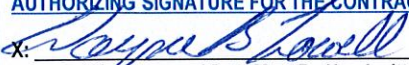
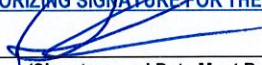


COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the [Executive Office for Administration and Finance \(ANF\)](#), the [Office of the Comptroller \(CTR\)](#) and the [Operational Services Division \(OSD\)](#) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at www.mass.gov/osc under [Guidance For Vendors - Forms](#) or www.mass.gov/osd under [OSD Forms](#).

CONTRACTOR LEGAL NAME: Senior Whole Health, LLC (and d/b/a):	COMMONWEALTH DEPARTMENT NAME: Executive Office of Health and Human Services MMARS Department Code: EHS
Legal Address: (W-9, W-4,T&C): 58 Charles Street, Cambridge, MA 02141	Business Mailing Address: One Ashburton Place, 5 th Floor, Boston, MA 02108
Contract Manager: Keith Peifer	Billing Address (if different):
E-Mail: kpeifer@seniorwholehealth.com	Contract Manager: Susan Ciccariello
Phone: 617-494-5353 Fax: 617-494-5599	E-Mail: susan.ciccariello@state.ma.us
Contractor Vendor Code: VC7000090535	Phone: 617-222-7548 Fax: 617-222-7585
Vendor Code Address ID (e.g. "AD001"): AD001. (Note: The Address Id Must be set up for EFT payments.)	MMARS Doc ID(s): RFR/Procurement or Other ID Number: 15LCEHSSCORFA
<p style="text-align: center;"><u> </u> NEW CONTRACT</p> PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input type="checkbox"/> Statewide Contract (OSD or an OSD-designated Department) <input type="checkbox"/> Collective Purchase (Attach OSD approval, scope, budget) <input type="checkbox"/> Department Procurement (includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> Emergency Contract (Attach justification for emergency, scope, budget) <input type="checkbox"/> Contract Employee (Attach Employment Status Form , scope, budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)	<p style="text-align: center;"><input checked="" type="checkbox"/> CONTRACT AMENDMENT</p> Enter Current Contract End Date <i>Prior</i> to Amendment: <u>12/31/2020</u> Enter Amendment Amount: \$ <u>rate contract</u> . (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) <input checked="" type="checkbox"/> Amendment to Scope or Budget (Attach updated scope and budget) <input type="checkbox"/> Interim Contract (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> Contract Employee (Attach any updates to scope or budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget)
The following COMMONWEALTH TERMS AND CONDITIONS (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract. <input checked="" type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services	
COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. <input checked="" type="checkbox"/> Rate Contract (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input type="checkbox"/> Maximum Obligation Contract Enter Total Maximum Obligation for total duration of this Contract (or <i>new</i> Total if Contract is being amended). \$ _____	
PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days <u> </u> % PPD; Payment issued within 15 days <u> </u> % PPD; Payment issued within 20 days <u> </u> % PPD; Payment issued within 30 days <u> </u> % PPD. If PPD percentages are left blank, identify reason: <u> </u> agree to standard 45 day cycle <u> </u> statutory/legal or Ready Payments (G.L. c. 29, § 23A); <u> </u> only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy .)	
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) The purpose of this Amendment #2 is to ensure that the SCO contract complies with CMS's managed care regulations, set forth at 42 CFR 438.	
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input type="checkbox"/> 1. may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date . <input checked="" type="checkbox"/> 2. may be incurred as of <u>January 1, 2017</u> , a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date . <input type="checkbox"/> 3. were incurred as of <u> </u> , 20 <u> </u> , a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.	
CONTRACT END DATE: Contract performance shall terminate as of December 31, 2020 , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.	
CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the " Effective Date " of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached Contractor Certifications (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions , this Standard Contract Form including the Instructions and Contractor Certifications , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07 , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.	
AUTHORIZING SIGNATURE FOR THE CONTRACTOR: X:  Date: <u>01-04-17</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Wayne B. Lowell</u> Print Title: <u>Chief Executive Officer</u>	AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X:  Date: <u>1/1/17</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Daniel Tsai</u> Print Title: <u>Assistant Secretary for MassHealth</u>



INSTRUCTIONS AND CONTRACTOR CERTIFICATIONS

The following instructions and terms are incorporated by reference and apply to this Standard Contract Form. Text that appears underlined indicates a "hyperlink" to an Internet or bookmarked site and are unofficial versions of these documents and Departments and Contractors should consult with their legal counsel to ensure compliance with all legal requirements. Using the Web Toolbar will make navigation between the form and the hyperlinks easier. Please note that not all applicable laws have been cited.

CONTRACTOR LEGAL NAME (AND D/B/A): Enter the Full Legal Name of the Contractor's business as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#). If Contractor also has a "doing business as" (d/b/a) name, BOTH the legal name and the "d/b/a" name must appear in this section.

Contractor Legal Address: Enter the Legal Address of the Contractor as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#), which must match the legal address on the 10991 table in MMARS (or the Legal Address in HR/CMS for Contract Employee).

Contractor Contract Manager: Enter the authorized Contract Manager who will be responsible for managing the Contract. The Contract Manager should be an Authorized Signatory or, at a minimum, a person designated by the Contractor to represent the Contractor, receive legal notices and negotiate ongoing Contract issues. The Contract Manager is considered "Key Personnel" and may not be changed without the prior written approval of the Department. If the Contract is posted on [COMMBUYS](#), the name of the Contract Manager must be included in the Contract on COMMBUYS.

Contractor E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Contractor Contract Manager. This information must be kept current by the Contractor to ensure that the Department can contact the Contractor and provide any required legal notices. Notice received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any written legal notice requirements.

Contractor Vendor Code: The Department must enter the [MMARS Vendor Code](#) assigned by the Commonwealth. If a Vendor Code has not yet been assigned, leave this space blank and the Department will complete this section when a Vendor Code has been assigned. The Department is responsible under the [Vendor File and W-9s Policy](#) for verifying with authorized signatories of the Contractor, as part of contract execution, that the legal name, address and Federal Tax Identification Number (TIN) in the Contract documents match the state accounting system.

Vendor Code Address ID: (e.g., "AD001") The Department must enter the MMARS Vendor Code Address Id identifying the payment remittance address for Contract payments, which MUST be set up for EFT payments PRIOR to the first payment under the Contract in accordance with the [Bill Paying](#) and [Vendor File and W-9](#) policies.

COMMONWEALTH DEPARTMENT NAME: Enter the full Department name with the authority to obligate funds encumbered for the Contract.

Commonwealth MMARS Alpha Department Code: Enter the [three \(3\) letter MMARS Code](#) assigned to this Commonwealth Department in the state accounting system.

Department Business Mailing Address: Enter the address where all formal correspondence to the Department must be sent. Unless otherwise specified in the Contract, legal notice sent or received by the Department's Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address for the Contract Manager will meet any requirements for legal notice.

Department Billing Address: Enter the Billing Address or email address if invoices must be sent to a different location. Billing or confirmation of delivery of performance issues should be resolved through the listed Contract Managers.

Department Contract Manager: Identify the authorized Contract Manager who will be responsible for managing the Contract, who should be an authorized signatory or an employee designated by the Department to represent the Department to receive legal notices and negotiate ongoing Contract issues.

Department E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Department Contract Manager. Unless otherwise specified in the Contract, legal notice sent or received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any requirements for written notice under the Contract.

MMARS Document ID(s): Enter the MMARS 20 character encumbrance transaction number associated with this Contract which must remain the same for the life of the Contract. If multiple numbers exist for this Contract, identify all Doc Ids.

RFR/Procurement or Other ID Number or Name: Enter the Request for Response (RFR) or other Procurement Reference number, Contract ID Number or other reference/tracking number for this Contract or Amendment and will be entered into the Board Award Field in the MMARS encumbrance transaction for this Contract.

NEW CONTRACTS (left side of Form):

Complete this section ONLY if this Contract is brand new. (Complete the CONTRACT AMENDMENT section for any material changes to an existing or an expired Contract, and for exercising options to renew or annual contracts under a multi-year procurement or grant program.)

PROCUREMENT OR EXCEPTION TYPE: Check the appropriate type of procurement or exception for this Contract. Only one option can be selected. See [State Finance Law and General Requirements](#), [Acquisition Policy and Fixed Assets](#), the [Commodities and Services Policy](#) and the [Procurement Information Center \(Department Contract Guidance\)](#) for details.

Statewide Contract (OSD or an OSD-designated Department). Check this option for a Statewide Contract under OSD, or by an OSD-designated Department.

Collective Purchase approved by OSD. Check this option for Contracts approved by OSD for collective purchases through federal, state, local government or other entities.

Department Contract Procurement. Check this option for a Department procurement including state grants and federal sub-grants under [815 CMR 2.00](#) and [State Grants and Federal Subgrants Policy](#), Departmental Master Agreements (MA). If multi-Department user Contract, identify multi-Department use is allowable in Brief Description.

Emergency Contract. Check this option when the Department has determined that an unforeseen crisis or incident has arisen which requires or mandates immediate purchases to avoid substantial harm to the functioning of government or the provision of necessary or mandated services or whenever the health, welfare or safety of clients or other persons or serious damage to property is threatened.

Contract Employee. Check this option when the Department requires the performance of an [Individual Contractor](#), and when the planned Contract performance with an Individual has been classified using the [Employment Status Form](#) (prior to the Contractor's selection) as work of a Contract Employee and not that of an Independent Contractor.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Supporting documentation must be attached to explain and justify the exemption.

CONTRACT AMENDMENT (Right Side of Form)

Complete this section for any Contract being renewed, amended or to continue a lapsed Contract. All Contracts with available options to renew must be amended referencing the original procurement and Contract doc ids, since all continuing contracts must be maintained in the same Contract file (even if the underlying appropriation changes each fiscal year.) "See [Amendments, Suspensions, and Termination Policy](#).)

Enter Current Contract End Date: Enter the termination date of the Current Contract being amended, even if this date has already passed. (Note: Current Start Date is not requested since this date does not change and is already recorded in MMARS.)

Enter Amendment Amount: Enter the amount of the Amendment increase or decrease to a Maximum Obligation Contract. Enter "no change" for Rate Contracts or if no change.

AMENDMENT TYPE: Identify the type of Amendment being done. Documentation supporting the updates to performance and budget must be attached. **Amendment to Scope or Budget.** Check this option when renewing a Contract or executing any Amendment ("material change" in Contract terms) even if the Contract has lapsed. The parties may negotiate a change in any element of Contract performance or cost identified in the RFR or the Contractor's response which results in lower costs, or a more cost-effective or better value performance than was presented in the original selected response, provided the negotiation results in a better value within the scope of the RFR than what was proposed by the Contractor in the original selected response. Any "material" change in the Contract terms must be memorialized in a formal Amendment even if a corresponding MMARS transaction is not needed to support the change. Additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in [801 CMR 21.07](#), incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

Interim Contracts. Check this option for an Interim Contract to prevent a lapse of Contract performance whenever an existing Contract is being re-procured but the new procurement has not been completed, to bridge the gap during implementation between an expiring and a new procurement, or to contract with an interim Contractor when a current Contractor is unable to complete full performance under a Contract.

Contract Employee. Check this option when the Department requires a renewal or other amendment to the performance of a Contract Employee.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Attach supporting documentation to explain and justify the exemption and whether Contractor selection has been publicly

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posted.

COMMONWEALTH TERMS AND CONDITIONS

Identify which [Commonwealth Terms and Conditions](#) the Contractor has executed and is incorporated by reference into this Contract. This Form is signed only once and recorded on the Vendor Customer File (VCUST). See [Vendor File and W-9s Policy](#).

COMPENSATION

Identify if the Contract is a **Rate Contract** (with no stated Maximum Obligation) or a **Maximum Obligation Contract** (with a stated Maximum Obligation) and identify the Maximum Obligation. If the Contract is being amended, enter the new Maximum Obligation based upon the increase or decreasing Amendment. The Total Maximum Obligation must reflect the total funding for the dates of service under the contract, including the Amendment amount if the Contract is being amended. The Maximum Obligation must match the MMARS encumbrance. Funding and allotments must be verified as [available and encumbered](#) prior to incurring obligations. If a Contract includes both a Maximum Obligation component and Rate Contract component, check off both, specific Maximum Obligation amounts or amended amounts and Attachments must clearly outline the Contract breakdown to match the encumbrance.

PAYMENTS AND PROMPT PAY DISCOUNTS

Payments are processed within a 45 day payment cycle through EFT in accordance with the Commonwealth [Bill Paying Policy](#) for investment and cash flow purposes. Departments may NOT negotiate accelerated payments and Payees are NOT entitled to accelerated payments UNLESS a prompt payment discount (PPD) is provided to support the Commonwealth's loss of investment earnings for this earlier payment, or unless a payments is legally mandated to be made in less than 45 days (e.g., construction contracts, Ready Payments under [G.L. c. 29, s. 23A](#)). See [Prompt Pay Discounts Policy](#). PPD are identified as a percentage discount which will be automatically deducted when an accelerated payment is made. Reduced contracts rates may not be negotiated to replace a PPD. If PPD fields are left blank please identify that the Contractor agrees to the standard 45 day cycle; a statutory/legal exemption such as Ready Payments ([G.L. c. 29, § 23A](#)); or only an initial accelerated payment for reimbursements or start up costs for a grant, with subsequent payments scheduled to support standard EFT 45 day payment cycle. Financial hardship is not a sufficient justification to accelerate cash flow for all payments under a Contract. Initial grant or contract payments may be accelerated for the first invoice or initial grant installment, but subsequent periodic installments or invoice payments should be scheduled to support the Payee cash flow needs and the standard 45 day EFT payment cycle in accordance with the Bill Paying Policy. Any accelerated payment that does not provide for a PPD must have a legal justification in Contract file for audit purposes explaining why accelerated payments were allowable without a PPD.

BRIEF DESCRIPTION OF CONTRACT PERFORMANCE

Enter a brief description of the Contract performance, project name and/or other identifying information for the Contract to specifically identify the Contract performance, match the Contract with attachments, determine the appropriate expenditure code (as listed in the [Expenditure Classification Handbook](#)) or to identify or clarify important information related to the Contract such as the Fiscal Year(s) of performance (ex. "FY2012" or "FY2012-14"). Identify settlements or other exceptions and attach more detailed justification and supporting documents. Enter "Multi-Department Use" if other Departments can access procurement. For Amendments, identify the purpose and what items are being amended. Merely stating "see attached" or referencing attachments without a narrative description of performance is insufficient.

ANTICIPATED START DATE

The Department and Contractor must certify WHEN obligations under this Contract/Amendment may be incurred. Option 1 is the default option when performance may begin as of the [Effective Date](#) (latest signature date and any required approvals). If the parties want a new Contract or renewal to begin as of the upcoming fiscal year then list the fiscal year(s) (ex. "FY2012" or "FY2012-14") in the Brief Description section. Performance starts and encumbrances reflect the default [Effective Date](#) (if no FY is listed) or the later FY start date (if a FY is listed). Use Option 2 only when the Contract will be signed well in advance of the start date and identify a specific future start date. Do not use Option 2 for a fiscal year start unless it is certain that the Contract will be signed prior to fiscal year. Option 3 is used in lieu of the [Settlement and Release Form](#) when the Contract/Amendment is signed late, and obligations have already been incurred by the Contractor prior to the [Effective Date](#) for which the Department has either requested, accepted or deemed legally eligible for reimbursement, and the Contract includes supporting documents justifying the performance or proof of eligibility, and approximate costs. Any obligations incurred outside the scope of the [Effective Date](#) under any Option listed, even if the incorrect Option is selected, shall be automatically deemed a settlement included under the terms of the Contract and upon payment to the Contractor will release the Commonwealth from further obligations for the identified performance. All settlement payments require justification and must be under same encumbrance and object codes as the Contract payments. Performance dates are subject to [G.L. c.4, § 9](#).

CONTRACT END DATE

The Department must enter the date that Contract performance will terminate. If the Contract is being amended and the Contract End Date is not changing, this date must be re-entered again here. A Contract must be signed for at least the initial duration but not longer than the period of procurement listed in the RFR, or other solicitation document (if applicable). No new performance is allowable beyond the end date without an amendment, but the Department may allow a Contractor to complete minimal close out performance obligations if substantial performance has been made prior to the termination date of the Contract and prior to the end of the fiscal year in which payments are appropriated, provided that any close out performance is subject to appropriation and funding limits under state finance law, and CTR may adjust encumbrances and payments in the state accounting system to enable final close out payments. Performance dates are subject to [G.L. c.4, § 9](#).

CERTIFICATIONS AND EXECUTION

See [Department Head Signature Authorization Policy](#) and the [Contractor Authorized Signatory Listing](#) for policies on Contractor and Department signatures.

Authorizing Signature for Contractor/Date: The Authorized Contractor Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Contract Start Date](#)". Acceptance of payment by the Contractor shall waive any right of the Contractor to claim the Contract/Amendment is not valid and the Contractor may not void the Contract. **Rubber stamps, typed or other images are not acceptable.** Proof of Contractor signature authorization on a [Contractor Authorized Signatory Listing](#) may be required by the Department if not already on file.

Contractor Name /Title: The Contractor Authorized Signatory's name and title must appear legibly as it appears on the [Contractor Authorized Signatory Listing](#).

Authorizing Signature For Commonwealth/Date: The [Authorized Department Signatory](#) must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Start Date](#)". **Rubber stamps, typed or other images are not accepted.** The Authorized Signatory must be an employee within the Department legally responsible for the Contract. See [Department Head Signature Authorization](#). The Department must have the legislative funding appropriated for all the costs of this Contract or funding allocated under an [approved Interdepartmental Service Agreement \(ISA\)](#). A Department may not contract for performance to be delivered to or by another state department without specific legislative authorization (unless this Contract is a Statewide Contract). For Contracts requiring Secretariat signoff, evidence of Secretariat signoff must be included in the Contract file.

Department Name /Title: Enter the Authorized Signatory's name and title legibly.

CONTRACTOR CERTIFICATIONS AND LEGAL REFERENCES

Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified, subject to any required approvals. The Contractor makes all certifications required under this Contract under the pains and penalties of perjury, and agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein:

Commonwealth and Contractor Ownership Rights. The Contractor certifies and agrees that the Commonwealth is entitled to ownership and possession of all "deliverables" purchased or developed with Contract funds. A Department may not relinquish Commonwealth rights to deliverables nor may Contractors sell products developed with Commonwealth resources without just compensation. The Contract should detail all Commonwealth deliverables and ownership rights and any Contractor proprietary rights.

Qualifications. The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract; that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability; and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the [Secretary of State's website](#) as licensed to do business in Massachusetts, as required by law.

Business Ethics and Fraud, Waste and Abuse Prevention. The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse.

Collusion. The Contractor certifies that this Contract has been offered in good faith and without collusion, fraud or unfair trade practices with any other person, that any actions to avoid or frustrate fair and open competition are prohibited by law, and shall be grounds for rejection or disqualification of a Response or termination of this Contract.

Public Records and Access The Contractor shall provide full access to records related to performance and compliance to the Department and officials listed under [Executive Order 195](#) and [G.L. c. 11, s.12](#) seven (7) years beginning on the first day after the final payment

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under this Contract or such longer period necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Contract. Access to view Contractor records related to any breach or allegation of fraud, waste and/or abuse may not be denied and Contractor can not claim confidentiality or trade secret protections solely for viewing but not retaining documents. Routine Contract performance compliance reports or documents related to any alleged breach or allegation of non-compliance, fraud, waste, abuse or collusion may be provided electronically and shall be provided at Contractor's own expense. Reasonable costs for copies of non-routine Contract related records shall not exceed the rates for public records under [950 C.M.R. 32.00](#).

Debarment. The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation including, [Executive Order 147](#); [G.L. c. 29, s. 29F](#); [G.L. c. 30, § 39R](#); [G.L. c. 149, § 27C](#); [G.L. c. 149, § 44C](#); [G.L. c. 149, § 148B](#) and [G.L. c. 152, s. 25C](#).

Applicable Laws. The Contractor shall comply with all applicable state laws and regulations including but not limited to the applicable [Massachusetts General Laws](#); the Official [Code of Massachusetts Regulations](#); [Code of Massachusetts Regulations](#) (unofficial); [801 CMR 21.00](#) (Procurement of Commodity and Service Procurements, Including Human and Social Services); [815 CMR 2.00](#) (Grants and Subsidies); [808 CMR 1.00](#) (Compliance, Reporting and Auditing for Human And Social Services); [AICPA Standards](#); confidentiality of Department records under [G.L. c. 66A](#); and the [Massachusetts Constitution Article XVIII](#) if applicable.

Invoices. The Contractor must submit invoices in accordance with the terms of the Contract and the Commonwealth [Bill Paying Policy](#). Contractors must be able to reconcile and properly attribute concurrent payments from multiple Departments. Final invoices in any fiscal year must be submitted no later than August 15th for performance made and received (goods delivered, services completed) prior to June 30th, in order to make payment for that performance prior to the close of the fiscal year to prevent reversion of appropriated funds. Failure to submit timely invoices by August 15th or other date listed in the Contract shall authorize the Department to issue an estimated payment based upon the Department's determination of performance delivered and accepted. The Contractor's acceptance of this estimated payment releases the Commonwealth from further claims for these invoices. If budgetary funds revert due to the Contractor's failure to submit timely final invoices, or for disputing an estimated payment, the Department may deduct a penalty up to 10% from any final payment in the next fiscal year for failure to submit timely invoices.

Payments Subject To Appropriation. Pursuant to [G.L. c. 29 § 26](#), § 27 and § 29, Departments are required to expend funds only for the purposes set forth by the Legislature and within the funding limits established through appropriation, allotment and subsidiary, including mandated allotment reductions triggered by [G.L. c. 29, § 9C](#). A Department cannot authorize or accept performance in excess of an existing appropriation and allotment, or sufficient non-appropriated available funds. Any oral or written representations, commitments, or assurances made by the Department or any other Commonwealth representative are not binding. The Commonwealth has no legal obligation to compensate a Contractor for performance that is not requested and is intentionally delivered by a Contractor outside the scope of a Contract. Contractors should verify funding prior to beginning performance.

Intercept. Contractors may be registered as Customers in the Vendor file if the Contractor owes a Commonwealth debt. Unresolved and undisputed debts, and overpayments of Contract payments that are not reimbursed timely shall be subject to intercept pursuant to [G.L. c. 7A, s. 3](#) and [815 CMR 9.00](#). Contract overpayments will be subject to immediate intercept or payment offset. The Contractor may not penalize any state Department or assess late fees, cancel a Contract or other services if amounts are intercepted or offset due to recoupment of an overpayment, outstanding taxes, child support, other overdue debts or Contract overpayments.

Tax Law Compliance. The Contractor certifies under the pains and penalties of perjury tax compliance with [Federal tax laws](#); [state tax laws](#) including but not limited to [G.L. c. 62C](#), [G.L. c. 62C, s. 49A](#); compliance with all state tax laws, reporting of employees and contractors, withholding and remitting of tax withholdings and child support and is in good standing with respect to all state taxes and returns due; reporting of employees and contractors under [G.L. c. 62E](#), withholding and remitting [child support](#) including [G.L. c. 119A, s. 12](#); [TIR 05-11](#); [New Independent Contractor Provisions](#) and applicable [TIRs](#).

Bankruptcy, Judgments, Potential Structural Changes, Pending Legal Matters and Conflicts. The Contractor certifies it has not been in bankruptcy and/or receivership within the last three calendar years, and the Contractor certifies that it will immediately notify the Department in writing at least 45 days prior to filing for bankruptcy and/or receivership, any potential structural change in its organization, or if there is any risk to the solvency of the Contractor that may impact the Contractor's ability to timely fulfill the terms of this Contract or Amendment. The Contractor certifies that at any time during the period of the Contract the Contractor is required to affirmatively disclose in writing to the Department Contract Manager the details of any judgment, criminal conviction, investigation or litigation pending against the Contractor or any of its officers, directors, employees, agents, or subcontractors, including any potential conflicts of interest of which the Contractor has knowledge, or learns of during the Contract term. Law firms or Attorneys providing legal

services are required to identify any potential conflict with representation of any Department client in accordance with Massachusetts Board of Bar Overseers (BBO) rules.

Federal Anti-Lobbying and Other Federal Requirements. If receiving federal funds, the Contractor certifies compliance with federal anti-lobbying requirements including [31 USC 1352](#); [other federal requirements](#); [Executive Order 11246](#); [Air Pollution Act](#); [Federal Water Pollution Control Act](#) and [Federal Employment Laws](#).

Protection of Personal Data and Information. The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during performance, with special attention to restricting access, use and disbursement of personal data and information under [G.L. c. 93H](#) and [c. 66A](#) and [Executive Order 504](#). The Contractor is required to comply with [G.L. c. 93I](#) for the proper disposal of all paper and electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information transmitted electronically or through a portable device be properly encrypted using (at a minimum) [Information Technology Division \(ITD\) Protection of Sensitive Information](#), provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the [Payment Card Industry Council Standards](#) and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to [G.L. c. 214, s. 3B](#).

Corporate and Business Filings and Reports. The Contractor certifies compliance with any certification, filing, reporting and service of process requirements of the [Secretary of the Commonwealth](#), the [Office of the Attorney General](#) or other Departments as related to its conduct of business in the Commonwealth; and with its incorporating state (or foreign entity).

Employer Requirements. Contractors that are employers certify compliance with applicable state and [federal employment laws](#) or regulations, including but not limited to [G.L. c. 5, s. 1](#) (Prevailing Wages for Printing and Distribution of Public Documents); [G.L. c. 7, s. 22](#) (Prevailing Wages for Contracts for Meat Products and Clothing and Apparel); [minimum wages and prevailing wage programs and payments](#); [unemployment insurance](#) and contributions; [workers' compensation and insurance](#), [child labor laws](#), [AGO fair labor practices](#); [G.L. c. 149](#) (Labor and Industries); [G.L. c. 150A](#) (Labor Relations); [G.L. c. 151](#) and [455 CMR 2.00](#) (Minimum Fair Wages); [G.L. c. 151A](#) (Employment and Training); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); [G.L. c. 152](#) (Workers' Compensation); [G.L. c. 153](#) (Liability for Injuries); [29 USC c. 8](#) (Federal Fair Labor Standards); [29 USC c. 28](#) and the [Federal Family and Medical Leave Act](#).

Federal And State Laws And Regulations Prohibiting Discrimination including but not limited to the [Federal Equal Employment Opportunity \(EEO\) Laws](#) the [Americans with Disabilities Act](#); [42 U.S.C. Sec. 12,101, et seq.](#), the [Rehabilitation Act](#), [29 USC c. 16 s. 794](#); [29 USC c. 16 s. 701](#); [29 USC c. 14, 623](#); the [42 USC c. 45](#); (Federal Fair Housing Act); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); the Public Accommodations Law [G.L. c. 272, s. 92A](#); [G.L. c. 272, s. 98](#) and 98A, [Massachusetts Constitution Article CXIV](#) and [G.L. c. 93, s. 103](#); [47 USC c. 5, sc. II, Part II, s. 255](#) (Telecommunication Act; Chapter 149, [Section 105D](#), [G.L. c. 151C](#), [G.L. c. 272, Section 92A](#), [Section 98](#) and [Section 98A](#), and [G.L. c. 111, Section 199A](#), and [Massachusetts Disability-Based Non-Discrimination Standards For Executive Branch Entities](#), and related Standards and Guidance, authorized under Massachusetts Executive Order or any disability-based protection arising from state or federal law or precedent. See also [MCAD](#) and [MCAD links and Resources](#).

Small Business Purchasing Program (SBPP). A Contractor may be eligible to participate in the SBPP, created pursuant to [Executive Order 523](#), if qualified through the SBPP COMMBUYS subscription process at [www.commbuys.com](#) and with acceptance of the terms of the SBPP participation agreement.

Limitation of Liability for Information Technology Contracts (and other Contracts as Authorized). The [Information Technology Mandatory Specifications](#) and the [IT Acquisition Accessibility Contract Language](#) are incorporated by reference into Information Technology Contracts. The following language will apply to Information Technology contracts in the U01, U02, U03, U04, U05, U06, U07, U08, U09, U10, U75, U98 object codes in the [Expenditure Classification Handbook](#) or other Contracts as approved by CTR or OSD. Pursuant to Section 11. Indemnification of the Commonwealth Terms and Conditions, the term "other damages" shall include, but shall not be limited to, the reasonable costs the Commonwealth incurs to repair, return, replace or seek cover (purchase of comparable substitute commodities and services) under a Contract. "Other damages" shall not include damages to the Commonwealth as a result of third party claims, provided, however, that the foregoing in no way limits the Commonwealth's right of recovery for personal injury or property damages or patent and copyright infringement under Section 11 nor the Commonwealth's ability to join the contractor as a third party defendant. Further, the term

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"other damages" shall not include, and in no event shall the contractor be liable for, damages for the Commonwealth's use of contractor provided products or services, loss of Commonwealth records, or data (or other intangible property), loss of use of equipment, lost revenue, lost savings or lost profits of the Commonwealth. In no event shall "other damages" exceed the greater of \$100,000, or two times the value of the product or service (as defined in the Contract scope of work) that is the subject of the claim. Section 11 sets forth the contractor's entire liability under a Contract. Nothing in this section shall limit the Commonwealth's ability to negotiate higher limitations of liability in a particular Contract, provided that any such limitation must specifically reference Section 11 of the Commonwealth Terms and Conditions. In the event the limitation of liability conflicts with accounting standards which mandate that there can be no cap of damages, the limitation shall be considered waived for that audit engagement. These terms may be applied to other Contracts only with prior written confirmation from the Operational Services Division or the Office of the Comptroller. The terms in this Clarification may not be modified.

Northern Ireland Certification. Pursuant to [G.L. c. 7 s. 22C](#) for state agencies, state authorities, the House of Representatives or the state Senate, by signing this Contract the Contractor certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Contractor employs ten or more employees in an office or other facility located in Northern Ireland the Contractor certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Contractor is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

Pandemic, Disaster or Emergency Performance. In the event of a serious emergency, pandemic or disaster outside the control of the Department, the Department may negotiate emergency performance from the Contractor to address the immediate needs of the Commonwealth even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

Consultant Contractor Certifications (For Consultant Contracts "HH" and "NN" and "U05" object codes subject to [G.L. Chapter 29, s. 29A](#)). Contractors must make required disclosures as part of the RFR Response or using the [Consultant Contractor Mandatory Submission Form](#).

Attorneys. Attorneys or firms providing legal services or representing Commonwealth Departments may be subject to [G.L. c. 30, s. 65](#), and if providing litigation services must be approved by the Office of the Attorney General to appear on behalf of a Department, and shall have a continuing obligation to notify the Commonwealth of any conflicts of interest arising under the Contract.

Subcontractor Performance. The Contractor certifies full responsibility for Contract performance, including subcontractors, and that comparable Contract terms will be included in subcontracts, and that the Department will not be required to directly or indirectly manage subcontractors or have any payment obligations to subcontractors.

EXECUTIVE ORDERS

For covered Executive state Departments, the Contractor certifies compliance with applicable [Executive Orders](#) (see also [Massachusetts Executive Orders](#)), including but not limited to the specific orders listed below. A breach during period of a Contract may be considered a material breach and subject Contractor to appropriate monetary or Contract sanctions.

Executive Order 481. Prohibiting the Use of Undocumented Workers on State Contracts. For all state agencies in the Executive Branch, including all executive offices, boards, commissions, agencies, Departments, divisions, councils, bureaus, and offices, now existing and hereafter established, by signing this Contract the Contractor certifies under the pains and penalties of perjury that they shall not knowingly use undocumented workers in connection with the performance of this Contract; that, pursuant to federal requirements, shall verify the immigration status of workers assigned to a Contract without engaging in unlawful discrimination; and shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker

Executive Order 130. Anti-Boycott. The Contractor warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereafter defined, participates in or cooperates with an international boycott (See [IRC § 999\(b\)\(3\)-\(4\)](#), and [IRS Audit Guidelines Boycotts](#)) or engages in conduct declared to be unlawful by [G.L. c. 151E, s. 2](#). A breach in the warranty, representation, and agreement contained in this paragraph, without limiting such other rights as it may have, the Commonwealth shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by the Contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51% of the ownership interests of the Contractor, or which directly or indirectly owns at least 51% of the ownership interests of the Contractor.

Executive Order 346. Hiring of State Employees By State Contractors. Contractor certifies compliance with both the conflict of interest law [G.L. c. 268A specifically s. 5 \(f\)](#) and this order; and includes limitations regarding the hiring of state employees by private companies contracting with the Commonwealth. A privatization contract shall be deemed

to include a specific prohibition against the hiring at any time during the term of Contract, and for any position in the Contractor's company, any state management employee who is, was, or will be involved in the preparation of the RFP, the negotiations leading to the awarding of the Contract, the decision to award the Contract, and/or the supervision or oversight of performance under the Contract.

Executive Order 444. Disclosure of Family Relationships With Other State Employees. Each person applying for employment (including Contract work) within the Executive Branch under the Governor must disclose in writing the names of all immediate family related to immediate family by marriage who serve as employees or elected officials of the Commonwealth. All disclosures made by applicants hired by the Executive Branch under the Governor shall be made available for public inspection to the extent permissible by law by the official with whom such disclosure has been filed.

Executive Order 504. Regarding the Security and Confidentiality of Personal Information. For all Contracts involving the Contractor's access to personal information, as defined in [G.L. c. 93H](#), and personal data, as defined in [G.L. c. 66A](#), owned or controlled by Executive Department agencies, or access to agency systems containing such information or data (herein collectively "personal information"), Contractor certifies under the pains and penalties of perjury that the Contractor (1) has read Commonwealth of Massachusetts Executive Order 504 and agrees to protect any and all personal information; and (2) has reviewed all of the Commonwealth [Information Technology Division's Security Policies](#). Notwithstanding any contractual provision to the contrary, in connection with the Contractor's performance under this Contract, for all state agencies in the Executive Department, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established, the Contractor shall: (1) obtain a copy, review, and comply with the contracting agency's Information Security Program (ISP) and any pertinent security guidelines, standards, and policies; (2) comply with all of the Commonwealth of Massachusetts Information Technology Division's "[Security Policies](#)" (3) communicate and enforce the contracting agency's ISP and such Security Policies against all employees (whether such employees are direct or contracted) and subcontractors; (4) implement and maintain any other reasonable appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access by the contracting agency from the unauthorized access, destruction, use, modification, disclosure or loss; (5) be responsible for the full or partial breach of any of these terms by its employees (whether such employees are direct or contracted) or subcontractors during or after the term of this Contract, and any breach of these terms may be regarded as a material breach of this Contract; (6) in the event of any unauthorized access, destruction, use, modification, disclosure or loss of the personal information (collectively referred to as the "unauthorized use"): (a) immediately notify the contracting agency if the Contractor becomes aware of the unauthorized use; (b) provide full cooperation and access to information necessary for the contracting agency to determine the scope of the unauthorized use; and (c) provide full cooperation and access to information necessary for the contracting agency and the Contractor to fulfill any notification requirements. Breach of these terms may be regarded as a material breach of this Contract, such that the Commonwealth may exercise any and all contractual rights and remedies, including without limitation indemnification under Section 11 of the [Commonwealth's Terms and Conditions](#), withholding of payments, Contract suspension, or termination. In addition, the Contractor may be subject to applicable statutory or regulatory penalties, including and without limitation, those imposed pursuant to [G.L. c. 93H](#) and under [G.L. c. 214, § 3B](#) for violations under M.G.L. c. 66A.

Executive Orders 523, 524 and 526. Executive Order 526 (Order Regarding Non-Discrimination, Diversity, Equal Opportunity and Affirmative Action which supersedes [Executive Order 478](#)), [Executive Order 524](#) (Establishing the Massachusetts Supplier Diversity Program which supersedes Executive Order 390), [Executive Order 523](#) (Establishing the Massachusetts Small Business Purchasing Program.) All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. The Contractor and any subcontractors may not engage in discriminatory employment practices; and the Contractor certifies compliance with applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and the Contractor commits to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. These provisions shall be enforced through the contracting agency, OSD, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.

**AMENDMENT #2
TO THE
CONTRACT FOR SENIOR CARE ORGANIZATIONS
BY AND BETWEEN
THE EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
AND
SENIOR WHOLE HEALTH, LLC**

WHEREAS, the Executive Office of Health and Human Services Office of Medicaid (referred to throughout the Contract as either “EOHHS” or “MassHealth”) and Senior Whole Health, LLC (“Contractor”) entered into a Senior Care Organizations (SCO) Contract on June 6, 2015, with an effective start date of January 1, 2016, to provide certain medical services; and

WHEREAS, EOHHS and the Contractor amended the SCO Contract in a document entitled Amendment #1 to the Contract for Senior Care Organizations By and Between the Executive Office of Health and Human Services and Senior Whole Health, LLC on June 16, 2016 (the “First Amendment”); and

WHEREAS, unless further amended hereinafter, the First Amendment remains in full force and effect; and

WHEREAS, EOHHS and the Contractor desire to further amend their agreement in accordance with the terms and conditions set forth herein; and

WHEREAS, the parties agree that the terms stated herein are subject to the approval of the federal Centers for Medicare and Medicaid Services (CMS);

NOW, THEREFORE, in consideration of their mutual undertakings, EOHHS and the Contractor agree to further amend the SCO Contract as follows:

1. **SECTION 1. DEFINITIONS OF TERMS** shall be amended as follows:

- a. “**Chronically Homeless**” shall be added as a defined term following the paragraph that defines the term “**Centralized Enrollee Record (CER)**”:

“**Chronically Homeless** – An unaccompanied homeless individual with a disabling condition who either has been continuously homeless for a year or more, or has had at least four episodes of homelessness in the past three years.”

- b. The following sentence shall be added immediately following the last sentence of the paragraph that defines the term “**Covered Services**”

“For the avoidance of doubt, Covered Services shall not include any items or services for which payment is prohibited pursuant to 42 U.S.C. § 1396b(i)(16) and 42 U.S.C. § 1396b(i)(17).”

- c. **“Decision”** shall be added as a defined term following the paragraph that defines the term **“Cultural Competence”**:

“Decision – any one of the following actions or inactions by the Contractor shall be considered a Decision for purposes of **Section 2.9**:

- (1) the failure to provide Covered Services in a timely manner in accordance with the accessibility standards in **Section 2.6.**;
- (2) the denial or limited authorization of a requested service, including the determination that a requested service is not a Covered Service;
- (3) the reduction, suspension, or termination of a previous authorization by the Contractor for a service;
- (4) the denial, in whole or in part, of payment for a service, where coverage of the requested service is at issue, provided that procedural denials for requested services do not constitute Actions, including but not limited to denials based on the following:
 - (i) failure to follow prior authorization procedures;
 - (ii) failure to follow referral rules;
 - (iii) failure to file a timely claim;
- (5) the failure to act within the timeframes in **Section 2.4.A.14** for making authorization decisions; and
- (6) the failure to act within the timeframes in **Section 2.9.B** for reviewing an Internal Appeal and issuing a decision.”

- d. **“Fiscal Intermediary (FI)”** shall be added as a defined term following the paragraph that defines the term **“Executive Office of Health and Human Services (EOHHS)”**:

“Fiscal Intermediary (FI) – an entity contracting with EOHHS to perform functions that support an Enrollee’s employment of PCAs, such as withholding, filing, and payment of federal and state taxes and purchase of worker’s compensation insurance (see **130 CMR 422.419**), as well as related administrative tasks, including but not limited to issuing PCA checks.”

- e. **“Personal Care Attendant (PCA)”** shall be added as a defined term following the paragraph that defines the term **“Primary Care”**:

“Personal Care Attendant (PCA) – a person who meets the requirements described in **130 CMR 422.411(A)(1)** who is hired by the Enrollee (or a representative of the Enrollee) who provides physical assistance to the Consumer with activities of daily living (as described in **130 CMR 422.410 (A)**) or instrumental activities of daily living (as described in **130 CMR 422.410(B)**).

- f. **“Personal Care Management Agency (PCM Agency)”** shall be added as a defined term following the paragraph that defines the term **“Personal Care Attendant (PCA)”**:

“Personal Care Management Agency (PCM Agency) – a public or private agency under contract with the Contractor to provide PCM Services to an Enrollee in accordance with **130 CMR 422.000.**”

- g. **“Personal Care Management Services (PCM Services)”** shall be added as a defined term following the paragraph that defines the term **“Personal Care Management Agency (PCM Agency)”**:

“Personal Care Management Services (PCM Services)” – services provided by a PCM Agency to an Enrollee, including, but not limited to, those services identified in 130 CMR 422.419(A).”

- h. **“Secretary”** shall be added as a defined term following the paragraph that defines the term **“Rate Cells (also known as Rating Categories) (RCs)”**:

“Secretary” – the Secretary of the U.S. Department of Health and Human Services or the Secretary’s designee.”

2. **SECTION 2. CONTRACTOR RESPONSIBILITIES** shall be amended as follows:

- a. **Section 2.1** is hereby amended by

1. Deleting subsection B and replacing it with the following:

“B. Compliance with Applicable Law

The Contractor must comply with Medicaid managed care requirements in Title XIX of the Social Security Act and 42 CFR Part 438; Medicare Advantage program requirements in Part C and Part D of Title XVIII of the Social Security Act and 42 CFR Part 422; and all other provisions of applicable Federal and State laws and regulations including title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972 (regarding education programs and activities); the Age Discrimination Act of 1975; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990 as amended; and the Patient Protection and Affordable Care Act of 2010 (including, but not limited to, section 1557 of that statute). The contractor must also comply, to the satisfaction of EOHHS, with all provisions set forth in this contract.

2. Adding new subsection D as follows:

“D. Outpatient Drugs

Pursuant to 42 U.S.C. § 1396b(m)(2)(A)(xiii), covered outpatient drugs dispensed to Enrollees shall be subject to the same rebate required by the agreement entered into under 42 U.S.C. § 1396r–8 as the State is subject to and the State shall collect such rebates from manufacturers. The Contractor shall report to the State, on a timely and periodic basis specified by the Secretary, information on the total number of units of each dosage form and strength and package size by National Drug Code of each covered outpatient drug dispensed to Enrollees for which the Contractor is responsible for coverage (other than outpatient drugs) and other data as the Secretary determines necessary.”

b. **Section 2.3.E** is hereby amended by adding new subsection 5 as follows:

“5. Make disenrollment determinations within the timeframe set forth in 42 CFR 438.56(e)(1). In the event that the Contractor fails to make a disenrollment determination within such timeframe, the disenrollment is considered approved.”

c. **Section 2.4.A.14** is hereby amended by adding the following sentence immediately following the first sentence thereof:

“In connection with the processing of such requests, the Contractor shall consult with the requesting Provider when appropriate.”

d. **Section 2.4.D** is hereby amended by adding the following subsection (9):

9 SL
“(9) Community Support Program (CSP) Services for Chronically Homeless Individuals

Subject to the Medical Necessity requirements set forth in 130 CMR 450.204, other Contract requirements, and applicable statutory and regulatory requirements, the Contractor shall provide CSP services as set forth in Appendix A, Exhibit 1, Section B.1 to eligible Enrollees as defined in this section.

1. For purposes of this Section 2.4.D.9, an eligible Enrollee shall be an Enrollee that either (a) received CSP services at the time of enrollment or (b) is Chronically Homeless.
2. The Contractor shall authorize, arrange, coordinate, and provide CSP services, as set forth in Appendix A, Exhibit 1, Schedule B.1, to eligible Enrollees, which shall include, at a minimum:
 - i. Assisting in enhancing daily living skills;
 - ii. Providing service coordination and linkages;
 - iii. Assisting with obtaining benefits, housing and healthcare;
 - iv. Developing a crisis plan;
 - v. Providing prevention and intervention; and
 - vi. Fostering empowerment and recovery, including linkages to peer support and self-help groups.”

e. **Section 2.5.B.4** is hereby amended by:

1. Deleting the word “and” at the end of subsection (b);
2. Replacing the period (.) that appears at the end of subsection (c) with “; and”; and
3. Adding new subsection (d) as follows:

“(d) Include provisions in its contracts with its PCM Agencies requiring that the PCM Agencies instruct Enrollees regarding appropriate utilization of PCA nonemergency overtime pursuant to **130 CMR 422.418(C)**, in accordance with **130 CMR**

422.421(B)(1)(b)(5). For the avoidance of doubt, any Contractor contracting with a PCM Agency to provide PCM Services shall require such PCM Agency to agree to:

1. Attend trainings as directed by EOHHS;
2. Comply with reporting requirements for PCA services as directed by EOHHS;
3. Respond to Enrollee inquiries regarding overtime management and overtime approval requests;
4. Educate Enrollees that do or may need to schedule PCAs for more than 40 hours per week regarding the scheduling requirements pursuant to **130 CMR 422.420(A)(5)(b)** and **130 CMR 422.418(C)** and the potential consequences pursuant to **130 CMR 422.420(B)(5)**;
5. Assist Enrollees that do or may need to schedule PCAs to work more than 40 hours per week by working with those Enrollees to identify additional resources to enable such Enrollees to hire additional PCAs to meet the scheduling requirements;
6. Provide an overtime approval request form for Enrollees who request it, provide related instruction in completing the form to request overtime approval, and work with Enrollees to obtain Enrollee and PCA signatures;
7. Review and submit completed overtime approval request forms within one business day of receipt of said forms to MassHealth in a manner prescribed by MassHealth and maintain the original and related documents, if any, in the Enrollee's file;
8. Communicate MassHealth's decisions regarding overtime approval requests within one business day to Enrollees and to the Contractor;
9. Assist Enrollees who are denied overtime approval requests, or Enrollees who are approved for a short-term continuity of care overtime approval requests, by:
 - a. Working with the enrollee to identify additional resources to enable enrollee to hire additional PCAs;
 - b. Working and communicating with the FI regarding overtime approval requests and decisions;
 - c. Working and communicating with the Contractor regarding the statuses of Enrollees who have been approved to schedule overtime, Enrollees who have not been approved to schedule overtime but who have applied

for an overtime approval, and Enrollees who are not in compliance with the MassHealth overtime scheduling requirements pursuant to 130 CMR 422; and

- d. Informing Enrollees about their appeal rights with the MassHealth Board of Hearings pursuant to 130 CMR 610.
- 10. Receive and maintain lists from FIs that identify Enrollees who employ PCAs that work more than 40 hours per week; and
 - 11. Prioritize the list of existing Enrollees who employ PCAs that work more than 40 hours per week and contact such Enrollees in order of priority to identify and assess each Enrollee's need for scheduling one or more PCAs for overtime.
- f. **Section 2.9.A.2** is hereby amended by adding the following sentence immediately following the first sentence thereof:

“If the Contractor denies payment for a claim submitted by the Enrollee, the Contractor must notify the Enrollee of its decision on the day of the payment denial.”
 - g. **Section 2.9.B.2** is hereby amended by adding the following sentence at the end of the first paragraph thereof:

“The Contractor shall include, as parties to the internal appeal, the Enrollee and his or her representative or the legal representative of a deceased Enrollee's estate.”
 - h. **Section 2.9.B.2.a.2** is hereby amended by adding the following sentence at the end thereof:

“If the Contractor reverses an Action to deny, limit, or delay services, and the Enrollee received such services while the appeal was pending, the Contractor shall pay for such services.”
 - i. **Section 2.9.B.2.b.4** is hereby amended by adding the following sentence at the end thereof:

“If the Contractor reverses an Action to deny, limit, or delay services, and the Enrollee received such services while the appeal was pending, the Contractor shall pay for such services.”
 - j. **Section 2.9.C.1.d** is hereby amended by adding the following sentence at the end thereof:

“If the CMS Independent Review Entity reverses an Action to deny, limit, or delay services, and the Enrollee received such services while the appeal was pending, the Contractor shall pay for such services.”

k. **Section 2.9.C.2.b** is hereby amended by adding the following language at the end of the first sentence thereof:

“and 42 CFR 431.244(f).”

l. **Section 2.9.C.2.e** is hereby amended by adding the following sentence at the end thereof:

“If the BOH reverses an Action to deny, limit, or delay services, and the Enrollee received such services while the appeal was pending, the Contractor shall pay for such services.”

m. **Section 2.11.D** is hereby amended by:

1. In the first sentence, deleting the word “Contract” and substituting “Contractor” in its place;
2. Deleting the word “or” at the end of subsection (1);
3. Replacing the period (.) at the end of subsection (2) with a semi-colon (;); and
4. Adding new subsections (3) and (4) as follows:

“(3) make any assertion or statement, whether written or oral, that the Contractor is endorsed by CMS, the federal or state government, or similar entity; or

(4) seek to influence a Potential Enrollee’s enrollment with the Contractor in conjunction with the sale or offering of any private insurance.”

n. **Section 2.13.A** is hereby amended by adding new subsection (3) as follows:

“3. The Contractor shall collect from its PCM Agencies, and provide to EOHHS upon request, reports as directed by EOHHS. Such reports may include, but are not limited to, the following information:

1. The number of overtime approval requests received; and
2. The number of overtime approval requests submitted to MassHealth.”

o. **Section 2.15(A)** is hereby amended by:

1. Deleting the word “and” following the semi-colon at the end of subsection 2;
2. Replacing the period at the end of subsection 3 with “; and”; and
3. Adding new subsection (4) as follows:

“(4) ensure that data received from Providers is 99% complete and 95% accurate by:

- a) Verifying the accuracy and timeliness of reported data;

- b) Screening the data for completeness, logic and consistency; and
- c) Collecting service information in standardized formats to the extent feasible and appropriate.”

3. **SECTION 5. ADDITIONAL TERMS AND CONDITIONS** shall be amended as follows:

- a. **Section 5.1.E** is hereby amended by adding the following sentence at the end of the second paragraph thereof:

“In the event that EOHHS learns that the Contractor has a prohibited affiliation with a person or entity who is debarred, suspended, or excluded from participating in federal healthcare programs, EOHHS (a) must notify the Secretary of the noncompliance, (b) may continue the SCO Contract unless the Secretary directs otherwise, and (c) may not renew or extend the SCO Contract unless the Secretary provides to the State and to Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.”

- b. **Section 5.1.F** is hereby amended by replacing “42 USC § 1396b(m)(4)(a)” with “42 U.S.C. § 1396-b(m)(4).”

- c. **Section 5.5.S** is hereby amended by:

- 1. Renumbering the first paragraph as subsection (1); and
- 2. Adding a new subsection (2) as follows:

“(2) In accordance with 42 U.S.C. § 1396u-2(d)(3) and 42 CFR 438.58, EOHHS will implement safeguards against conflicts of interest on the part of its officers and employees who have responsibilities relating to the Contractor or any Subcontractor that are at least as effective as the safeguards specified in section 27 of the Office of Federal Procurement Policy (41 U.S.C. § 423).”

- d. **Section 5.7.B** is hereby amended by adding the following sentence at the end thereof:

“If EOHHS is the terminating party, and the termination is pursuant to EOHHS’s authority under 42 CFR 438.708, such notice must include the reason for termination and the time and place of the pre-termination hearing pursuant to 42 CFR 438.710(b)(1).”

- e. **Section 5.7.D** is hereby deleted in its entirety and replaced with the following:

“D. Termination Pursuant to 42 CFR 438.708; Pre-Termination Hearing

- 1. EOHHS may terminate this Contract pursuant to its authority under 42 CFR 438.708. In the event that the termination is for failure to comply with sections 1932, 1903(m), or 1905(t) of the Medicare Act, EOHHS may impose only the following sanctions: (1) granting Enrollees the right to

disenroll without cause and notifying the affected Enrollees of their right to disenroll, (2) suspending all new enrollments, including default enrollment, after the effective date of the sanction, and/or (3) suspending payments for all Enrollees who enroll after the effective date of the sanction and until CMS or EOHHS is satisfied that the reason for imposition of the sanction no longer exists and is not likely to recur.

2. If EOHHS terminates this Contract pursuant to its authority under 42 CFR 438.708, EOHHS shall provide the Contractor with a pre-termination hearing in accordance with 42 CFR 438.710 as follows:

i. EOHHS shall give the Contractor written notice of intent to terminate, the reason for termination, and the time and place of the hearing;

ii. After the hearing, EOHHS shall give the Contractor written notice of the decision affirming or reversing the proposed termination of the Contract and, for an affirming decision, the effective date of termination; and

iii. If the decision is affirmed, EOHHS shall give Enrollees notice of the termination and information on their options for receiving MassHealth services following the effective date of termination in accordance with 42 CFR 438.710(b)(2)(iii) and Section 5.7.C.2.a of this Contract.

3. If EOHHS terminates this Contract, EOHHS and the Contractor shall comply with all Continuing Obligations set forth in Section 5.7.C of this Contract.”

f. **Section 5.11** is hereby amended by deleting the phrase “Kenneth Smith, Director” and replacing it with “Elizabeth Goodman, Director.”