b. Without the express written permission of Covered California.

EXHIBIT E

Branding Guidelines

F. Marketing Materials – Definition:

1. The term “marketing materials” extends beyond the public’s general concept of advertising materials and includes any materials developed or distributed by a Navigator, which are aimed at prospective or existing clients and consumers of the Individual and SHOP Exchanges. Marketing materials include, but are not limited to, anything with Covered California Marks, printed collateral material, print advertising, social and digital media material and television and radio ads.

G. Marketing Materials Subject to the Exhibit E, Marketing and Trademarks:

1. All marketing materials that mention, promote participation in, or reference Covered California are subject to this Exhibit E and the Brand Style Guide. However, these Marketing Guidelines do not apply to those marketing materials that do not promote, discuss or reference Covered California in any way.

H. General Marketing Material and Direct Mail Communications:

1. Upon request, Navigator shall provide Covered California with at least one (1) copy, unless otherwise specified by Covered California, of any marketing material Navigator intends to use, mail, or has mailed, to its clients or prospective clients, including, but not limited to, brochures, leaflets, postcards, presentations, advertisements in phone books, newsletters, health education materials, and special announcements. Covered California shall have the right to request changes to or prohibit the distribution or use of any marketing material, as determined by Covered California in its sole discretion.

I. Submission Requirements & Process for Advertising Material:

1. Any question regarding the compliance of Grantee’s marketing materials with this Exhibit E and the Brand Style Guide must be submitted for review and approval to Covered California. Navigators shall allow at least 10 (ten) business days from the date of the request for Covered California to review any materials submitted.
 - a. When submitting required materials for approval, indicate the following in the subject line: Advertising Approval Request – Navigator name and material type.
 - b. When submitting revised material, please indicate so in the body of the email and include the original submission date of the material.
2. Do not bundle multiple materials in the same submission email. Send a separate email for each material. The only exception is translations.

EXHIBIT E

Branding Guidelines

Translations may be sent in one email along with the corresponding English version if available.

J. Confidential Treatment of Navigator:

1. To the extent that material sent from Navigator is not already in the public domain, Covered California shall treat such marketing materials as confidential information and exempt from public disclosure if such material is deemed to be or qualifies for treatment as confidential information under the Public Records Act, Government Code Sections 6250, et seq. and other applicable Federal and State laws, rules and regulations.

K. Distribution of Marketing Materials Developed by Covered California:

1. Navigator may distribute and reproduce marketing materials developed and made available by Covered California. Navigator shall be responsible for any printing costs for such material and for all costs related to the distribution of those materials, including, but not limited to, mailing and postage costs.