

ATTACHMENT 7 – EXCEPTIONS TO THE AGREEMENT

CONTRACTOR NAME Deloitte Consulting LLP

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TELEPHONE# [REDACTED] Email rfrey@deloitte.com

I have reviewed the **RFP Attachment 6 – BenefitsCal Agreement** in its entirety and have the following exceptions: Please identify and list your exceptions by indicating the Section or Paragraph number, and Page number, as applicable. Bidders are directed to be specific about any objections to content, language, or omissions. Add as many rows and pages as required.

Contractor would welcome the opportunity to leverage wording on any of these items that the parties have agreed to for other projects and has endeavored to propose exceptions aligned to the same

Table 1 - Agreement Exceptions Form

#	SECTION	PAGE #	ORIGINAL LANGUAGE	PROPOSED LANGUAGE	ANTICIPATED IMPACT TO STAFFING AND COST, AS APPLICABLE
1	5.3.5.1	20	Conduct ongoing evaluations of statutory and/or regulatory changes impacting Benefits...	Support ongoing evaluations of statutory and/or regulatory changes impacting Benefits...	We can support evaluations of changing statutes and regulations but cannot give legal advice.
2	6.13	62		We request this be added: "The results of such reference checks shall not be disclosed by the Consortium unless required by applicable law."	To provide confidentiality for such check for the sake of the individuals.
3	7.5	66	Consortium will hold back ten percent (10%) of each monthly invoice during the Transition-In period, and for an additional twelve (12) months following the Transition-In period. This ten percent (10%) holdback will be	...Consortium will hold back ten percent (10%) of each monthly invoice during the Transition-In period. This ten percent (10%) holdback will be released after acceptance of all Deliverables for the Transition-In Period.	Contractor requests clarification that the withhold will only be on the Transition-In invoices (versus invoices during the 12 months that follow) and a reasonable withhold period commensurate with this

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			released after the twelve (12) months following the Transition-In period upon condition that all Transition-In Deliverables have been accepted by the Consortium		engagement, such as acceptance of the transition-in Deliverables.
4	7.6.3	67	Notwithstanding the above, Consortium agrees to pay all invoices for goods, Services, and Deliverables that have been accepted by the Consortium as of the date of the termination, or that subsequently are accepted by the Consortium thereafter.	Notwithstanding the above, Consortium agrees to pay all invoices for goods, Services, and Deliverables in accordance with terms for payment set forth in Section 18.5.2	We would seek to clarify that we will be compensated for all work performed as though it were a termination for convenience.
5	8.6	69	...such a refusal, which shall be deemed a termination based on Contractor's default. In addition...	...such a refusal. In addition...	Inability to reach agreement should not be a termination for default.
6	9.3	71	Notwithstanding anything to the contrary herein, Contractor shall be liable to the Consortium for any damages resulting from damage to property, which damages result from or are caused by Contractor's negligent or intentional acts or omissions...	Notwithstanding anything to the contrary herein, Contractor shall be liable to the Consortium for any damages resulting from damage to <u>such</u> property, which damages result from or are caused by Contractor's negligent or intentional acts or omissions.	Clarifying edit to clarify the property covered is that stated above.
7	11.1	74	...shall meet all requirements, as set forth in this Agreement, including the Specifications and the BenefitsCal Services Plan, BenefitsCal Work Plan and OWDs. All Deliverables shall be complete, meet Specifications, adhere to the applicable DED, be provided timely as defined in the Work Plan, internally consistent, consistent with	...shall meet the applicable Specifications. The warranty period... Add: Contractor shall have no obligation under this Section 11 to make warranty repairs attributable to: (i) Consortium's misuse or modification of such Deliverable or the System; (ii) Consortium's failure	Contractor requests this reference the defined term Specifications as the warranty and the inclusion of industry standard exceptions, such as for the Consortium's misuse or modification.

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			other related Deliverables, uniform in appearance, prepared by qualified personnel in accordance with standards, methods and Acceptance criteria as defined in the applicable DED, and be free of Deficiencies. The warranty period...	to use corrections or enhancements made available by Contractor at no additional cost to Consortium; (iii) Consortium's use of such Deliverable or the System in combination with any product other than those specified by Contractor; (iv) the quality or integrity of data from other automated or manual systems with which such Deliverable or the System interfaces; (v) hardware, systems software, telecommunications equipment or software not a part of such Deliverable or the System which is inadequate to allow proper operation of such Deliverable or the System or which is not operating in accordance with the manufacturer's specifications; or (vi) operation or utilization of such Deliverable or the System in a manner not contemplated by this Agreement. .	
8	11.2	74	Contractor represents and warrants that Contractor shall perform the Services as described in this Agreement and in accordance with the BenefitsCal Services Plan, BenefitsCal Work Plan, OWDs, and applicable Specifications. Time is of the essence in connection with Contractor's performance of the Services according to the	Contractor shall perform the Services as described in this Agreement and in accordance with the BenefitsCal Services Plan, BenefitsCal Work Plan, OWDs, and applicable Specifications. Contractor shall give due priority to the performance of the Services commensurate with the urgency of the task. Contractor shall perform all Services required pursuant to this	We believe that "time is of the essence" language is not appropriate for this type of engagement as we work closely with the Consortium and our performance has dependencies. Also, for services the warranty should be that stated in the second half of the clause.

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			Consortium-approved Schedule. Contractor shall give due priority to the performance of the Services commensurate with the urgency of the task. Contractor shall perform all Services required pursuant to this Agreement in a professional manner, with high quality, knowledge and experience in business and systems integrations. All Services warranty work shall be at no additional cost to the Consortium during the term of this Agreement.	Agreement in a professional manner, with high quality, knowledge and experience in business and systems integrations. All Services warranty work shall be at no additional cost to the Consortium during the term of this Agreement.	
9	11.5	76		We would propose to remove 11.5.1 and 11.5.2 as overlapping with the prior warranties.	
10	11.6.4	78	...which arise from any Contractor noncompliance with the federal, State, or County laws, regulations, codes, policies and guidelines resulting from Contractor's or its Subcontractors' performance of their obligations.	...which arise from any Contractor noncompliance with the federal, State, or County laws and regulations applicable to Contractor or its Subcontractor in its or their performance of their obligations.	To clarify it is our noncompliance with those that apply to us/our subcontractors in our performance.
11	11.7	79	In the event that Contractor fails to timely perform its obligations set forth in this Section after receiving Notice from the Consortium of Contractor's failure to meet such obligations, the Consortium shall have the right to withhold payment to Contractor subject to the provisions of Section 14.1.	. In the event that Contractor fails to timely perform its obligations set forth in this Section after receiving Notice from the Consortium of Contractor's failure to meet such obligations, the Consortium shall have the right to withhold payment to Contractor for the applicable services giving rise to the failure subject to the provisions of Section 14.1.	To allow for withholding for the applicable services.

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12	12.1	80	...arising from, connected with, or related to claims and lawsuits by third parties, for any damages of any nature whatsoever for bodily injury, death, personal injury (including purely economic damage), or real or tangible personal property damage arising from...	...arising from claims and lawsuits by third parties for bodily injury, death or real or tangible personal property damage arising from...	To clarify the types of claims for which we would indemnify.
13	13.1	81		We request the following be added to the end of Section 13.1: "However, Contractor shall not be liable for liquidated damages or failed, delayed, and/or performance not in compliance if the same or failure to meet Performance Requirements is due to any act, event or omission outside of the control of Contractor or its subcontractors. In the event more than one Performance Requirement is not met as a result of an act or omission by Contractor, Contractor will only be liable for the Liquidated Damages for one such Performance Requirement (as chosen by the Consortium). Contractor's maximum aggregate liability for Liquidated Damages incurred in a given month in an amount shall be XXXX and aggregate liability for Liquidated Damages incurred under the Contract shall be YYYY."	To clarify for situations when the issue is caused by other events, acts or omissions outside Contractor control. We also request a monthly cap on Liquidated Damages.

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14	14.1	84	...withhold payments to Contractor, in whole or in part, until...	...withhold payments to Contractor for the applicable Services or Deliverable, in whole or in part, until...	To clarify that the withholding will be as to the on-conforming Services or Deliverables.
15	14.3	84	In the event a default by Contractor is not so substantial as to require termination, reasonable efforts to induce Contractor to cure the default are unavailing, and the default is capable of being cured by the Consortium or by another resource without unduly interfering with continued performance by Contractor, the Consortium may provide or procure the Deliverables or Services reasonably necessary to cure the default, in which event Contractor shall reimburse the Consortium an amount equal to the difference between Contractor's charges for such Deliverables or Services and the reasonable cost of the Deliverables or Services. In addition, Contractor must cooperate with these resources in allowing access to the BenefitsCal Deliverables.	In the event a default by Contractor is not so substantial as to require termination, reasonable efforts to induce Contractor to cure the default are unavailing, and the default is capable of being cured by the Consortium or by another resource without unduly interfering with continued performance by Contractor, the Consortium may provide or procure the Deliverables or Services reasonably necessary to cure the default. In addition, Contractor must cooperate with these resources in allowing access to the BenefitsCal Deliverables	We request to allow dispute resolution processes to determine damages based on the facts, causality and damages.
16	14.3	84	...to cure the default....the Deliverables or Services. In addition...	...to cure the default. In addition...	We wish to remove the automatic reimbursement portion, as Contractor may be found liable for cover costs, but that should be per dispute resolution versus automatic.

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17	14.7	86	EXCEPT FOR INDEMNIFICATION OBLIGATIONS, (i) CONTRACTOR's LIABILITY TO THE CONSORTIUM UNDER THIS AGREEMENT SHALL NOT EXCEED THE TOTAL CHARGES PAID AND TO BE PAID BY THE CONSORTIUM TO CONTRACTOR UNDER THE AGREEMENT, INCLUDING WITHOUT LIMITATION, CHANGE ORDER PRICES AGREED TO BY THE PARTIES OR OTHERWISE ADJUDICATED, AND (ii) CONTRACTOR SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, OR INCIDENTAL DAMAGES UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHER LEGAL THEORY, REGARDLESS OF THE CAUSE OF ACTION AND EVEN IF THE CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.	EXCEPT FOR INDEMNIFICATION OBLIGATIONS, (i) CONTRACTOR's LIABILITY TO THE CONSORTIUM UNDER THIS AGREEMENT SHALL NOT EXCEED, IN AGGREGATE, THE TOTAL CHARGES PAID BY THE CONSORTIUM TO CONTRACTOR UNDER THE AGREEMENT FOR SERVICES DURING THE 12 MONTH PERIOD PRECEDING THE DATE UPON WHICH THE FIRST CAUSE OF ACTION ACCRUED, INCLUDING WITHOUT LIMITATION, CHANGE ORDER PRICES AGREED TO BY THE PARTIES OR OTHERWISE ADJUDICATED AND PAID BY THE CONSORTIUM TO CONTRACTOR, AND (ii) CONTRACTOR SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHER LEGAL THEORY, REGARDLESS OF THE CAUSE OF ACTION AND EVEN IF THE CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES...	We request the formula be 12 months of charges paid and the exceptions' section numbers may need adjusting once the agreement is finalized to align to clauses with cost of cover concepts.
18	15.1	87	Contractor shall comply with, implement, adhere to and align with, track, and report on all applicable State, federal, and CalSAWS standards, regulations, guidelines and requirements in place as of the date of the Contractor's Proposal, and	Contractor shall comply with, implement, adhere to and align with, track, and report on all applicable confidentiality-related State, federal, and CalSAWS standards, regulations, guidelines and requirements in place as of the date of the Contractor's	We request the addition of this language so any change to the document aligns with the Agreement's change control process.

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			thereafter shall update its compliance obligations to adhere to any changes in applicable State, federal and CalSAWS standards, regulations, guidelines, and requirements.	Proposal, and thereafter shall update its compliance obligations to adhere to any changes in applicable State, federal and CalSAWS standards, regulations, guidelines, and requirements.	
19	15.3	87	The Consortium reserves the right to monitor, audit or investigate Contractor's use of the Consortium's and/or third parties' Confidential Information collected, used, or acquired by Contractor under this Agreement.		We request removal or clarification of this clause, as we are not sure how this would take place. We can instead answer questions.
20	16.1	90	Contractor shall include the Counties, its boards, agencies, contractors, officers, employees, agents and volunteers, and the State, both individually and collectively, as additional insureds on Contractor's commercial general liability and auto liability policies.... The minimum acceptable limits shall be as indicated below and Contractor shall be solely responsible for covering any deductibles provided in those policies.	Contractor shall include the Counties, its boards, agencies, contractors, officers, employees, agents and volunteers, and the State, both individually and collectively, as additional insureds on the commercial general liability and auto liability policies with respect to Contractor's acts or omissions in performance under this Agreement. ... The minimum acceptable limits shall be as indicated below:	We propose certain changes to the insurance language to be more consistent with the insurance that we (as well as other large professional services firms) maintain.
21	16.1.1	90	Commercial General Liability or equivalent self-insurance covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per	Commercial General Liability or equivalent self-insurance covering the risks of bodily injury (including death), property damage and personal and advertising injury, including coverage for contractual liability pursuant to policy terms and conditions, with a limit of not	

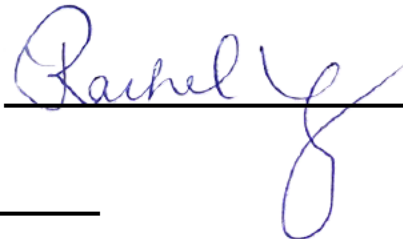
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			occurrence/\$2 million general aggregate;	less than \$1 million per occurrence/\$2 million general aggregate	
22	16.1.3	90	Employer Practices Liability Insurance covering the risks of Contractor's Staff and employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease	Employer's Liability Insurance covering the risks of Contractor's Staff and employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease and \$1 million policy limit by disease	
23	16.2	91	Prior to providing Services under this Agreement, Contractor shall, in full compliance with California state law, provide or purchase, at its sole cost and expense, statutory California's workers' compensation coverage for its employees as required and employers' liability in the amount of \$1 million per bodily injury by accident and \$1 million per bodily injury by disease. This policy shall remain in full force and effect during the term of the Agreement. Should Contractor fail to secure worker's compensation insurance coverage or fail to pay premiums on behalf of its employees, the Consortium may terminate this Agreement under Section 18.1 (Termination for Material Breach), or alternatively, and solely at the discretion of the	Prior to providing Services under this Agreement, Contractor shall, in full compliance with California state law, provide or purchase, at its sole cost and expense, statutory California's workers' compensation coverage for its employees as required and employers' liability in the minimum amount of \$1 million per bodily injury by accident and \$1 million per bodily injury by disease. This policy shall remain in full force and effect during the term of the Agreement. Should Contractor fail to secure worker's compensation insurance coverage or fail to pay premiums on behalf of its employees, the Consortium may terminate this Agreement under Section 16.1 (Termination for Material Breach).	

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			Consortium, deduct the amount of premiums owing for a policy of worker's compensation insurance coverage from the amounts payable to Contractor under this Agreement and transmit the same to the responsible State agency		
24	16.4	91	...written Notice has been given to the Consortium Executive Director, and Contractor has replacement insurance policy(ies) in place that satisfy the requirements...	...written Notice has been given to the Consortium Executive Director unless replacement coverage meeting the terms and conditions hereunder is obtained without lapse, and Contractor has replacement insurance policy(ies) in place that satisfy the requirements...	
25	16.5	91	Contractor shall furnish to the Consortium copies of certificates...	Contractor shall furnish to the Consortium copies of industry standard ACORD certificates...	
26	17.4	94	...Consortium's right to terminate this Agreement...Contractor may contest...	...A party's right to terminate this Agreement...The other party may contest...	It seems this should be mutual where both parties have termination rights.
27	18.9.1	97	...for any such Deliverables accepted by the Consortium.	...for any such Deliverables.	If Consortium is keeping them it should pay for them, even if not accepted.
28	18.9.2	97	Upon termination of this Agreement due to Contractor's breach of any of its obligations owing pursuant to this Agreement, the Consortium may withhold from any amounts due Contractor for Deliverables or Services such sum as the Consortium's Executive Director determines to be reasonably necessary to protect		We propose removal of this broad withhold right; the Consortium has other withhold rights and other remedies, including Section 18.9.5.

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			the Consortium from potential loss or liability.		
29	18.9.6	98	Contractor shall provide to the Consortium all information requested by the Consortium that is necessary to facilitate a subsequent bidding process without additional costs or fees...	Contractor shall provide to the Consortium all information requested by the Consortium that is necessary to facilitate a subsequent bidding process without additional costs or fees, except for Contractor's proprietary information, including but not limited to, the cost basis for Charges under this Agreement, employee salary information, and Contractor Technology.	We request addition of exceptions for our proprietary information and materials.
30	18.9.7	98	Contractor shall provide to the Consortium, without additional cost to it, and at least thirty (30) days prior to the expiration or termination of this Agreement, all files, data, and records necessary to effect the least disruptive and costly transition as possible under the circumstances.	Contractor shall provide the Consortium....necessary to endeavor to minimize the disruption from, and maximize the efficiency of, such transition under the circumstances.	We request this change to be a more objective standard.
31	19.3	99	...to any governmental entity...	...to any State of California governmental entity... May we also add: "There shall be no third party beneficiaries to this Agreement."	We request this as we otherwise have to check for conflicts and follow our client acceptance procedures. We also request clarification that there are no third party beneficiaries to the Agreement.
32	19.7	99	Contractor must submit claims against the Consortium...upon which Contractor...	Each party must submit claims against the other...upon which such party...	We request that both parties be bound to the same claim time period so that claims and

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					counterclaims are within the same rules.
33	20.1	114	All Work will be conducted in accordance with all data privacy and security requirements included in the Agreement, including but not limited to, the requirement that all Work performed remotely or offshore must take place within a secure bay dedicated to the Work ("Secure Bay").		As the working environment has moved to hybrid some individuals may work from a remote location (i.e., their home). We request to discuss this as part of negotiations to come to a mutually agreeable approach that accounts for changes in the working environment. On other engagements with the State of California a Secure Bay is used for production environments. As the teams outside of the United States will not have access to production data, we would also like to discuss alternatives as part of negotiations.

Name of Authorized Representative Rachel Frey, Principal

Signature of Authorized Representative 

Date July 30, 2024