

11.7 Attachment 7 – Exceptions to the Agreement

CONTRACTOR NAME International Business Machine, Inc.

ADDRESS 425 Market Street, San Francisco, CA 94105

TELEPHONE# (916) 607-1973 Email: mike.rockenstein@ibm.com

I have reviewed the RFP Attachment 6 – QA Services 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.

Table 1: Agreement Exceptions Form

#	SECTION	PAGE #	ORIGINAL LANGUAGE	PROPOSED LANGUAGE	ANTICIPATED IMPACT TO STAFFING AND COST, AS APPLICABLE
1	2. Definitions; 2.1 Acceptance	2	A Notice from the Consortium to the Contractor that a QA Deliverable or a QA Service has met the Consortium's reasonable satisfaction and applicable Specifications.	A Notice from the Consortium to the Contractor that a QA Deliverable or a QA Service has met the applicable Specifications defined in the DED.	Redlined in the agreement – N/A
2	2. Definitions; 2.14 Confidential Information	4	Subject to applicable federal, State and County laws and regulations, trade secrets and confidential information of the Consortium and Contractor, including, without limitation: all proprietary and confidential information of the Consortium, such as trade secrets, designs, drawings, specifications, computer programs, support materials and other records	Subject to applicable federal, State and County laws and regulations, trade secrets and confidential information of the Consortium and Contractor, including, without limitation: all proprietary and confidential information of the Consortium, such as trade secrets, designs, drawings, specifications, computer programs, support materials and other records concerning the Consortium and its finances, citizens, contracts, Services or personnel; the	Added "in writing."

			concerning the Consortium and its finances, citizens, contracts, Services or personnel; the Documentation and the other Specifications; the QA Deliverables and Services; any information or documentation concerning the Consortium's plans or business that is learned by Contractor during the performance of this Agreement including, without limitation, client and employee information, technical data, proprietary processes or designs; information the Consortium desires to protect against unrestricted disclosure or competitive use; Contractor proprietary Software development methodology (if any); proprietary and confidential information of its Subcontractors; and information designated as confidential by either the Consortium or Contractor. Confidential Information also includes any data designated by the State or the Counties as confidential.	Documentation and the other Specifications; the QA Deliverables and Services; any information or documentation concerning the Consortium's plans or business that is learned by Contractor during the performance of this Agreement including, without limitation, client and employee information, technical data, proprietary processes or designs; information the Consortium desires to protect against unrestricted disclosure or competitive use; Contractor proprietary Software development methodology (if any); proprietary and confidential information of its Subcontractors; and information designated as confidential by either the Consortium or Contractor. Confidential Information also includes any data designated in writing by the State or the Counties as confidential.	
3	2. Definitions; 2.61 Work	10	Any and all Tasks, Subtasks, Deliverables, goods, and Services provided or to be provided by or on behalf of Contractor pursuant to this Agreement.	Any and all Tasks, Subtasks, Deliverables, goods, and services provided or to be provided by or on behalf of Contractor pursuant to this Agreement.	N/A
4	5.1 General	11	5.1.1 5.1.1 Contractor shall provide the Consortium with the QA Deliverables and Services as described in the RFP, Contractor's Proposal submitted in response to that RFP, and this Agreement, and in accordance with the QA Service Plan and Specifications. Contractor shall utilize the RFP, its Proposal, the QA Service	5.1.1 Contractor shall provide the Consortium with the QA Deliverables and Services as described in the RFP, Contractor's Proposal submitted in response to that RFP, and this Agreement, and in accordance with the QA Service Plan and Specifications. Contractor shall utilize the RFP, its Proposal, the QA Service Plan and OWDs, the QA Deliverables and Services for which the Consortium previously	N/A

			Plan and OWDs, the QA Deliverables and Services for which the Consortium previously granted Acceptance, Change Orders agreed to by the Consortium and the Contractor, as well as Contractor's expert knowledge as the basis for delivering subsequent QA Deliverables and Services. Contractor will ensure that the QA Deliverables and Services, and Documents and materials provided or presented to, or developed for, the Consortium are consistent with industry standards, easily understandable and logically organized, accurate and complete in their data, and provide the appropriate level of detail for their respective purposes. Contractor will retain backup copies in writing and on electronic media of all QA Deliverables until termination of this Agreement and shall provide the Consortium on its request with a copy thereof until that time. As part of the Transition-Out process, Contractor will provide to the Consortium all Deliverables in electronic media.	granted Acceptance, Change Orders agreed to by the Consortium and the Contractor, as well as Contractor's expert knowledge as the basis for delivering subsequent QA Deliverables and Services. Contractor will ensure that the QA Deliverables and Services, and Documents and materials provided or presented to, or developed for, the Consortium are consistent with industry standards, easily understandable and logically organized, accurate and complete in their data, and provide the appropriate level of detail for their respective purposes. Contractor will retain backup copies in writing and on electronic media of all QA Deliverables until termination of this Agreement and shall provide the Consortium on its request with a copy thereof until that time. As part of the Transition -Out process, Contractor will provide to the Consortium all Deliverables in electronic media.	
5	5.5.3 Deliverable Acceptance	24	5.5.3 If a Deficiency (other than a Cosmetic Deficiency) is found in a Deliverable, Consortium shall promptly give Contractor Notice of its non-acceptance within ten (10) working days or such other period as the parties may agree in writing, with such Notice delineating Deficiencies used as the grounds for the Consortium's decision. Contractor shall promptly and in accordance with the QA Service Plan,	5.5.3 If a Deficiency (other than a Cosmetic Deficiency) is found in a Deliverable, Consortium shall promptly give Contractor Notice of its non-acceptance within ten (10) working days after receipt of the Deliverable or such other period as the parties may agree in writing, with such Notice delineating Deficiencies used as the grounds for the Consortium's decision. Contractor shall promptly and in accordance with the QA Service Plan, correct Deficiencies (including	TBD after more information is provided by CalSAWS during the next phase of the procurement (e.g., BAFO).

			correct Deficiencies (including Cosmetic Deficiencies) described in any Notice(s) of non-acceptance from the Consortium. After Contractor has corrected such Deficiencies (including in Contractor's discretion and to the extent feasible Cosmetic Deficiencies), the Consortium shall verify whether the Deliverable lacks Deficiencies (other than Cosmetic Deficiencies) and in writing shall either accept or not accept it following such review. If Contractor corrects all Deficiencies (other than Cosmetic Deficiencies) in the Deliverable, and the Consortium determines such Deliverable is free from Deficiencies (other than Cosmetic Deficiencies), the Consortium shall provide Contractor with its Acceptance of that Deliverable within ten (10) working days or such other period as the parties may agree in writing. The correction of Deficiencies is governed by Section 11.3 (Correction of Deficiencies).	Cosmetic Deficiencies) described in any Notice(s) of non-acceptance from the Consortium. After Contractor has corrected such Deficiencies (including in Contractor's discretion and to the extent feasible Cosmetic Deficiencies), the Consortium shall verify whether the Deliverable lacks Deficiencies (other than Cosmetic Deficiencies) and in writing shall either accept or not accept it following such review. If Contractor corrects all Deficiencies (other than Cosmetic Deficiencies) in the Deliverable, and the Consortium determines such Deliverable is free from Deficiencies (other than Cosmetic Deficiencies), the Consortium shall provide Contractor with its Acceptance of that Deliverable within ten (10) working days or such other period as the parties may agree in writing. The correction of Deficiencies is governed by Section 11.3 (Correction of Deficiencies).	
6	5.5.4 Deliverable Acceptance	24	5.5.4 If a Deficiency (other than a Cosmetic Deficiency) is found in a Deliverable, or a Deficiency persists following the Consortium's review and recommended revisions to that Deliverable, or if Contractor fails to deliver a Deliverable or revised version thereof with sufficient time for the Consortium to review, evaluate and comment on the Deliverable, the Consortium may, at its option: (a) continue reviewing the Deliverable and require Contractor to continue until	5.5.4 If a Deficiency (other than a Cosmetic Deficiency) is found in a Deliverable during the Acceptance period , or a Deficiency persists following the Consortium's review and recommended revisions to that Deliverable, or if Contractor fails to deliver a Deliverable or revised version thereof with sufficient time for the Consortium to review, evaluate and comment on the Deliverable, the Consortium may, at its option: (a) continue reviewing the Deliverable and require Contractor to continue until Deficiencies (other than Cosmetic Deficiencies) are corrected or eliminated or (b)	Look at Section 11. Warranty obligation should conclude upon Acceptance..

			Deficiencies (other than Cosmetic Deficiencies) are corrected or eliminated or (b) request Contractor to provide, at its expense, a replacement Deliverable for further review. If following the Consortium's exercise of its option under (a) or (b) above, the Deficiency persists and the Contractor has failed to cure it in a timely fashion, the Consortium may exercise its right to terminate this Agreement as described in Sections 18.1 and 18.2. The Consortium's options under this Section 5.5.4 shall remain in effect until Acceptance of all of the Deliverables.	request Contractor to provide, at its expense, a replacement Deliverable for further review. If following the Consortium's exercise of its option under (a) or (b) above, the Deficiency persists and the Contractor has failed to cure it in a timely fashion, the Consortium may exercise its right to terminate this Agreement as described in Sections 18.1 and 18.2. The Consortium's options under this Section 5.5.4 shall remain in effect until Acceptance of all of the Deliverables.	
7	5.6 Representations Regarding Deliverables	25	By submitting a Deliverable, Contractor represents that, to the best of its knowledge, it has met the Specifications in this Agreement, including applicable DEDs and Acceptance Criteria and all Exhibits thereto. By giving its Acceptance of a Deliverable, the Consortium represents only that it has reviewed the Deliverable and detected no Deficiencies of sufficient gravity to defeat or substantially threaten the attainment of those objectives and to warrant the withholding of Acceptance for the Work completed. The Consortium's Acceptance of a Deliverable does not discharge any of Contractor's responsibilities for comprehensiveness, effectiveness or conformance of the Deliverables and Services, as a whole, to the Specifications, relating to Contractor's	By submitting a Deliverable, Contractor represents that, to the best of its knowledge, it has met the Specifications in this Agreement, including applicable DEDs and Acceptance Criteria and all Exhibits thereto. By giving its Acceptance of a Deliverable, the Consortium represents only that it has reviewed the Deliverable and detected no Deficiencies of sufficient gravity to defeat or substantially threaten the attainment of those objectives and to warrant the withholding of Acceptance for the Work completed. The Consortium's Acceptance of a Deliverable does not discharge any of Contractor's responsibilities for comprehensiveness, effectiveness or conformance of the Deliverables and Services, as a whole, to the Specifications, relating to Contractor's obligations under Section 11 of this Agreement.	TBD after more information is provided by CalSAWS during the next phase of the procurement (e.g., BAFO).

			obligations under Section 11 of this Agreement.		
8	6.11 Inspections	34	The Deliverables and Services being provided by Contractor and its Subcontractors, if any, pursuant to this Agreement shall be available for inspection and review at any reasonable time by representatives of the Consortium, Counties, State, and federal agencies, who shall, at all reasonable times, have the right to enter Contractor's business facilities, business premises or such other business locales where duties under the Agreement are being provided to inspect, monitor, or otherwise evaluate the Deliverables and Services, subject to Contractor's reasonable security requirements and upon reasonable advance written notice to Contractor. Contractor and all Subcontractors must provide reasonable access to all facilities and assistance to the Consortium, County, State and federal government authorized representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. Without in any way limiting the generality of the foregoing, Contractor shall agree that federal, State, County and Consortium representatives, shall have access to and the right to examine, audit, inspect and copy all records, documents, billings and other items described in this Section, including without limitation those of any Subcontractor, during the term of this Agreement and during the	The Deliverables and Services being provided by Contractor and its Subcontractors, if any, pursuant to this Agreement shall be available for inspection and review at any reasonable time by representatives of the Consortium, Counties, State, and federal agencies, who shall, at all reasonable times, have the right to enter Contractor's business facilities, business premises or such other business locales where duties under the Agreement are being provided to inspect, monitor, or otherwise evaluate the Deliverables and Services, subject to Contractor's reasonable security requirements and upon reasonable advance written notice to Contractor. Contractor and all Subcontractors must provide reasonable access to all facilities and assistance to the Consortium, County, State and federal government authorized representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. Without in any way limiting the generality of the foregoing, Contractor shall agree that federal, State, County and Consortium representatives, that are directly associated with this project, shall have access to and the right to examine, audit, inspect and copy all records, documents, billings and other items described in this Section, including without limitation those of any Subcontractor, during the term of this Agreement and during the five (5) year period thereafter. During the term of this Agreement, the access to these items will be provided in Sacramento County, California at reasonable times as requested by the Consortium. Inspections and audits will be limited solely to	N/A

			five (5) year period thereafter. During the term of this Agreement, the access to these items will be provided in Sacramento County, California at reasonable times as requested by the Consortium. Inspections and audits will be limited solely to environments dedicated to the performance of Services under this Agreement.	environments dedicated to the performance of Services under this Agreement.	
9	9.1 Ownership	41	Title to all property furnished by the Consortium shall remain with the Consortium. Title to all property purchased by Contractor, and for which Contractor has been reimbursed by the Consortium under this Agreement, shall pass to and vest in the Consortium upon Acceptance of the applicable Deliverable in which the property is included.	Title to all property furnished by the Consortium shall remain with the Consortium. Title to all tangible property purchased by Contractor, and for which Contractor has been reimbursed by the Consortium under this Agreement, shall pass to and vest in the Consortium upon Acceptance of the applicable Deliverable in which the property is included.	N/A
10	10.2 CalSAWS Ownership of Deliverables	42	Consortium shall have full ownership of all Deliverables (of whatever nature) developed or contributed to by Contractor, in connection with the Project, excluding, however, any preexisting intellectual property contributed by Contractor or a third party and constituting Contractor Technology as defined at Section 10.4 below. Contractor shall take all actions necessary to transfer ownership of the Project Deliverables to the Consortium. All Deliverables, in whole and in part, shall be deemed works made for hire of the Consortium for all purposes of copyright law, and all right, title and interest in and to copyright rights therein shall belong solely to the Consortium. To the extent that any Deliverable does	Consortium shall have full ownership of the copyright in works of authorship for all Deliverables (of whatever nature) developed or contributed to by Contractor, in connection with the Project as described in the Statement of Work, ("Project Materials") excluding, however, any preexisting intellectual property contributed by Contractor or a third party and constituting Contractor Technology as defined at Section 10.4 below. Contractor retains an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, sublicense, distribute, and prepare derivative works of Project Materials.	N/A

			not qualify as a work for hire under applicable law, and to the extent that the Deliverable includes materials subject to patent, trade secret, trademark or other proprietary right protection, Contractor agrees to assign, and hereby assigns, all right, title and interest in and to Deliverables, including without limitation all copyrights, inventions, patents, trade secrets, trademarks and other intellectual property and proprietary rights therein (including registrations in any U.S. or foreign jurisdiction and any renewals thereof) to the Consortium. Contractor shall, at the expense of the Consortium, assist the Consortium or its nominees to obtain and register copyrights, trademarks, or patents for all Deliverables in the United States and any other countries. In the event a court of competent jurisdiction finds such an assignment to be unenforceable, Contractor agrees to provide Consortium with a non-exclusive license providing Consortium with all rights, title, and interest the assignment otherwise would have provided. Contractor agrees to execute all papers and to give all facts known to it necessary to register and secure United States or foreign country copyrights and patents, and to transfer or cause to transfer to the Consortium all the right, title and interest in and to the Project Deliverables. Contractor also agrees not to assert any moral rights under applicable law with regard	
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			to the Deliverables. On an annual basis, Contractor will provide to the Consortium an inventory of all changes, modifications, and/or enhancements made by Contractor to any Consortium-owned software and will assign all right, title, and interest to all such enhancements to the Consortium in a manner consistent with this Section 10.2 at no additional cost to the Consortium.		
11	10.4 Contractor Ownership Rights	43-44	Notwithstanding any other provision of this Agreement, Contractor shall own all right, title and interest in and to its own Confidential Information and Contractor Technology (as defined below). Notwithstanding Consortium's ownership rights as described in this Section 10, Consortium acknowledges and agrees that: (a) Contractor shall be free to use its general knowledge, skills and experience, and any ideas, concepts and know-how within the scope of its business that are used in the course of providing the Deliverables and Services under this Agreement and that do not include the Consortium's Confidential Information or the Project Deliverables, in whole or in part, and (b) Contractor and its suppliers, including Subcontractors, retain ownership of any and all of its intellectual property rights (i) that Contractor can demonstrate by documentary evidence existed prior to the execution of this Agreement; (ii) is created outside of the scope of this Agreement, including but not limited to, methods, processes and procedures,	Notwithstanding any other provision of this Agreement, Contractor shall own all right, title and interest in and to its own Confidential Information and Contractor Technology (as defined below). Notwithstanding Consortium's ownership rights as described in this Section 10, Consortium acknowledges and agrees that: (a) Contractor shall be free to use its general knowledge, skills and experience, and any ideas, concepts and know-how within the scope of its business that are used in the course of providing the Deliverables and Services under this Agreement and that do not include the Consortium's Confidential Information or the Project Deliverables, in whole or in part, and (b) Contractor and its suppliers, including Subcontractors, retain ownership of any and all of its intellectual property rights (i) that Contractor can demonstrate by documentary evidence existed prior to the execution of this Agreement; (ii) is created outside of the scope of this Agreement, including but not limited to, methods, processes and procedures, algorithms, concepts, designs, reports, programs and templates, and all modifications and derivatives thereof and newly created generic consulting tools and methodologies not	N/A

			algorithms, concepts, designs, reports, programs and templates, and all modifications and derivatives thereof and newly created generic consulting tools and methodologies not specified as Deliverables in this Agreement; or (iii) all modifications, enhancements, and derivative works of the intellectual property rights set forth in (i) and (ii) above (collectively, "Contractor Technology"). The Consortium may use any such Contractor Technology contained in a Deliverable in connection with its use of the Deliverables. The term Contractor Technology includes third-party intellectual property licensed and used by Contractor in the performance of the Services.	specified as Deliverables in this Agreement; or (iii) all modifications, enhancements, and derivative works of the intellectual property rights set forth in (i) and (ii) above (collectively, "Contractor Technology"). The Consortium may use any such Contractor Technology contained in a Deliverable in connection with its use of the Deliverables. The term Contractor Technology includes third-party intellectual property licensed and used by Contractor in the performance of the Services. Contractor grants Client an irrevocable (subject to Client's payment obligations), nonexclusive, worldwide license to use, execute, reproduce, display, perform and prepare derivatives of Contractor Technology that are not Existing Licensed Works which are defined as works of authorship delivered to the Consortium, but not created, under the Statement of Work, and any modifications or enhancements of such works made during the performance of the Services. Some Contractor Technology may be subject to a separate license agreement.	
12	11.1 Project Deliverables Warranty	44	Contractor represents, warrants, covenants, and agrees that all Deliverables will be provided, and shall meet all requirements, as set forth in this Agreement, including the Specifications and the QA Services Plan, QA Work Plan and OWDs. All Deliverables shall be complete, meet Specifications, adhere to the applicable DED, be provided timely as defined in the QA Work Plan, internally consistent, consistent with other related Deliverables, uniform in appearance, prepared by qualified personnel in accordance with standards, methods	Contractor represents, warrants, covenants, and agrees that all Deliverables will be provided, and shall meet all requirements, as set forth in the Specifications and the QA Services Plan, QA Work Plan and OWDs. All Deliverables shall be complete, meet Specifications, adhere to the applicable DED, be provided timely as defined in the QA Work Plan, internally consistent, consistent with 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	N/A

			and Acceptance criteria as defined in the applicable DED, and be free of Deficiencies. The warranty period shall be for the full term of this Agreement, including any Extended Term. All warranty work shall be at no additional cost to the Consortium during this term of the agreement.	shall conclude upon Consortium's written acceptance of the Deliverable.	
13	11.2 Project Services Warranty	45	Contractor represents and warrants that Contractor shall perform the Services as described in this Agreement and in accordance with the QA Services Plan, QA Work Plan, OWDs, and applicable Specifications. Time is of the essence in connection with Contractor's performance of the Services according to the 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.	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.	N/A
14	11.3 Correction of Deficiencies	45	Contractor represents, warrants, covenants, and agrees that throughout the warranty period set forth in Subparagraphs 11.1 and 11.2, at no additional cost to Consortium, Contractor shall correct any and all	Contractor shall correct any and all Deficiencies in the Deliverables or Services, that do not conform to the DED. All corrective actions shall be performed with Contractor's commercial reasonable efforts, diligence, and speed toward correction as soon as possible	TBD after more information is provided by CalSAWS during the

			Deficiencies in the Deliverables or Services, as determined by the Consortium Executive Director or Contractor. All corrective actions shall be performed with Contractor's best efforts, diligence, and speed toward correction as soon as possible and in any event in accordance within the applicable time period specified in Subparagraph 11.4 (Warranty Work Response). Contractor shall correct any Deficiency in QA Services and Deliverables provided under this Agreement in accordance with the applicable Corrective Action Plan or as otherwise approved by Consortium Executive Director.	and in any event in accordance within the applicable time period specified in Subparagraph 11.4 (Warranty Work Response). Contractor shall correct any Deficiency in QA Services and Deliverables provided under this Agreement in accordance with the applicable Corrective Action Plan or as otherwise approved by Consortium Executive Director.	next phase of the procurement (e.g., BAFO).
15	11.4 Price Warranty	45	11.4.3 The representations, warranties, and covenants set forth in Sections 11.5.1 and 11.5.2 exclude and do not apply to any requests by Contractor for any increase in compensation or reimbursement under this Agreement for: (i) the State's implementation of a sales or use tax on services or any other new form of tax not in effect on the Effective Date; and (ii) changes to the CalSAWS System necessitated by: (a) a change in federal, State, Consortium or County rules, regulations, or policies; (b) a change initiated by Consortium or agreed upon by the parties pursuant to Section 8; or (c) price adjustments pursuant to the last sentence of Section 19.21, Force Majeure, or pursuant to a stop work pursuant to Section 14.5. Consortium Executive Director will	11.4.3 The representations, warranties, and covenants set forth in Sections 11.5.1 and 11.5.2 exclude and do not apply to any requests by Contractor for any increase in compensation or reimbursement under this Agreement for: (i) the State's implementation of a sales or use tax on services or any other new form of tax not in effect on the Effective Date; and (ii) material changes to the CalSAWS System necessitated by: (a) a change in federal, State, Consortium or County rules, regulations, or policies; (b) a change initiated by Consortium or agreed upon by the parties pursuant to Section 8; or (c) price adjustments pursuant to the last sentence of Section 19.21, Force Majeure, or pursuant to a stop work pursuant to Section 14.5. Consortium Executive Director will determine whether or not any such changes necessitate a material change to the CalSAWS System.	N/A

			determine whether or not any such changes necessitate a material change to the CalSAWS System.		
16	11.6.4 Legal and Regulatory Compliance	47	Contractor represents and warrants that, in its performance in connection with the Services and Deliverables to be provided pursuant to this Agreement, it shall comply with all applicable federal, State, and County laws, regulations, codes, standards and ordinances. In the event that Contractor, in its performance in connection with any Services performed, or any Deliverables provided, is subsequently found to be in violation of such laws, regulations, codes, standards and ordinances, it shall be the sole responsibility of Contractor to bring the Services and Deliverables into compliance. In addition, Contractor shall be responsible for and shall indemnify the State, the Counties, the Consortium, and their officers, directors, employees, and agents against any fines, penalties, sanctions, or disallowances which are imposed on the Consortium or its member Counties, 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.	Contractor represents and warrants that, in its performance in connection with the Services and Deliverables to be provided pursuant to this Agreement, it shall comply with all applicable federal, State, and County laws, regulations, codes, standards and ordinances applicable to the Services provided and identified herein. In the event that Contractor, in its performance in connection with any Services performed, or any Deliverables provided, is subsequently found to be in violation of such laws, regulations, codes, standards and ordinances, it shall be the sole responsibility of Contractor to bring the Services and Deliverables into compliance.	N/A
17	11.7 Breach of Warranty Obligations	48	In the event that Contractor fails to timely perform its obligations set forth in this Section after receiving Notice from	In the event that Contractor fails to timely perform its obligations set forth in this Section after receiving Notice from the Consortium of	TBD after more information is

			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 addition, and if Contractor continues to fail to perform such obligations within forty-five (45) days of Contractor's receipt of notice from the Consortium, the Consortium shall have the right to perform or procure the performance of such obligations, including any required correction, repair, replacement, or other work which Contractor has failed to perform. In such event, the Consortium shall be entitled to seek the remedy of cover as set forth in Section 14.3, including the difference between its direct actual and reasonable cost of outside labor and materials, including its burdened (including salary, employee benefits, and reimbursement policies) rates for Consortium provided labor and the Contractor charges for performance of such obligations. Following adjudication by a court of competent jurisdiction regarding sums owed to Consortium, Consortium may demand cash payment from Contractor and/or may deduct all sums owing from any amounts due to Contractor under this Agreement. .	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 addition, and if Contractor continues to fail to perform such obligations within forty-five (45) days of Contractor's receipt of notice from the Consortium, the Consortium shall have the right to perform or procure the performance of such obligations, including any required correction, repair, replacement, or other work which Contractor has failed to perform. In such event. Following adjudication by a court of competent jurisdiction regarding sums owed to Consortium, Consortium may deduct all sums owing from any amounts due to Contractor under this Agreement.	provided by CalSAWS during the next phase of the procurement (e.g., BAFO).
18	12.1 General	49	Contractor shall indemnify, defend, and hold harmless the Consortium, and its elected and appointed officers,	Contractor shall indemnify, defend, and hold harmless the Consortium, and its elected and appointed officers, employees, agents,	N/A – This is a clarification of the legal

			employees, agents, Consortium Members (hereafter in this Section 12 "Consortium Indemnities") and the State and its officers, employees, and agents from and against any and all claims, liabilities, damages, costs, and expenses, including defense costs and reasonable legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to (i) 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 Contractor's, Contractor's agents', employees' or Subcontractors' alleged or actual negligent acts, negligent errors, or negligent omissions or willful misconduct in the performance of Services or provision of Deliverables pursuant to this Agreement, including to the extent applicable workers' compensation suits, liability, or expense, or (ii) any fines, penalties, or other economic charges imposed on the Consortium by any State or Federal regulatory agency or body arising from Contractor's, Contractor's agents', employees' or Subcontractors' actual negligent acts, negligent errors, or negligent omissions or willful misconduct in the performance of Services or provision of products pursuant to this Agreement, provided that Consortium Indemnitees provide Contractor with prompt notice of any such claim under	Consortium Members (hereafter in this Section 12 "Consortium Indemnities") and the State and its officers, employees, and agents from and against any and all claims, liabilities, damages, costs, and expenses, including defense costs and reasonable legal, accounting and other expert, consulting or professional fees, arising from, connected with, or related to (i) claims and lawsuits by third parties, for any damages of any nature whatsoever for bodily injury, death, personal injury, or real or tangible personal property damage arising from Contractor's, Contractor's agents', employees' or Subcontractors' alleged or actual negligent acts, negligent errors, or negligent omissions or willful misconduct in the performance of Services or provision of Deliverables pursuant to this Agreement, provided that Consortium Indemnitees provide Contractor with prompt written notice of any such claim under (i) or (ii) of which the Consortium Executive Director has actual knowledge and provides reasonable cooperation in Contractor's defense and any related settlement negotiations. The extent of Contractor's indemnification obligations under clause (ii) above shall be subject to the limitation of liability specified in Section 14.7. Contractor shall have no indemnification obligation or liability for claims solely arising from the acts and omissions of the Consortium. Any legal defense pursuant to Contractor's indemnification obligations under this Section 12.1 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by the Consortium, except that the Consortium will not have such approval right if Contractor's interests are adverse to the Consortium's. Notwithstanding the preceding	rights of the Parties in case of a third-party claim.
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			(i) or (ii) of which the Consortium Executive Director has actual knowledge and provides reasonable cooperation in Contractor's defense and any related settlement negotiations. The extent of Contractor's indemnification obligations under clause (ii) above shall be subject to the limitation of liability specified in Section 14.7. Contractor shall have no indemnification obligation or liability for claims solely arising from the acts and omissions of the Consortium. Without in any way limiting the generality of the indemnification obligations required by this Section 12.1, the claims included in clause (i) above shall also include any and all damages arising from Contractor's failure to meet its obligations under Section 15 of this Agreement. Any legal defense pursuant to Contractor's indemnification obligations under this Section 12.1 shall be conducted by Contractor and performed by counsel selected by Contractor and approved by the Consortium, except that the Consortium will not have such approval right if Contractor's interests are adverse to the Consortium's. Notwithstanding the preceding sentence, Consortium Indemnitees and the State shall have the right to participate in any such defense at their sole cost and expense, except that in the event Contractor fails to provide a full and adequate defense, Consortium Indemnitees or the State shall be entitled to retain their	sentence, Consortium Indemnitees and the State shall have the right to participate in any such defense at their sole cost and expense, except that in the event Contractor fails to provide a full and adequate defense, Consortium Indemnitees or the State shall be entitled to retain their own counsel and receive reimbursement from Contractor for all such costs and expenses incurred by Consortium Indemnitees or the State in doing so. Contractor shall not have the right to enter into any settlement, agreement to any injunction or other equitable relief, or make any admission, on behalf of Consortium Indemnitees or the State without Consortium Indemnitee's or State's prior approval. Contractor's obligation to indemnify the Consortium or the Counties under this Agreement shall only be exercised through the Consortium and upon written demand by the Consortium. Any demand for indemnification by the Counties, or their respective officers, employee, or agents, shall be tendered to the Consortium, which shall have the authority to demand indemnification by and from Contractor. Contractor shall pay amounts under this section that are finally awarded by a court against Consortium or included in a settlement approved by Contractor and Consortium.	
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			own counsel and receive reimbursement from Contractor for all such costs and expenses incurred by Consortium Indemnitees or the State in doing so. Contractor shall not have the right to enter into any settlement, agreement to any injunction or other equitable relief, or make any admission, on behalf of Consortium Indemnitees or the State without Consortium Indemnitee's or State's prior approval. Contractor's obligation to indemnify the Consortium or the Counties under this Agreement shall only be exercised through the Consortium and upon written demand by the Consortium. Any demand for indemnification by the Counties, or their respective officers, employee, or agents, shall be tendered to the Consortium, which shall have the authority to demand indemnification by and from Contractor.		
19	13.1 Delays or Failures	50	The Consortium and Contractor agree that failed, delayed, and/or other performance not in compliance with the terms of this Agreement by Contractor will cause damages to the Consortium which may be uncertain and would be impractical or difficult to ascertain. Accordingly, the Parties agree that Consortium may assess, and if assessed, Contractor promises to pay the Consortium in the event of such failed, delayed, and/or other performance not in accordance with the terms of this Agreement, the amounts described below as liquidated	The Consortium and Contractor agree that failed, delayed, and/or other performance not in compliance with the terms of this Agreement by Contractor will cause damages to the Consortium which may be uncertain and would be impractical or difficult to ascertain. Accordingly, the Parties agree that Consortium may assess, and if assessed, Contractor promises to pay the Consortium in the event of such failed, delayed, and/or other performance not in accordance with the terms of this Agreement, the amounts described below as liquidated damages and not as penalties. The below-referenced liquidated damages represents damages in conformity	N/A

			damages and not as penalties. The schedule of liquidated damages represents damages in conformity with California Civil Code Section 1671, incurred in case of failed, delayed, or other performance not in accordance with the terms of this Agreement.	with California Civil Code Section 1671, incurred in case of failed, delayed, or other performance not in accordance with the terms of this Agreement.	
20	14.1 Withholding Payments	51	Consortium will notify Contractor of any Deficiency on Contractor's part to perform its obligations under this Agreement. If, after receiving such Notice, Contractor fails to cure its non-performance within the time periods specified in Section 11.4, including its subparts, Consortium shall have the right to withhold payments to Contractor, in whole or in part, until such failure to perform is cured in all materials respects; provided that the Consortium shall not withhold payment for Deliverables and Services that have been Accepted by the Consortium.	Consortium will notify Contractor of any Deficiency on Contractor's part to perform its obligations under this Agreement for a given Deliverable. If, after receiving such Notice, Contractor fails to cure its non-performance within the time periods specified in Section 11.4, including its subparts, Consortium shall have the right to withhold payments to Contractor for that specific Deliverable, in whole or in part, until such failure to perform is cured in all materials respects of the DED; provided that the Consortium shall not withhold payment for Deliverables and Services that have been Accepted by the Consortium.	TBD after more information is provided by CalSAWS during the next phase of the procurement (e.g., BAFO).
21	14.2 Reductions in Payments Due	51	Amounts due the Consortium by Contractor, including but not limited to Liquidated Damages or other damages, or claims for damages as have been adjudicated in Consortium's favor by a court of competent jurisdiction, may be deducted or set-off by the Consortium from any money payable to Contractor pursuant to this Agreement.	Amounts due the Consortium by Contractor, including but not limited to Liquidated Damages or other damages, or claims for damages as have been adjudicated in Consortium's favor by a court of competent jurisdiction, may will be deducted or set-off by the Consortium from any money payable to Contractor pursuant to this Agreement.	N/A

22	14.3 Cover	51	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 QA 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 QA Deliverables.	
23	14.4 Suspension Due to Breach	52	14.4.1 The Consortium shall send a Notice to Contractor in writing to Contractor's Notice address of a perceived compliance breach describing the Consortium's concerns.	14.4.1 The Consortium shall send a Notice to Contractor in writing to Contractor's Notice address of a compliance breach describing the Consortium's concerns.	N/A
24	14.5 Suspension for Convenience	52	The Consortium shall have the right at any time during the Project to suspend Contractor's, or any of its Subcontractor's, Work on any Deliverables, Services, or any part thereof, fully or partially, for its own convenience for a period not to	With thirty (30) days advance notice to Contractor, The Consortium shall have the right at any time during the Project to suspend Contractor's, or any of its Subcontractor's, Work on any Deliverables, Services, or any part thereof, fully or partially, for its own convenience for a period not to exceed thirty	N/A

			exceed thirty (30) days within any six (6) month period. Within thirty (30) days after issuance of such a stop work order, the Consortium shall either cancel the stop work order, terminate the Agreement, or modify the Agreement as may be agreed to in writing by the Parties. Contractor shall receive notice of the reasons for such an order. The Schedule shall be delayed on a day-for-day basis if the Consortium has issued a stop work order to Contractor and such stop work order is causing delays in completing Deliverables or Services in accordance with the Schedule. To the extent that stop work orders are issued under this Section, thirty (30) days have passed since issuance of the stop order, and Contractor cannot redirect Staff and mitigate the effect of such stop work orders, then an adjustment, if any, to the amounts owing Contractor and/or Schedule shall be made pursuant to Section 8 (Change Orders), if appropriate, based on the Consortium Executive Director's reasonable consideration of relevant factors and circumstances, including but not limited to Contractor's opportunity and efforts to mitigate the effect of the stop work orders. Contractor shall have the right to submit claims for additional costs incurred as a result of any stop work orders issued under this Section.	(30) days within any six (6) month period. Within thirty (30) days after issuance of such a stop work order, the Consortium shall either cancel the stop work order, terminate the Agreement, or modify the Agreement as may be agreed to in writing by the Parties. Contractor shall receive notice of the reasons for such an order. The Schedule shall be delayed on a day-for-day basis if the Consortium has issued a stop work order to Contractor and such stop work order is causing delays in completing Deliverables or Services in accordance with the Schedule. To the extent that stop work orders are issued under this Section, thirty (30) days have passed since issuance of the stop order, and Contractor cannot redirect Staff and mitigate the effect of such stop work orders, then an adjustment, if any, to the amounts owing Contractor and/or Schedule shall be made pursuant to Section 8 (Change Orders), if appropriate, based on the Consortium Executive Director's reasonable consideration of relevant factors and circumstances, including but not limited to Contractor's opportunity and efforts to mitigate the effect of the stop work orders. Contractor shall have the right to submit claims for additional costs incurred as a result of any stop work orders issued under this Section.	
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25	15.1 Confidential Data; Security	53-54	Contractor shall maintain the confidentiality of all confidential records and information, including information relating to the QA Project, billings, Consortium records, and third party applicant/participant records and information (Program Data) in compliance with all applicable: (i) federal and State laws, rules, and regulations, including California Civil Code Section 1798.82 and California Welfare and Institutions Code Section 10850; (ii) all local County ordinances; and (iii) Consortium written guidelines, directives, policies and procedures relating to confidentiality and information security of all Program Data (including any breach of the security of the CalSAWS System, such as any unauthorized acquisition of Program Data that compromises the security, confidentiality, or integrity of personal information); or (iv) written direction from the Consortium regarding the protection of specific non Program Data. To the extent that such Consortium policies and procedures change, the Consortium will make reasonable efforts to promptly notify Contractor of updated information and Contractor shall thereafter comply with such information. All records and information pertaining to persons applying for or receiving assistance and/or Services are confidential and are, and shall remain, owned by the individual County from which the information emanated, and no	Contractor shall maintain the confidentiality of all confidential records and information, including information relating to the QA Project, billings, Consortium records, and third party applicant/participant records and information (Program Data) in compliance with all applicable: (i) federal and State laws, rules, and regulations, including California Civil Code Section 1798.82 and California Welfare and Institutions Code Section 10850; (ii) all local County ordinances; and (iii) Consortium written guidelines, directives, policies and procedures relating to confidentiality and information security of all Program Data (including any breach of the security of the CalSAWS System, such as any unauthorized acquisition of Program Data that compromises the security, confidentiality, or integrity of personal information); or (iv) written direction from the Consortium regarding the protection of specific non Program Data. To the extent that such Consortium policies and procedures change, the Consortium will make reasonable efforts to promptly notify Contractor of updated information and Contractor shall thereafter comply with such information. All records and information pertaining to persons applying for or receiving assistance and/or Services are confidential and are, and shall remain, owned by the individual County from which the information emanated, and no information related to any individual case or cases shall be in any way disclosed to anyone except to designated Consortium employees, California Department of Social Services (CDSS) staff or Counties' employees without the prior written authorization from the Consortium Executive Director or designee. Contractor shall inform all	This is clarification of the current CA data security laws.
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			information related to any individual case or cases shall be in any way disclosed to anyone except to designated Consortium employees, California Department of Social Services (CDSS) staff or Counties' employees without the prior written authorization from the Consortium Executive Director or designee. Contractor shall inform all of its officers, employees, and agents providing Services under this Agreement of the confidentiality provisions of this Agreement. Contractor shall provide to the Consortium an executed Contractor Employee Acknowledgment, Confidentiality, and Intellectual Property Agreement for each of its employees performing work under this Agreement. Further, Contractor shall provide to the Consortium an executed Subcontractor Employee Acknowledgment, Confidentiality, and Intellectual Property Assignment Agreement for each employee of each Subcontractor performing any work under a Consortium approved subcontract in accordance with Section 6.9. Contractor shall comply with, implement, adhere to and align with, track, and report on all applicable State, federal, and CalSAWS data security standards, regulations, guidelines and requirements in place as of the date of the Contractor's Proposal, and thereafter shall update its compliance obligations to adhere to any changes in applicable State,	of its officers, employees, and agents providing Services under this Agreement of the confidentiality provisions of this Agreement. Contractor shall provide to the Consortium an executed Contractor Employee Acknowledgment, Confidentiality, and Intellectual Property Agreement. Contractor shall comply with, implement, adhere to and align with, track, and report on all applicable State, federal, and CalSAWS data security standards, regulations, guidelines and requirements in place as of the date of the Contractor's Proposal, and thereafter shall update its compliance obligations to adhere to any changes in applicable State, federal and CalSAWS standards, regulations, guidelines, and requirements. These include, but are not limited to, Social Security Administration (Technical System Security Requirements), NIST, ADA, and California SIMM / SAM requirements	
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			federal and CalSAWS standards, regulations, guidelines, and requirements. These include, but are not limited to, Social Security Administration (Technical System Security Requirements), NIST, ADA, and California SIMM / SAM requirements		
26	16.1 Liability and Auto Insurance	56	Contractor shall, at its sole cost and expense, obtain, and, during the term of this Agreement, maintain, in full force and effect, the insurance coverage described in this Section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed or eligible to conduct business in the State of California and having an AM Best rating of A – VII (or equivalent). Contractor shall include the Consortium, 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. Such insurance shall apply as primary insurance for these additional insureds specific to Contractor's activities hereunder. If Contractor fails to buy and maintain the insurance coverage described in this Section 16, the Consortium may terminate this Agreement under Section 18.1 (Termination for Material Breach). The minimum acceptable limits shall be as indicated below and Contractor shall be solely responsible for covering	Contractor shall, at its sole cost and expense, obtain, and, during the term of this Agreement, maintain, in full force and effect, the insurance coverage described in this Section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed or eligible to conduct business in the State of California and having an AM Best rating of A – VII (or equivalent). Contractor shall include the Consortium, its boards, agencies, contractors, officers, employees, agents and volunteers, and the State excluding third parties, both individually and collectively, as additional insureds on Contractor's commercial general liability and auto liability policies. Such insurance shall apply as primary insurance for these additional insureds specific to Contractor's activities hereunder. If Contractor fails to buy and maintain the insurance coverage described in this Section 16, the Consortium may terminate this Agreement under Section 18.1 (Termination for Material Breach). The minimum acceptable limits shall be as indicated below and Contractor shall be solely responsible for covering any deductibles provided in those policies.	N/A

			any deductibles provided in those policies.		
27	16.1.1 Commercial General Liability	56	16.1.1 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 occurrence/\$2 million general aggregate;	16.1.1 Commercial General Liability or equivalent self-insurance covering the risks of third party bodily injury (including death), third party property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;	N/A
28	16.1.4 Crime Coverage Insurance	57	16.1.4 Crime Coverage Insurance covering the risks of theft of money, securities, or other property committed to Contractor's Staff, including Subcontractor's Staff, while performing work pursuant to this Agreement;	16.1.4 Crime Coverage Insurance covering the risks of theft of money, securities, or other property committed to Contractor's Staff, while performing work pursuant to this Agreement;	N/A
29	16.2 Workers' Compensation Coverage	57	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	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),	N/A

			the discretion of the 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.		
30	16.3 Subcontractors Reserved	57	Contractor shall include all Subcontractors as insured under all required insurance policies or shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractors shall maintain insurance at a level commensurate with the extent of the scope of work they are performing on the Project. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility	Suggest to Remove Sub-Section Language	N/A
31	16.5 Insurance Documents	57	Contractor shall furnish to the Consortium copies of certificates of all required insurance no later than ten (10) days following the Agreement Effective Date, and copies of renewal certificates of all required insurance upon renewal. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this Section 16. Failure to maintain insurance as required by this Section 16 shall be grounds for immediate termination or suspension of this Agreement under Section 16.1 (Termination for Material Breach). The	Contractor shall furnish to the Consortium copies of certificates of all required insurance no later than ten (10) days following the Agreement Effective Date, and copies of renewal certificates of all required insurance upon renewal. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this Section 16. IBM will continue its insurance coverages for the term of this Agreement as long as such coverage remains commercially available in the market place. Failure to maintain insurance as required by this Section 16 shall be grounds for immediate termination or suspension of this Agreement under Section 16.1 (Termination for Material Breach). The	N/A

			Consortium reserves the right to review Contractor's compliance with these insurance requirements to ensure that there is appropriate coverage that is in accordance with this Agreement.	Consortium reserves the right to review Contractor's compliance with these insurance requirements by the certificate of insurance to ensure that there is appropriate coverage that is in accordance with this Agreement.	
32	16.6 Increased Coverage Reserved	58	If any aggregate insurance limit is exceeded, Contractor must purchase additional coverage to meet these requirements.	Suggest to Remove Sub-Section Language	N/A
33	16.7 Cross Liability	58	All insurance provided by Contractor that affords additional insured status shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the Consortium or its member Counties specific to the Consortium's additional insured status and Contractor's activities hereunder and shall include a severability of interests (cross liability) or separation of insured provision.	Commercial General Liability and Automobile Liability insurance provided by Contractor that affords additional insured status shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the Consortium or its member Counties specific to the Consortium's additional insured status and Contractor's activities hereunder and shall include a severability of interests (cross liability) or separation of insured provision.	N/A

Name of Authorized Representative Mike Rockenstein

Signature of Authorized Representative 

Date 10/25/2025