

MOBILE DIAGNOSTIC RADIOLOGY AND ULTRASOUND SERVICES

1. INTRODUCTION/SERVICES

- A. Contractor shall provide Mobile Radiology and Ultrasound Services, as specified, to the California Department of Veterans Affairs (CalVet) for the benefit and care of the Veterans Home Residents. Contractor shall provide services at the Veterans Home of California (Home), located at 100 California Drive, Yountville, CA 94599. The Contractor shall provide all labor, materials, staff, transportation, licenses, permits, and every other item of expense necessary to perform services, unless otherwise stated. Services shall be provided at the Home under the direction of the Contract Manager or designee in compliance with the terms of this agreement. For purposes of this Agreement the State designee must be a civil service employee.
- B. All work shall be coordinated and approved by the Contract Manager or designated representative. The Contractor shall provide routine services to the Home as needed Monday through Friday between 8:00 AM and 5:00 PM, excluding State holidays. For after hours, or STAT services, Contractor shall be available 24 hours a day, seven (7) days a week on the order of a duly licensed and authorized Home provider.
- C. Contractor/Provider must perform services under the scope of their license and in accordance with federal and state laws and regulations as well as CalVet policies and procedures.
- D. All services performed outside the scope of this Agreement will be at the sole risk and expense of the Contractor.
- E. The Contractor is not authorized to deliver or commence performance of services as described in the agreement until written approval has been obtained from CalVet Contract Manager and the Contractor has received an executed contract from CalVet. Any delivery or performance of service commenced prior to the Contractor obtaining all written approvals shall be considered voluntary on the part of the Contractor.

2. MINIMUM QUALIFICATIONS

- A. Resident health care is of paramount importance. Accuracy in communications is critical to ensure timely, correct care is provided. Therefore, any Provider(s) providing services through this Agreement must be able to communicate effectively with CalVet.
- B. Any Provider who fails to meet the qualifications listed below shall not be permitted to perform service. The Contract Manager shall state in writing the reason(s) the Provider does not meet qualifications. After notification of failure to meet qualifications has been provided, CalVet shall not pay the Contractor for additional services identified as not meeting the qualifications.
- C. The Contractor must have a minimum number of Providers to adequately provide services to the Home, who meet the requirements specified in this Agreement. Contractor must also have equipment necessary to provide services listed below.

3. CONTRACTOR'S RESPONSIBILITIES

- A. The Contractor shall provide services in accordance with all applicable laws and requirements stated below under the direction of the Home's SNF Administrator and at the request of the Primary Care Provider (PCP), Medical Director, Contract Manager, or designee within the scope of practice for Radiology and Ultrasound Services in accordance with CalVet/Home policies and procedures.
- B. The Contractor shall provide health care services to Home residents in accordance with Medicare and Medi-Cal standards, requirements, and reimbursement schedules as set forth in Title XVIII and Title XIX of the Federal Social Security Act; Title 22, Division 3, of the California Code of Regulations (CCR); Home bylaws, policies, and procedures; and under the general direction of the Contract Manager or designee.

- C. The Contractor/Provider shall ensure that all ordered services have prior authorization in accordance with the Home and are mutually agreed upon between PCP, Medical Director, Contract Manager, or designee and the Contractor.
- D. The Contractor must provide the State with proof of any required training, licenses, permits, certifications and any other required documents as stated below and as required by law, for each of the Providers providing services under this Agreement. Services will be performed only by Providers who meet the requirements outlined in this Agreement.
- E. The Contractor/Provider shall obtain the approval and authorization from the Home's primary care physician through the Medical Director, Skilled Nursing Facility (SNF) Administrator, Contract Manager, or designee, prior to referring resident to other health care/medical vendors/contractors. Referral shall be made only to those health care/medical vendors/contractors set forth on the Home's health care/medical vendor/contract list. Prior Authorization Documentation shall include, but is not limited to the following:
 - 1. Veterans Home referral process
 - 2. Resident progress notes/summary pertinent to reason for referral
 - 3. Provider order
- F. The Contractor shall ensure each Provider has an identification badge which includes the name of the Provider, Name of the Contractor (if different), and a photo identification. The badge shall be worn by the Provider at all times while at the Home.
- G. The Contractor shall meet every other month and as needed with the Contract Manager or designee via phone conference or in person to discuss performance and current issues that need any follow-up.
- H. The Contractor shall have a telephone number and a contact person available by telephone 24 hours a day, seven (7) days a week for the duration of the contract.
 - 1. **Routine Services:** Monday through Friday between 8 a.m. and 5 p.m., excluding holidays. The Home will send a request for service via fax and call the contractor for confirmation. The contractor has one (1) hour to respond and must be present at the Home to render their services.
 - 2. **STAT Services:** All hours outside of routine services hours. The Home will send a request for service via fax and call the contractor for confirmation. The emergency response time for arrival at the Home for STAT services shall be within two (2) hours of the Home's initial contact with the contractor. Results must be communicated to an LVN or an RN at the Home's ordering unit where the request originated.
- I. The Contractor shall obtain from the Home staff the policies and procedures regarding the identification of the Skilled Nursing Facility covered stays and identification time frames. The Home shall provide Contractor with information on the tests requisitions that identify patients as SNF residents under Medicare Part A-covered stays to enable Contractor to bill in compliance with applicable laws and regulations.
- J. The Contractor/Providers shall comply with the Home's Mitigation Plan for Viral Respiratory Illness and follow all current Viral Respiratory Illness guidelines for precautions. Failure to comply with the Home's infection control policies shall result in immediate Provider suspension and/or contract suspension or termination. Any suspension shall remain in effect until a medical clearance is provided to the Home's infection control specialist or designee.
- K. The Contractor shall FAX patient results to the Home based upon the ward location of the patients for Skilled Nursing Facility (SNF) and Intermediate Care Facility (ICF), or to the ACC for Domiciliary and Residential Care for the Elderly (RCFE) patients. The list of FAX numbers shall be provided by the Home. The Contractor shall provide results to the Home upon completion of the test.

- L. The Contractor shall ensure information access management, access control, security awareness training, security incident procedures, and devices and media controls. The web portal must be IAW California Government Code §11135(d), which requires that all electronic and information technology developed or purchased by the State of California Government is accessible to people with disabilities. Web based interface/portal is required to ensure access to service results.
1. Contractor shall provide CalVet users login activity upon requested within seven (7) days.
 2. Contractor shall provide training of Home staff on the use of the web based interface/portal.
 3. Contractor shall provide at least three (3) user names and passwords and the user password can be reset by the user at any time.
- M. Part A Stay: The Home shall provide Contractor with information on the test requisitions that identify patients as SNF residents under Medicare Part A covered stays to enable the Contractor to bill in compliance with Exhibits B and B-1.
- N. The Contractor shall be responsible for obtaining resident's private insurance prior-authorizations up to, and including, Tricare, BlueShield, Blue Cross, Aetna, HealthNet, Humana, ChampVA and all other applicable insurances. The Contractor shall file a written prior authorization in the resident's medical records.
- O. Radiological Services:
1. The Contractor shall ensure services be performed by a California licensed radiology technician and interpreted by a duly licensed and California Board Certified Radiologist.
 2. The Contractor shall ensure services include, but are not limited to the following:
 - a. Chest
 - b. Abdominal films
 - c. Extremities
 - d. Spine
 - e. Pelvis
 - f. Facial bones
 - g. Skull
 - h. Rib series
 3. The Contractor shall provide employee/volunteer/intern/registry staff/vendor chest Radiology service for Tuberculosis (TB) evaluation as requested by the Contract Manager or designee. Contractor shall respond to Employee Chest Radiology requests even if it is not bundled with any resident Radiology procedures. The Home will attempt to schedule Employee Chest Radiology service along with Resident Radiology service but is not guaranteed. Results must be submitted to the Veterans Home of California – Yountville NO LATER THAN 3 days after the procedure.
 4. The Contractor shall provide employee/volunteer/intern/registry staff/vendor chest Radiology service for Tuberculosis (TB) evaluation as requested by the Contract Manager or designee. Contractor shall respond to Employee Chest Radiology requests even if it is not bundled with any resident Radiology procedures. The Home will attempt to schedule Employee Chest Radiology service along with Resident Radiology service but is not guaranteed. Results must be submitted to the Veterans Home of California – Yountville NO LATER THAN 3 days after the procedure.
 5. The Contractor shall ensure the Radiology Technician:
 - a. Provide on-site radiology services, per physician orders for residents of the Home, Monday through Friday between 8:00 AM and 5:00 PM, excluding State holidays. Services shall be provided at the Home's Clinic or at bedside. The Contractor shall provide all necessary equipment for requested services.
 - b. Provide pre- and post-procedure instructions and communicate them to PCP/Nursing staff.

6. Diagnostic Radiological Reports:

- a. The Contractor shall provide diagnostic imaging interpretation and administrative services including quality assurance, facilitation of timely reports, equipment oversight, and radiation safety expertise.
- b. The Contractor shall dictate a report for each examination or procedure. The report shall include the following:
 1. Examination Date
 2. Patient follow-up care
 3. Results of the report including the findings and the area(s) examined, and the final diagnosis.
- c. Routine consultation notes will be communicated by fax to the ordering unit of the Home within 24 hours.
- d. All critical findings and the doctor's report shall be sent by phone and fax to the designated medical staff person determined by Contract Manager, or designee within one (1) hour to ensure resident receives the appropriate quality of care. Contractor shall telephone all panic or alert values, as determined by the Contractor, Nurse Resource Center at (707) 944-4700, or ACC Nurse's Station at (707) 944-4660. Contractor shall ensure voice contact, not voice messaging, with a medical staff person of the Home. Additionally, as soon as a critical value is noted, the contractor shall call the Home's ordering unit and notify a Nurse or PCP. All tests ordered by the Specialist shall have the PCP at the Home as a recipient of the test results.

7. STAT Radiological Services:

- a. Contractor shall be available for emergency response 24 hours a day, seven (7) days a week on the order of a duly licensed and authorized Home provider.
- b. STAT Radiology orders require results within four (4) hours. Contractor shall honor STAT orders when requested by provider order. Emergency response time for arrival for STAT services at the Home shall be within two (2) hours of the initial contact of the Contractor by the Home. Results must be communicated to an LVN or an RN of the Home's ordering Unit where the request originated.
- c. STAT fee may be charged once per patient per visit.

P. Ultrasound Services:

1. The Contractor shall ensure services be performed by a California certified ultrasound technician and interpreted by a duly licensed and California Board Certified Professional.
2. The Contractor shall ensure ultrasound services are inclusive of, but not limited to the following:
 - a. Cardiac ultrasound
 - b. Doppler ultrasound
 - c. Echocardiogram
 - d. Thyroid ultrasound
3. The Contractor shall ensure the Ultrasound Technician:
 - a. Provide ultrasound services, per physician orders for residents of the Home, Monday through Friday between 8:00 AM and 5:00 PM, excluding State holidays. Services shall be provided at the Home's Clinic or at bedside. The Contractor shall provide all necessary equipment for requested services.

- b. Convey any dye allergies to PCP/Nursing staff. Pre-consent must be signed prior to invasive procedures. The Contractor shall provide pre- and post-procedure instructions and communicate it with PCP/Nursing staff.

4. Diagnostic Ultrasound Reports:

- a. The Contractor shall provide diagnostic imaging interpretation and administrative services including quality assurance, facilitation of timely reports, equipment oversight, and radiation safety expertise.
- b. Routine consultation notes will be communicated by fax to the ordering unit of the Home within 24 hours.
- c. All critical findings and the doctor's report shall be sent by phone and fax to the designated medical staff person determined by Contract Manager, or designee within one (1) hour to ensure the resident receives the appropriate quality of care. Contractor shall telephone all panic or alert values, as determined by the Contractor, Nurse Resource Center at (707) 944-4700, or ACC Nurse's Station at (707) 944-4660. The Contractor shall ensure voice contact, not voice messaging, with a medical staff person of the Home. Additionally, as soon as a critical value is noted, the contractor shall call the Home's ordering unit and notify a Nurse or PCP. All tests ordered by the Specialist shall have the Primary Care Provider at the Home as a recipient of the test results.

Q. Medical Records:

- 1. Contractor shall maintain its records in accordance with applicable laws and regulations. Contractor's retention periods vary depending upon the types of tests performed.
- 2. Contractor/Provider shall ensure resident medical record information is maintained as "CONFIDENTIAL" and shall be held in trust and confidence. Information shall be used only for the purposes contemplated under this contract.
- 3. Contractor shall maintain for each resident, who has received medical services under this Contract, a legible, detailed medical record consistent with good medical and professional practices. Medical records shall permit effective internal professional review and external medical audit processes facilitating an adequate follow-up treatment and all supporting documentation required by Federal and State Medicare and Medi-Cal laws, regulations, rules, and policies. Medical records shall be maintained in accordance with Title 22, CCR, Sections 53284 and 53861, and reflect all aspects of patient care, including ancillary services.
- 4. Electronic protected health information (ePHI) must be encrypted (preferably password protected pdf) when leaving trusted internal environment. Must meet HIPAA Security Rule (HSR) referenced in 45 CFR Part 160 and Subparts A and C of Part 164. Please reference NIST Special Publication 800-14, Generally Accepted Principles and Practices for Securing Information Technology Systems and NIST Special Publication 800-33. Contractor that provides this information agrees to implement reasonable and appropriate security measures to protect the information.

4. CONTRACTOR/PROVIDER'S MINIMUM QUALIFICATIONS

- A. Resident health care is of paramount importance. Accuracy in communications is critical to ensure timely, correct care is provided. Therefore, any Provider(s) providing services through this Agreement must be able to communicate effectively with CalVet.
- B. Any Provider who fails to meet the qualifications listed below shall not be permitted to perform service. The Contract Manager shall state in writing the reason(s) the Provider does not meet qualifications. After notification of failure to meet qualifications has been provided, CalVet shall not pay the Contractor for additional services identified as not meeting the qualifications.

- C. The Contractor must have a minimum number of Providers to adequately provide services to the Home, who meet the requirements specified in this Agreement. Contractor must also have equipment necessary to provide services listed below.
- D. Contractor/Providers must have the required licenses, healthcare insurance vendor links, permits, and/or certifications noted in section 5 below.
- E. Providers assigned to CalVet must have the minimum experience/education outlined below:
 - 1. Radiology Technician:
 - a. Minimum of twelve (12) continuous months of experience within the last five (5) years performing services similar in scope to those defined herein, preferably in a public or private institution.
 - b. Education: Graduation from an approved Radiology Technician program.
 - 2. Ultrasound Technician:
 - a. Minimum of twelve (12) continuous months of experience within the last five (5) years performing services similar in scope to those defined herein, preferably in a public or private institution.
 - b. Education: Graduation from an approved Ultrasound Technician program.

5. LICENSES, PERMITS, AND CERTIFICATION REQUIREMENTS

- A. Prior to providing services specified in this Agreement, Contractor or Contractor's Provider, including Sub-contractors, shall possess and maintain current throughout the term of this Agreement, all licenses, permits, and certification requirements for staff affiliated with Contractor, including but not limited to the most recent survey report with corrections and licenses.
- B. The Contractor shall provide the State with proof of any required training, licenses, permits, certifications and any other required documents, as stated below and as required by law, for each of the Providers providing services under this Agreement:
 - 1. Licensed Radiologist:
 - a. A current and valid license issued by American Registry of Radiologic Technologists (AART) to practice Radiology Technician services in the State of California.
 - b. Provider must be linked to Medicare, MediCal/DentiCal, and all other applicable insurance vendors.
 - 2. Ultrasound Technician:
 - a. Provider must be linked to Medicare, MediCal/DentiCal, and all other applicable insurance vendors.
- C. Contractor shall assume responsibility for verifying, through the appropriate licensing boards, that no current or unresolved adverse actions have been taken by the State licensing authorities against any Provider(s) assigned to the Home, and that all licenses are active and void of misconduct. The Home may, at its discretion, verify the current status of Provider(s) assigned.
- D. The Contractor shall routinely monitor and report to the Clinical Administrator or designee the status of its medical and professional staff's licenses, certifications, and/or registrations to ensure that they are current and that said personnel are in compliance with Medicare, Medi-Cal, and/or State of California licensing and/or registration restrictions.
- E. The Contractor shall provide copies of any required license(s), permits, and/or certification(s) for each Provider not less than thirty (30) calendar days prior to their expiration to the Home's Contract Manager, or designee, to be kept on file at the Home throughout the term of this Agreement.

- F. If during this Agreement any of the licenses and/or requirements are found to be inactive or not in compliance, the Home may withhold payment for services rendered during the expiration period and/or immediately terminate this Agreement.
- G. The Contractor will supply references including but not limited to, company references within California from a licensed skilled nursing facility with more than five (5) years of experience. References for the Radiologist, Ultrasound Technician, and Radiology Technician within California from a licensed skilled nursing facility with more than five (5) years of experience.
- H. The Contractor shall maintain current Cardiopulmonary Resuscitation (CPR) and Basic Life Support (BLS) certification for each Provider at Contractor's expense.
- I. The Contractor shall ensure services be provided in accordance with Medicare and Medi-Cal Standards, requirements and reimbursement schedules as set forth in Title XVIII and Title XIX of the Federal Social Security Act, Title 22, Division 3, of the California Code of Regulations (CCR) and Home bylaws, policies, and procedures and under the general direction of the Home CMO or designee.
- J. The Contractor shall abide by all the applicable rules and regulations as described by the Department of Health and Human Services.
- K. The Contractor shall further attest that no restrictions or probationary actions have been levied against its practice as licensed under the laws of the State of California.

6. HEALTH & SAFETY

- A. During times of pandemic (such as COVID-19) or other instances of widespread viral or bacterial infections, additional precautionary infection control steps may be implemented and required by the Home. These may include, but are not limited to: wearing CalVet approved masks and/or face shields, extra or special cleanings, social distancing, partitions, adjusted hours and obtaining additional clearance certifications that may be required by local, state or federal health authorities.
- B. Providers shall comply with the Home's Mitigation Plan for Viral Respiratory Illness and follow all current Viral Respiratory Illness guidelines for precautions.

7. BUILDING SECURITY

The Contractor shall ensure each Provider has an identification badge which includes the name of the Provider, Name of the Contractor (if different), and a photo identification. The badge shall be worn above the waist by the Provider at all times while at the Home. Providers shall sign in and out at the main lobby, as required upon entering the Home. The Contractor/Provider shall follow all requirements indicated by the Home for visitor sign in/out procedures, authorized parking lots, security and reporting. Providers shall wear the Home issued visitor I.D. badge.

8. INDEPENDENT CONTRACTOR STATUS

- A. The Contractor/Providers shall be considered "Independent Contractors" in relation to CalVet and the State. Therefore, the Contractor/Providers shall not be considered employee(s) of the Home and shall not be entitled to any employee benefits from the CalVet or the State including, but not limited to, the following:
 - 1. Premium Pay, Overtime Pay, or Holiday Pay
 - 2. Medical Insurance
 - 3. Vacation or Sick Leave
 - 4. Worker's Compensation
 - 5. Other employee benefits

9. CONTACT INFORMATION

A. The representatives of the project during the term of this agreement will be:

1. CalVet Representative/Contract Manager:
Veterans Home of California – Yountville
Attn: TBD
100 California Drive
Yountville, CA 94599
Phone: TBD
E-mail: TBD

2. Contractor Representative:
TBD

B. Project Representatives, addresses, and phone/fax numbers may be changed by issuing a 20-day prior written notification and shall not require a formal amendment to this Agreement. The notifying party shall provide complete contact information for the replacement Project Representative including, name, title, mailing address, phone/fax numbers, and email address. All other changes require a formal written amendment to this agreement.

10. CalVet may execute amendments to extend the term up to one (1) year to complete performance of the original agreement or add funds when higher than anticipated usage of services are needed. The amendment is at the sole discretion of the State and the rates noted in Exhibit B-1 remain in effect for the term of the contract including the amendment. No amendment or variation of the terms of the Agreement shall be valid unless made in writing and agreed upon by both parties and approved by DGS (if applicable).

1. STANDARD BUDGET DETAIL AND PAYMENT PROVISIONS

A. Invoicing and Payment

1. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for services rendered in accordance with the rates in Exhibit B-1.
2. Invoices shall include the Agreement Number and shall be submitted in not more frequently than monthly in arrears to:

<u>Original Invoice</u>	<u>Approval Copy</u>
Department of Veterans Affairs CalVet Accounting Office 1227 "O" Street Room 402 Sacramento, CA 95814 APInvoices@calvet.ca.gov	Veterans Home of California – TBD Attn: TBD Home Address Home City, State, and Zip code

B. Budget Contingency Clause

1. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further form and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
2. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

C. Prompt Payment Clause

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

2. SPECIAL BUDGET DETAIL AND PAYMENT PROVISIONS

Submissions of Invoices/Claims

- A. All invoices/claims must be completed thoroughly and legibly, with all applicable fields completed. Invoices/claims that are submitted to the appropriate location but have been altered, or are inaccurate, or do not provide all necessary information will not be accepted and will be returned to the Contractor for correction.
- B. Any changes to this provision relating to the invoice/claim submittal process, including but not limited to an address, form, or process change, shall be an administrative change managed through the appropriate designated CalVet office **and shall not require a contract amendment.**
- C. Contractor shall submit monthly invoices to the CalVet Contract Manager for approval and processing. Invoices/claims submitted shall include the following information in order to be considered complete and acceptable for processing, or the invoice/claim will be returned:
 - 1) Contractor's Company name exactly as it appears on the Payee Data Record (STD.204)
 - 2) Contractor's Company address, phone number and e-mail
 - 3) Date of invoice/claim
 - 4) Contractor's or Provider's National (Medicare/Medi-Cal) Provider Identifier Number
 - 5) Invoice/claim number

- 6) CalVet location where services were performed
- 7) Contract/Agreement Number
- 8) Resident's name, date of birth, and social security number (as the unique identifier)
- 9) Date(s) of Service
- 10) Total dollar amount being billed
- 11) Type(s) of Service – itemize each service provided and rate of reimbursement
- 12) Copy of the prior authorization referral form, including the prior authorization number
- 13) Medicare and Medi-Cal Remittance Advice, or documentation confirming the resident is not eligible, if applicable
- 14) Explanation of Benefits, if applicable
- 15) Denial documentation by the USDVA, if applicable
- 16) Private insurance payment information, if applicable

USDVA, Medicare, Medi-Cal, Private Insurance and Various Billing Information

- A. The Contractor shall verify the CalVet Resident's USDVA, private insurance, Medicare, and/or Medi-Cal eligibility. The Contractor shall bill for health care services rendered to residents in accordance with Exhibit B-1 Rate Sheet and, , shall be responsible for obtaining required USDVA, Medicare/Medi-Cal, and private insurance authorization. Contractor or Contractor's contract/referral providers shall use their own National Provider Identification Number to bill USDVA, private insurance, Medicare, and Medi-Cal prior to billing CalVet
- B. Contractor shall bill CalVet for the resident's USDVA, private insurance, Medicare, or Medi-Cal health care services deductible, co-payment, share-of-cost, or balance based on rates noted in Exhibit B-1. Contractor shall collect and assemble Contractor's contract/referral provider invoices and forward to CalVet. Each invoice must provide the information specified in this Agreement.
- C. CalVet shall make every effort to inform the Contractor when a resident is eligible for treatment of a service-connected illness. Contractor shall request treatment authorization from USDVA within seventy-two (72) hours of resident's admission. If treatment authorization is granted by USDVA, Contractor shall bill USDVA prior to billing Medicare, Medi-Cal, or CalVet.
- D. Contractor shall submit bills on the appropriate claim form adopted by Health Care Financing Administration for Contractor billing. Medicare, Medi-Cal or insurance denials due to improper claim information shall be the responsibility of the Contractor.
- E. Invoices shall never be submitted to the resident(s) of the Home under any circumstances when a referral has been received from the Home. Contractor shall not, under any circumstances, including the Home's non-payment, insolvency, breach or termination of this contract, seek compensation from, have any recourse against, or impose any additional charges on any resident(s). Contractor shall look only to the State for payment. If the State receives notice the Contractor has billed or collected monies from a Home resident(s), the Contractor shall refund that amount to the Veterans Home resident(s).
- F. Contractor or Contractor's Providers, Agents, Trustees, or Assignees, shall not maintain any action at law against a Home resident to collect funds owed by the Home.

Medicare Part A Stay Residents Billing

Part A Stay: The Home shall provide Contractor with information on the test requisitions that identify patients as SNF residents under Medicare Part A covered stays to enable the Contractor to bill the Home directly, not Medicare or Medi-Cal, in compliance with applicable laws and regulations of billing in compliance with Exhibit B-1.

Employee Lab Test Billing

The primary payer for any employee sample will be the Home. The Home shall provide the Contractor with information on the test requisitions that identify such patients as Home employees so the contractor can bill the Home directly.

3. CONTRACTOR OVERPAYMENTS

- A. If the State determines that an overpayment has been made to the Contractor, the State will seek recovery immediately upon discovery of the overpayment by: (a) calling the Contractor's accounting office to request a refund of the overpayment amount, or (b) offsetting subsequent Contractor payments by the amount of the overpayment if Contractor repayment or credit is not received within thirty (30) days from the date of notice.
- B. If Contractor discovers it has received an overpayment, Contractor must notify the State and refund the overpayment immediately.

4. DVBE Withhold

- A. For contracts with DVBE subcontractors pursuant to Mil. & Vet. Code Section 999.7, ten thousand dollars (\$10,000) will be withheld from the final payment, or the full final payment if less than ten thousand dollars (\$10,000), until the prime contractor complies with the certification requirements of subdivision (d) of Mil. & Vet. Code Section 999.5. Prime contractor shall be given 30 days' notice to cure the defect. If, after 30 calendar days from the date of notice, the prime contractor refuses to comply with the certification requirements, CalVet shall permanently deduct ten thousand dollars (\$10,000) from the final payment, or the full payment if less than ten thousand dollars (\$10,000).
- B. CalVet shall maintain all records of the information provided by the prime contractor pursuant to Section 999.5 and shall establish appropriate review procedures for those records to ensure the accuracy and completeness of the award amounts and paid amounts reported. The records shall be maintained in a manner that facilitates access and review by external auditors. Records collected pursuant to this section shall be retained for a minimum of six years after collection. (Mil. & Vet. Code Section 999.55)

The Contractor must be able to provide the services listed below. Subcontractor Agreements may be used to comply with this requirement. Subcontractor(s) information must be identified on Bidder Declaration (GSPD-05-105). If additional Subcontractors are added during the term of the Agreement, an updated GSPD-05-105 must be submitted.

The rates listed below are in effect for the term of the Agreement, including any extension of the term through an amendment.

Description of Service	Rates
Radiology Procedure Codes	
Ultrasound Procedure Codes	
Ultrasound STAT Fee per resident	
Radiology STAT Fee per resident	
After Hours fee per trip	
Employee Chest per procedure	

1. **General Terms and Conditions**

A. General Terms and Conditions (GTCs)

The (GTCs) are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents may also be viewed at the California Department of General Services website: <https://www.dgs.ca.gov/-/media/Divisions/OLS/Resources/GTC-Updates/GTC-225-February-2025.pdf>

1. EXCISE TAX

The State of California is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Contract. California may pay any applicable sales or use tax imposed by another state.

2. STATUTORY AND REGULATORY PROVISIONS

A. This Contract shall be governed and construed in accordance with all applicable statutory and regulatory provisions including, but not limited to:

- 1) Title XVIII of the Federal Social Security Act
- 2) Title XIX of the Federal Social Security Act
- 3) Chapters 7 and 8 (commencing with Section 14000), Part 3, Division 9, Welfare and Institutions Code
- 4) Division 3, Title 22, California Code of Regulations (CCR)
- 5) Health and Safety Code Section 1340 et seq.
- 6) All applicable Federal provisions which regulate the administration of health care programs and budget revisions, as contained in the Code of Federal Regulations (CFR), Title 42, and Title 45, Part 74, Title 42 United States Code, Sections 1395 et seq. and 1396 et seq.
- 7) Sub-chapter 13 (commencing with Section 6800), Chapter 4, Part 1, Title 17, CCR; and
- 8) All other applicable laws and regulations.

B. Any provision of this Contract in conflict with the applicable laws and regulations is hereby amended to conform to the provisions of those laws and regulations. Such amendment of the Contract shall be effective on the effective date of the statutes or regulations necessitating it, and shall be binding on the parties even though the amendment may not have been reduced to writing and formally agreed upon and executed by the parties. If, due to an amendment in laws or regulations, Contractor is unable or unwilling to comply with the provisions of the amendment(s), State or Contractor may terminate this Contract in accordance with the Termination provision of this Contract.

3. EXAMINATION AND AUDIT

A. Contractor shall allow the State and its related entities, the Comptroller General of the United States, Department of Justice (DOJ), and the Bureau of Medi-Cal Fraud, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract, and to inspect, evaluate, and audit any and all books, records, and facilities maintained by the Contractor and Subcontractors pertaining to services under this Contract at any time during normal business hours.

B. Contractor shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under this Contract in accordance with *Government Code, Section 85467.7*. The examination and audit shall be confined to those matters directly connected with the performance of the contract, including, but not limited to, the costs of administering the Contract.

C. Books and records include, but are not limited to, all physical records originated or prepared pursuant to the performance under this Contract, including working papers, reports, financial records, and books of account, Medical Records, prescription files, Subcontracts, and any other documentation pertaining to medical and non-medical services for residents of the Home. Upon request, at any time during the term of this Contract, the Contractor shall furnish any record or copy.

4. RESOLUTION OF DISPUTES

- A. The Contractor may dispute and appeal a decision or action by the State arising out of the Interpretation or administration of this Contract. A written dispute notice shall be submitted to the Contract Manager within thirty (30) calendar days from the date the Contractor receives notice of the decision or action in dispute.

The Contractor's dispute notice shall state the following, based on the most accurate information available to the Contractor:

- 1) That it is a dispute pursuant to this Section.
 - 2) The date, nature, and circumstances of the conduct, which is the subject of dispute.
 - 3) The names, telephone numbers, function, and activity of each contractor, subcontractor, State official, or employee involved in or knowledgeable about the conduct.
 - 4) The identification of any documents and the substance of any oral communications involved in the conduct. Copies of all identified documents shall be attached.
 - 5) The reason why the Contractor is disputing the conduct.
 - 6) The cost impact to the Contractor directly attributable to the alleged conduct, if any.
 - 7) The Contractor's desired remedy.
- B. The State and the Contractor agree to try to resolve all contractual issues by negotiation and mutual agreement at the Contract Manager level. The parties recognize that the implementation of this policy depends on open-mindedness, and the need for both sides to present adequate supporting information on matters in question. The Contract Manager, in a written decision stating the factual basis for the decision, will decide any disputes concerning performance of this Contract. Before issuance of the Contract Manager's decision, informal discussions between the parties by the individuals who have not participated substantially in the matter in dispute will be considered by the parties in efforts to reach mutual agreement.
- C. The Contract Manager will render a decision or request additional substantiating documentation from the Contractor within thirty (30) days of receipt of the Contractor's appeal. A copy of the decision will be provided to the Contractor. The decision shall be final and conclusive unless, within thirty (30) days from the date of the decision, the Contractor files a written appeal addressed to the Undersecretary, California Department of Veterans Affairs.
- D. The Undersecretary's decision shall be final and conclusive unless the decision is arbitrary, capricious, grossly erroneous or if any determination of fact is unsupported by substantiating evidence. The Undersecretary's decision will be in writing and may encompass facts, interpretations of the Contract, and determination or application of law. The Contractor may, prior to the Undersecretary's decision, present oral or documentary evidence, and arguments in support of the Contractor's appeal. The decision will either:
- 1) Find in favor of the Contractor, in which case the Undersecretary may:
 - a) Countermand the earlier conduct which caused the Contractor to file a dispute; or
 - b) Reaffirm the conduct and, if there is a cost impact sufficient to constitute a change in obligations pursuant to the payment provisions, direct the State to comply with that Section.
 - 2) Deny the Contractor's dispute and, where necessary, direct the manner of future performance; or

- 3) Request additional substantiating documentation in the event the information in the Contractor's dispute or appeal is inadequate to permit a decision to be made under paragraphs (1) or (2) above, advise the Contractor as to what additional information is required, and establish how that information will be furnished. The Contractor shall have thirty (30) days to respond to the Undersecretary's request for further information. Upon receipt of this additional requested information, the Undersecretary will have thirty (30) days to respond with a decision. Failure to supply additional information required by the Undersecretary within the time period specified above shall constitute a waiver by the Contractor of all claims.
- E. Attorney's fees and costs for any dispute or subsequent trial shall be borne by the respective parties. Both parties waive trial by jury, and any trial in superior or municipal court shall be by a judge alone. Any litigation arising out of this Contract shall be conducted in a California Court pursuant to California law.
- F. Contractor shall continue with the responsibilities under this Contract during any dispute.

5. AGENCY LIABILITY (Applies only to Federally Funded Contracts)

The Contractor warrants by execution of this Contract that no person or selling agency has been employed or retained to solicit or secure this Contract upon Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Contract without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

6. POTENTIAL SUBCONTRACTORS

For all Agreements, with the exception of Interagency Agreements and other governmental entities/auxiliaries exempt from bidding, nothing contained in this Contract or otherwise shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of Contractor's responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them, as it is for the acts and omissions of persons directly employed by the Contractor.

The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or enforce the payment of any moneys to any subcontractor.

7. REPORTING SMALL BUSINESS (SB)/MICRO BUSINESS (MB) AND /OR DISABLED VETERANS BUSINESS ENTERPRISE (DVBE) UTILIZATION

- A. If SB/MB and/or DVBE Subcontractor participation is a requirement on this Agreement, the Contractor must report the actual amount paid to certified Subcontractors. The Contractor must comply with Government Code Section 14841 and Military and Veterans Code Section 999.5(d) by reporting the actual utilization of certified Subcontractor(s) during the performance of this Agreement. The Contractor shall prepare and submit the report to the Contract Manager within 60 days from receipt of final payment.
- B. Withhold: Pursuant to Mil. & Vet. Code Section 999.7, ten thousand dollars (\$10,000) will be withheld from the final payment, or the full final payment if less than ten thousand dollars (\$10,000), until the prime contractor complies with the certification requirements of subdivision (d) of Mil. & Vet. Code Section 999.5. Prime contractor shall be given 30 days' notice to cure the defect. If, after 30 calendar days from the date of notice, the prime contractor refuses to comply with the certification requirements, CalVet shall permanently deduct ten thousand dollars (\$10,000) from the final payment, or the full payment if less than ten thousand dollars (\$10,000).

8. SUBSTITUTION OF DVBEs

- A. If applicable, DVBE subcontractors shall be used per the California Code of Regulations (CCR), Title 2 § 1896.70 unless a substitution is approved in writing by the Department of General Services (DGS), Office of Small Business & Disabled Veteran Business Enterprise (OSDS). A DVBE subcontractor shall be replaced by another DVBE to perform the work originally stated. The substitution shall maintain, at minimum, the level of participation goal stated in the bid.
- 1) The Contractor shall simultaneously notify the DVBE and the CalVet Contract Manager of the intended substitution. The written notice shall contain the reasons for the substitution and be sent by certified mail. The Contractor shall submit the following to the CalVet Contract Manager:
 - i. A copy of the written notice issued to the DVBE with proof of delivery. In the absence of proof of delivery, provide the certified mail receipts.
 - ii. A copy of the DVBE's consent or opposition to the substitution. In the absence of the consent or opposition, provide the returned and unopened certified mail.
 - iii. The name and supplier number of the business being substituted and the name and supplier number of the proposed replacement. If a DVBE cannot be identified as a replacement, the Contractor shall document the absence of DVBEs. This documentation shall include but is not limited to:
 1. Contact CalVet' SB/DVBE Coordinator regarding the absence of DVBEs to perform the specific work.
 2. Search results from the DGS website for DVBEs to perform the specific work.
 3. Communication with a DVBE Community Organization nearest the worksite regarding the absence of DVBEs, if applicable.
 4. Documented communication with DVBEs describing the work to be performed, its percentage of the overall contract, the corresponding dollar amount, and their responses to the request.
 - 2) The DVBE shall have up to five (5) business days from the postmark date to consent or oppose the substitution. A copy of the DVBE's reply shall be sent simultaneously by certified mail to the Contractor and the CalVet Contract Manager.
 - 3) When written oppositions to a substitution are filed, CalVet shall grant the DVBE a hearing. The hearing notice shall be issued within five (5) business days from receipt of the opposition. If CalVet grants the substitution, continue to G, below.
 - 4) The CalVet Contract Manager shall submit the substitution request to the DGS, OSDS:
 - i. The request must meet the criteria as specified above or § 4107 of the Public Contract Code for Public Works.
 - ii. The substitution request shall be accompanied by the hearing decision, when applicable.
 - 5) The OSDS will respond to substitution requests within three (3) business days. The OSDS shall consent to the substitution of another DVBE in any of the following situations:
 - i. When the DVBE becomes bankrupt, insolvent or goes out of business.
 - ii. When the DVBE does not perform as listed in the Bidder Declaration.
 - iii. When the DVBE does not meet the bond requirements of the contractor.
 - iv. When the DVBE's name is incorrect due to an inadvertent clerical error. In the case of public works contracts, compliance with § 4107.5 of the Public Contract Code is required.
 - v. When the DVBE is not licensed as required by any State of California regulatory agency.
 - vi. When CalVet, or its duly authorized officer, determines that the DVBE:
 1. Did not perform in accordance with the plans and specifications; or,
 2. Has delayed or disrupted the progress of the work.
 - 6) The DVBE substitution process shall not be used as an excuse for noncompliance with any provision of law. This includes, but is not limited to, the Subletting and Subcontracting Fair Practices Act (§ 4100 et seq., Public Contract Code) or any Agreement requirements relating to substitution of subcontractors.

- 7) Contractors who proceed with work pending a substitution decision may be subject to contract termination, recovery of damages under rights, remedies and penalties. This is outlined in § 999.9 of the Military and Veterans Code, § 10115.10 of the Public Contract Code or § 4110 of the Public Contract Code (applies to public works only). Failure to adhere to the DVBE participation in the performance of the Agreement may be cause for Agreement termination and recovery of damages under the rights and remedies due CalVet.
- 8) Any DVBE firm acting/working under subcontract must be responsible for providing materials, supplies, equipment or services and must carry out its responsibility by actually performing, managing, or supervising the work involved that is normal for its business services and functions.
- 9) The Contractor shall maintain records of all subcontracts entered into with DVBE Subcontractors including records of materials purchased from DVBE suppliers. Such records shall show the name and address of each DVBE Subcontractor or supplier and the total dollar amount paid to each one. Upon completion of the Agreement, a summary of these records shall be prepared and certified correct by the Contractor or his authorized representative, and the summary shall be furnished to the CalVet Contract Manager.

9. SMALL BUSINESS OR DISABLED VETERAN BUSINESS ENTERPRISE CERTIFICATION

- A. Contractor shall maintain its status as a Department of General Services (DGS) certified Small Business (SB)/Microbusiness (MB) or Disabled Veteran Business Enterprise (DVBE), as applicable, throughout the term of this Agreement.
- B. Subcontractor must also maintain its certification with the DGS Office of Small Business & Disabled Veteran Business Enterprise Services as a SB/MB or DVBE, as applicable, for the duration of this Agreement.

10. INSURANCE REQUIREMENTS

- A. Upon contract award, contractor must furnish to the State an original certificate(s) of insurance stating that the contractor has the following types of coverage, if applicable:
 - 1) Commercial General Liability: Combined Single Limit (CSL) for no less than \$1,000,000 per occurrence for bodily injury and property damage. The policy must include coverage for liabilities arising out of premises, operations, independent contractors, products/completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made, or suit is brought, subject to the contractor's limit of liability.
 - 2) Professional Liability: (Applies to any contract in which the work is of a professional nature such as, but not limited to, physicians, architects, engineers, accountants, or consultants) Covering any damages caused by an error, omission, or any negligent acts. Limits of not less than \$1,000,000 per claim and \$3,000,000 aggregate.
 - 3) Automobile Liability (Applies to any contract in which the contractor will likely use a vehicle to complete the project or drive a vehicle onto State property): Limits of not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of an automobile including owned, hired, and non-owned autos.
 - a) MCS90 endorsement on the Automobile policy **(required whenever contractor will be transporting Hazardous materials i.e. Pest Control and Waste contracts.)**
 - 4) Pollution Liability/Environmental Impairment Liability (Applies only to Pollution Contracts – i.e. Pest Control and Waste Contracts): In addition, the certificate evidencing general liability must include evidence of one of the following if applicable to the service:
 - a) Pesticide/Herbicide Endorsement, OR

- b) An endorsement deleting the general liability pollution exclusion, OR
 - c) A separate environmental/pollution liability policy with limits not less than \$1,000,000 covering bodily injury and property damage from pollution and related clean up costs incurred arising out of the work or services to be performed under this contract.
- 5) Workers' Compensation (Mandatory for all Contractors who have at least one employee): Contractor shall maintain workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the contract, including special coverage extensions where applicable. Contractor shall furnish a certificate for Workers' Compensation issued by an insurance carrier licensed to write Workers' Compensation insurance in the State of California, including the name of the carrier and the date of expiration of insurance, or a Certificate of Consent to Self-Insure issued by the Department of Industrial Relations.
- 6) Fidelity Bond/Crime Insurance: (Applies only to contracts handling State money or securities – i.e. Armored Car Service Contracts) Contractor shall maintain Employee Dishonesty and, when applicable, Inside/Outside Money & Securities coverages for state-owned property in the care, custody and control of the Contractor. Coverage limits shall not be less than the amount scheduled in the contract. The policy shall include as Contractor. Coverage limits shall not be less than the amount scheduled in the contract. The policy shall include as loss payee the California Department of Veterans Affairs
- 7) The certificate(s) of insurance shall be on an ACORD form, or equivalent, and must show "occurrence" coverage. The certificates of insurance must also contain all of the following provisions:
- a) Name and address of the insurance company, policy number, and beginning and ending dates of the policy.
 - b) Statement that the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.
 - c) Statement that the State of California, its officers, agents, employees, and servants are included as additional insured on the policy, but only insofar as the operations under this contract. The additional insured endorsement must accompany the certificate of insurance. This does not pertain to professional liability.
- 8) Contractor agrees that any insurance herein provided shall be in full force and effect at all times during the term of the contract. In the event said insurance coverage expires at any time during the term of this contract, Contractor agrees to provide, at least ten (10) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. In the event contractor fails to keep in effect at all times insurance coverage herein provided, State may, in addition to any other remedies it may have, terminate the contract upon the occurrence of such event, subject to the provisions of the contract.
- 9) Contractor shall notify the State within five (5) days if any insurance coverage identified in the contract is altered in any way.

11. RIGHT TO TERMINATE

- A. The State reserves the right to terminate this Contract subject to thirty (30) days written notice to the Contractor. Contractor may submit a written request to terminate this Contract only if the State should substantially fail to perform its responsibilities as provided herein. However, the Contract can be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the Contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.
- B. This Contract may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantially

damaged that it is impractical to continue service, or in the event the Contractor is unable to render service as a result of any action by any governmental authority.

12. FORCE MAJEURE

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of, performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods, and other natural disasters such that performance is impossible.

13. EVALUATION OF CONTRACTOR

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

14. SB/DVBE PARTICIPATION

In accordance with requirements set forth by the State, the CalVet shall enforce all laws, rules, and regulations pertaining to this program. It is the Contractor's responsibility to provide CalVet with all required documents as outlined in this agreement. The CalVet reserves the right to contact each SB and DVBE identified by the Contractor to verify compliance. Failure to meet SB/DVBE requirements under Exhibit B, and Exhibit C (GTC 02/2025), paragraphs 19.a and 19.b. may deem the Contractor to be non-responsible and rejected from future bid and contract opportunities with the CalVet.

15. LICENSES AND PERMITS

The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this contract.

If you are a Contractor located within the State of California, a business license from the city/county in which you are headquartered is necessary; however, if you are a corporation, a copy of your incorporation documents/letter from the Secretary of State's Office can be submitted. If you are a Contractor outside the State of California, you will need to submit to the California Department of Veterans Affairs a copy of your business license or incorporation papers for your respective State showing that your company is in good standing in that state.

In the event any license(s) and/or permit(s) expire at any time during the term of this contract, Contractor agrees to provide agency a copy of the renewed license(s) and/or permit(s) within 30 days following the expiration date. In the event the Contractor fails to keep in effect at all times all required license(s) and permit(s), the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

16. CONSULTANT – STAFF EXPENSES

The Contractor represents that it has or shall secure at its own expense all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with any governmental entity.

17. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

For the purpose of this contract, contractor shall comply with the federal Health Insurance Portability and Accountability Act (HIPAA), as well as State and Federal requirements for privacy protection. The definitions and obligations required by the HIPAA Standards for Privacy of Individually Identifiable Health Information (U.S.C. 1320d et seq.), and implementing regulations including but not limited to 45 Code of Federal Regulations parts 142, 160, 162, and 164, hereinafter referred to as the Privacy Rule, remain in force and applicable for access to protected health information, including electronic protected health information.

18. Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order [N-6-22](#) (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

19. LEGAL CONTRACTS (applies only to Legal Services Contracts)

In accordance with (Public Contract Code Section (10353.5), the Contractor shall:

- A. Agree to adhere to legal cost and billing guidelines designated by the State.
- B. Adhere to litigation plans designated by the state agency.
- C. Adhere to case phasing of activities designated by the state agency.
- D. Submit and adhere to legal budgets as designated by the state agency.
- E. Maintain legal malpractice insurance in an amount not less than the amount designated by the state agency.
- F. Submit to legal bill audits and law firm audits if requested by the state agency. The audits may be conducted by employees and designees of the state agency or by any legal cost control providers retained by the state agency for that purpose.
- G. Submit to a legal cost and utilization review, as determined by the state agency.

1. **Recitals – STANDARD RISK**

- A. This Contract (Agreement) has been determined to constitute a business associate relationship under the Health Insurance Portability and Accountability Act (“HIPAA”) and its implementing privacy and security regulations at 45 CFR Parts 160 and 164 (“the HIPAA regulations”).
- B. The California Department of Veterans Affairs (CalVet) wishes to disclose to Business Associate (BA) certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information (“PHI”) and confidential information protected by Federal and/or state laws.
- C. “Business Associate” or “BA” shall generally have the same meaning as the term “business associate” at 45 CFR §160.103, and in reference to the party to this agreement, shall mean the Contractor. A “business associate” also is a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate.
- D. “Protected Health Information” or “PHI” means any information, whether oral or recorded in any form or medium that relates to the past, present, or future physical or mental condition of an individual, the provision of health and dental care to an individual, or the past, present, or future payment for the provision of health and dental care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI shall have the meaning given to such term under HIPAA and HIPAA regulations, as the same may be amended from time to time. “Confidential Information” means information protected by Federal and/or state laws identified in this Agreement.
- E. “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI, or confidential data that is essential to the ongoing operation of the Business Associate’s organization and intended for internal use; or interference with system operations in an information system.
- F. As set forth in this Agreement, the Contractor, hereinafter, is the Business Associate of CalVet that provides services, arranges, performs, or assists in the performance of functions or activities on behalf of CalVet and creates, receives, maintains, transmits, uses, or discloses PHI.
- G. CalVet and Business Associate desire to protect the privacy and provide for the security of PHI created, received, maintained, transmitted, used or disclosed pursuant to this Agreement, in compliance with HIPAA and HIPAA regulations and other applicable laws.
- H. The purpose of the Agreement is to satisfy certain standards and requirements of HIPAA and the HIPAA regulations.
- I. The terms used in this Agreement, but not otherwise defined, shall have the same meanings as those terms in the HIPAA regulations.

In exchanging information pursuant to this Addendum, the parties agree as follows:

2. **Permitted Uses and Disclosures of PHI by Business Associate**

- A. ***Permitted Uses and Disclosures.*** Except as otherwise indicated in this Agreement, Business Associate may use or disclose PHI only to perform functions, activities or services specified in this Agreement, for, or on behalf of CalVet, provided that such use or disclosure would not violate the HIPAA regulations, if done by CalVet.
- B. ***Specific Use and Disclosure Provisions.*** Except as otherwise indicated in this Agreement, Business Associate may:
 - 1) ***Use and disclose for management and administration.*** Use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

- 2) **Provision of Data Aggregation Services.** Use PHI to provide data aggregation services to CalVet. Data aggregation means the combining of PHI created or received by the Business Associate on behalf of CalVet with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of CalVet.

3. **Responsibilities of Business Associate**

Business Associate agrees:

- A. **Nondisclosure.** Not to use or disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as required by law.
- B. **Safeguards.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI, including electronic PHI, that it creates, receives, maintains, uses, or transmits on behalf of CalVet; and to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall develop and maintain a written information privacy and security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities, and which incorporates the requirements of Section C, Security, below. Business Associate will provide CalVet with its current and updated policies.
- C. **Security.** To take any and all steps necessary to ensure the continuous security of all computerized data systems containing PHI, and provide data security procedures for the use of CalVet at the end of the contract period. These steps shall include, at a minimum:
 - 1) Complying with all of the data system security precautions listed in this Agreement or in an Exhibit incorporated into this Agreement; and
 - 2) Complying with the safeguard provisions in the Department's Information Security Policy, embodied in the Security and Risk Management Policy in the Information Technology Section of the State Administrative Manual (SAM), §4840 et seq., in so far as the security standards in these manuals apply to Business Associate's operations. In case of a conflict between any of the security standards contained in any of these enumerated sources of security standards, the most stringent shall apply. The most stringent means, safeguards which provide the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply with changes to these security standards that occur after the effective date of this Agreement.

Business Associate shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this section and for communicating on security matters with CalVet.

- D. **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or its subcontractors in violation of the requirements of this Agreement.
- E. **Business Associate's Agents.** To ensure that any agents, including subcontractors, to whom Business Associate provides PHI received from or created or received by Business Associate on behalf of CalVet, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including implementation of reasonable and appropriate administrative, physical, and technical safeguards to protect such PHI; and to incorporate, when applicable, the relevant provisions of this Agreement into each subcontract with agents or subcontractors.
- F. **Availability of Information to CalVet and Individuals.** To provide access as CalVet may require, and in the time and manner designated by CalVet (upon reasonable notice and during Business Associate's normal business hours) to PHI in a Designated Record Set, to CalVet (or, as directed by CalVet), to an Individual, in accordance with 45 CFR §164.524. Designated Record Set means the group of records maintained for CalVet that includes medical, dental and billing records about individuals; enrollment,

payment, claims adjudication, and case or medical management systems maintained for CalVet health plans; or those records used to make decisions about individuals on behalf of CalVet. Business Associate shall use the forms and processes developed by CalVet for this purpose and shall respond to requests for access to records transmitted by CalVet within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.

- G. **Amendment of PHI.** To make any amendment(s) to PHI that CalVet directs or agrees to pursuant to 45 CFR §164.526, in the time and manner designated by CalVet.
- H. **Internal Practices.** To make Business Associate's internal practices, books and records relating to the use and disclosure of PHI received from CalVet, or created or received by Business Associate on behalf of CalVet, available to CalVet or to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by CalVet or by the Secretary, for purposes of determining CalVet's compliance with the HIPAA regulations.
- I. **Documentation of Disclosures.** To document and make available to CalVet or (at the direction of CalVet to an Individual such disclosures of PHI, and information related to such disclosures, necessary to respond to a proper request by the subject Individual for an accounting of disclosures of PHI, in accordance with 45 CFR §164.528.
- J. **Notification of Patient Confidential Communications.** Notify CalVet (within 2 days of request) of any patient (or patient's representative) preferences (or changes to) regarding method of or how to communicate with the patient.
- K. **Notification of Breach.** During the term of this Agreement:
- 1) **Discovery of Breach.** To notify CalVet **immediately by telephone call plus email or fax** upon the discovery of breach of security of PHI in computerized form if the PHI was, or is reasonably believed to have been, acquired by an unauthorized person, or **within 24 hours by email or fax** of any suspected security incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the CalVet contract manager, the CalVet Privacy Officer and the CalVet Information Security Officer. If the incident occurs after business hours or on a weekend or holiday and involves electronic PHI, notification shall be provided by calling the CalVet ISD Help Desk at (916) 653-2521. Business Associate shall take:
 - i. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment and
 - ii. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
 - 2) **Investigation of Breach.** To immediately investigate such security incident, breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, to notify the CalVet contract manager(s), the CalVet Privacy Officer, and the CalVet Information Security Officer of:
 - i. What data elements were involved and the extent of the data involved in the breach,
 - ii. A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data,
 - iii. A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized,
 - iv. A description of the probable causes of the improper use or disclosure; and
 - v. Whether Civil Code §1798.29 or §1798.82 or any other federal or state laws requiring individual notifications of breaches are triggered.
 - 3) **Written Report.** To provide a written report of the investigation to the CalVet contract managers, the CalVet Privacy Officer, and the CalVet Information Security Officer within ten (10) working days of the discovery of the breach or unauthorized use or disclosure. The report shall include, but not be

limited to, the information specified above, as well as a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure.

- 4) **Notification of Individuals.** To notify individuals of the breach or unauthorized use or disclosure when notification is required under state or federal law and to pay any costs of such notifications, as well as any costs associated with the breach. The CalVet contract managers, the CalVet Privacy Officer, and the CalVet Information Security Officer shall approve the time, manner and content of any such notifications.
- 5) **CalVet Contact Information.** To direct communications to the above-referenced CalVet staff, the Business Associate shall initiate contact as indicated herein. CalVet reserves the right to make changes to the contact information below by giving written notice to the Business Associate. Said changes shall not require an amendment to this Agreement.

CalVet Contract Manager	CalVet Privacy Officer	CalVet Information Security Officer
See Exhibit A for Contract Manager information	Privacy Officer 1227 O Street Sacramento, CA 95814 Email: PrivacyOfficer@calvet.ca.gov Telephone: (916) 657-0091	Information Security Officer 1227 O Street Sacramento, CA 95814 Email: ISO@calvet.ca.gov Telephone: (916) 651-2165

- L. **Employee Training and Discipline.** To train and use reasonable measures to ensure compliance with the requirements of this Agreement by employees who assist in the performance of functions or activities on behalf of CalVet under this Agreement and use or disclose PHI; and discipline such employees who intentionally violate any provisions of this Agreement, including by termination of employment. In complying with the provisions of this Section K, Business Associate shall observe the following requirements:
 - 1) Business Associate shall provide information privacy and security training, at least annually, at its own expense, to all its employees who assist in the performance of functions or activities on behalf of CalVet under this Agreement and use or disclose PHI.
 - 2) Business Associate shall require each employee who receives information privacy and security training to sign a certification, indicating the employee's name and the date on which the training was completed.
 - 3) Business Associate shall retain each employee's written certifications for CalVet inspection for a period of three years following contract termination.

4. **Obligations of CalVet**

CalVet agrees to:

- A. **Notice of Privacy Practices.** Provide Business Associate with the Notice of Privacy Practices that CalVet produces in accordance with 45 CFR §164.520, as well as any changes to such notice. Visit this Internet address to view the most current Notice of Privacy Practices: <https://www.calvet.ca.gov/about-us/privacy>
- B. **Permission by Individuals for Use and Disclosure of PHI.** Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures.
- C. **Notification of Restrictions.** Notify the Business Associate of any restriction to the use or disclosure of PHI that CalVet has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.

- D. **Notification of Patient Confidential Communications.** Notify the Business Associate of any patient (or patient's representative) preferences (or changes to) regarding method of or how to communicate with the patient.
- E. **Requests Conflicting with HIPAA Rules.** Do not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by CalVet.

5. **Audits, Inspection and Enforcement**

From time to time, CalVet may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this Agreement. Business Associate shall promptly remedy any violation of any provision of this Agreement and shall certify the same to the CalVet Privacy Officer in writing. The fact that CalVet inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this Agreement, nor does CalVet:

- A. Failure to detect; or
- B. Detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices constitutes acceptance of such practice or a waiver of CalVet's enforcement rights under this Agreement.

6. **Termination**

- A. **Termination for Cause.** Upon CalVet's knowledge of a material breach of this Agreement by Business Associate, CalVet shall:
 - 1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by CalVet;
 - 2) Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - 3) If neither cure nor termination is feasible, report the violation to the Secretary of the U.S. Department of Health and Human Services.
- B. **Judicial or Administrative Proceedings.** Business Associate will notify CalVet if it is named as a defendant in a criminal proceeding for a violation of HIPAA. CalVet may terminate this Agreement if Business Associate is found guilty of a criminal violation of HIPAA. CalVet may terminate this Agreement if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws, is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined.
- C. **Effect of Termination.** Upon termination or expiration of this Agreement for any reason, Business Associate shall return or destroy all PHI received from CalVet (or created or received by Business Associate on behalf of CalVet that Business Associate still maintains in any form, and shall retain no copies of such PHI or, if return or destruction is not feasible, shall continue to extend the protections of this Agreement to such information, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

7. **Miscellaneous Provisions**

- A. **Disclaimer.** CalVet makes no warranty or representation that compliance by Business Associate with this Agreement, HIPAA or the HIPAA regulations will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

- B. **Amendment.** The parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon CalVet's request, Business Associate agrees to promptly enter into negotiations with CalVet concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA regulations or other applicable laws. CalVet may terminate this Agreement upon thirty (30) days written notice in the event:
- 1) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by CalVet pursuant to this Section, or
 - 2) Business Associate does not enter into an amendment providing assurances regarding the safeguarding of PHI that CalVet in its sole discretion deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA regulations.
- C. **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to CalVet at no cost to CalVet to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CalVet, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.
- D. **No Third-Party Beneficiaries.** Nothing expressed or implied in the terms and conditions of this Agreement is intended to confer, nor shall anything herein confer, upon any person other than CalVet or Business Associate and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.
- E. **Interpretation.** The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable state laws. The parties agree that any ambiguity in the terms and conditions of this Agreement shall be resolved in favor of a meaning that complies with and is consistent with HIPAA and the HIPAA regulations.
- F. **Regulatory References.** A reference in the terms and conditions of this Agreement to a section in the HIPAA regulations means the section as in effect or as amended.
- G. **Survival.** The respective rights and obligations of Business Associate under Section 6(C) of this Agreement shall survive the termination or expiration of this Agreement.
- H. **No Waiver of Obligations.** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.