Exhibit C
Additional Provisions

1. Additional Incorporated Exhibits

The attached Exhibit D(S) entitled "Special Terms and Conditions," consisting of eighteen (18) pages, is incorporated and made a part of this agreement by this reference, except for provisions 1, 2, 3, 4, 9, 13, 15, 19 and 20. The term contractor shall mean Local Lead Agency.

The Local Lead Agency Administrative and Policy Manual and any subsequent updates are incorporated herein and made a part of this agreement by this reference. This manual will be updated periodically. The CDPH shall provide the LLA with a copy of the Local Lead Agency Administrative and Policy Manual and periodic updates thereto.

The Online Tobacco Information System (OTIS) scope of work (SOW) and Budget Justification are incorporated into this agreement by this reference.

2. Agreement Alterations

No alteration or variation of the terms of this agreement shall be valid unless made in writing by Program Letter, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto. This does not prohibit the parties from agreeing in writing to revisions in the LLA's Plan, providing such revisions are made in accordance with the requirements prescribed by the CDPH.

3. Cancellation/Termination

The State may terminate this agreement and be relieved of any payments should the LLA fail to perform the requirements of this agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the LLA under this agreement and the balance, if any, shall be paid to the LLA upon demand.

A. This agreement may be cancelled by CDPH <u>without cause</u> upon 30 calendar days advance written notice to the LLA.

B. CDPH reserves the right to cancel or terminate this agreement immediately <u>for cause</u>. The LLA may submit a written request to terminate this agreement only if CDPH substantially fails to perform its responsibilities as provided herein.

C. The term "for cause" shall mean that the LLA fails to meet the terms, conditions, and/or responsibilities of this agreement. Causes for termination include, but are not limited to, the following occurrences:

   1) If the LLA knowingly furnishes any statement, representation, warranty, or certification in connection with the agreement, which representation is materially false, deceptive, incorrect, or incomplete.

   2) If the LLA fails to perform any material requirement of this agreement or defaults in performance of this agreement.

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3) If the LLA files for bankruptcy, or if CDPH determines that the LLA becomes financially incapable of completing this agreement.

D. Agreement termination or cancellation shall be effective as of the date indicated in CDPH's notification to the LLA. The notice shall stipulate any final performance, invoicing or payment requirements.

E. Upon receipt of a notice of termination or cancellation, the LLA shall take immediate steps to stop performance and to cancel or reduce subsequent agreement costs.

F. In the event of early termination or cancellation, the LLA shall be entitled to compensation for services performed satisfactorily under this agreement and expenses incurred up to the date of cancellation and any non-cancelable obligations incurred in support of this agreement.

G. In the event of termination, and at the request of CDPH, the LLA shall furnish copies of all proposals, specifications, designs, procedures, layouts, copy, and other materials related to the services or deliverables provided under this agreement, whether finished or in progress on the termination date.

H. The LLA will not be entitled to reimbursement for any expenses incurred for services and deliverables pursuant to this agreement after the effective date of termination.

I. Upon receipt of notification of termination of this agreement, and except as otherwise specified by CDPH, the LLA shall:

1) Place no further order or subcontracts for materials, services, or facilities.

2) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts.

3) Upon the effective date of termination of the agreement and the payment by CDPH of all items properly chargeable to CDPH hereunder, LLA shall transfer, assign and make available to CDPH all property and materials belonging to CDPH, all rights and claims to any and all reservations, contracts, and arrangements with owners of media/PR materials, or others, and shall make available to CDPH all written information regarding CDPH's media/PR materials, and no extra compensation is to be paid to LLA for its services.

4) Take such action as may be necessary, or as CDPH may specify, to protect and preserve any property related to this agreement which is in the possession of the LLA and in which CDPH has or may acquire an interest.

J. CDPH may, at its discretion, require the LLA to cease performance of certain components of the Scope of Work as designated by CDPH and complete performance of other components prior to the termination date of the agreement.

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4. Avoidance of Conflicts of Interest by the LLA

A. CDPH intends to avoid any real or apparent conflict of interest on the part of the LLA, subcontractors, or employees, officers and directors of the LLA or subcontractors. Thus, CDPH reserves the right to determine, at its sole discretion, whether any information, assertion or claim received from any source indicates the existence of a real or apparent conflict of interest; and, if a conflict is found to exist, to require the LLA to submit additional information or a plan for resolving the conflict, subject to CDPH review and prior approval.

B. Conflicts of interest include, but are not limited to:

1) An instance where the LLA or any of its subcontractors, or any employee, officer, or director of the LLA or any subcontractor has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the agreement would allow for private or personal benefit or for any purpose that is contrary to the goals and objectives of the agreement.

2) An instance where the LLA's or any subcontractor's employees, officers, or directors use their positions for purposes that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as those with whom they have family, business or other ties.

C. If CDPH is or becomes aware of a known or suspected conflict of interest, the LLA will be given an opportunity to submit additional information or to resolve the conflict. A LLA with a suspected conflict of interest will have five (5) working days from the date of notification of the conflict by CDPH to provide complete information regarding the suspected conflict. If a conflict of interest is determined to exist by CDPH and cannot be resolved to the satisfaction of CDPH, the conflict will be grounds for terminating the agreement. CDPH may, at its discretion upon receipt of a written request from the LLA, authorize an extension of the timeline indicated herein.

5. Intellectual Property Rights

The provisions of paragraph 8 a., Intellectual Property Rights, Ownership, of Exhibit D(S), "Special Terms and Conditions," are supplemented by the following paragraphs.

A. LLA shall grant to CDPH, as permitted in California Civil Code, Section 982, ownership in any original work of authorship created, provided, or produced under this agreement that is not fixed in any tangible medium of expression.

B. If the LLA enters into any agreement or subcontract with another party in order to perform this agreement, LLA shall require the subcontractor to grant CDPH ownership in any original work or authorship created, provided, or produced by the subcontractor, LLA or CDPH under this agreement that is not fixed in any tangible medium of expression, as permitted under California Civil Code Section 982.

C. CDPH, as the sole owner, may use deliverables developed as part of this agreement for future tobacco control efforts.

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6. Acknowledgement of State Participation and Helpline Reference

The provisions of paragraph 8.c., Intellectual Property Rights, Copyright, of Exhibit D(S) are supplemented by the following paragraphs.

A. The LLA shall acknowledge the financial support of State funds whenever any findings, data, and materials developed pursuant to this agreement are published or whenever the LLA creates a product (e.g., brochure, a film, videotape, manual, book, pamphlet, training guide, poster, curriculum, etc.) pursuant to this agreement, in the following manner: © [current year]. California Department of Public Health. Funded under contract # CTCP 13-XX."

B. Informational materials including, but not limited to, brochures, pamphlets, posters, curriculum, training guides, etc., that are developed under this agreement, shall include the California Smokers' Helpline toll-free telephone number unless granted a written exemption from such requirement by CDPH.

7. Subcontractor Requirements

A. As used in this agreement, the term "subcontractor" means any individual or entity that enters into any subcontract with the LLA for performance of any part of this agreement.

B. The LLA agrees that it is responsible for the performance of all requirements under this agreement even if such performance is carried out by a subcontractor.

C. For subcontracts (i.e., written agreement between the LLA and a subcontractor), CDPH elects to waive the right of prior review and written approval.

D. The LLA agrees that all subcontract agreements entered into for performance under this agreement shall be in writing and shall include a provision requiring the subcontractor to comply with the terms and conditions of the LLA's policy and procedure regarding procurement of services performed through a subcontract.

E. The subcontract documentation is to be retained by the LLA and the CDPH retains the right to request subcontract documentation and any other records or files regarding subcontract and consultant services.

F. The CDPH assumes no responsibility for the payment of subcontractors used in the performance of the agreement. LLA accepts sole responsibility for the payment of subcontractors used in the performance of this agreement.

G. The LLA shall notify the CDPH, in the form and format prescribed by the CDPH, when the LLA enters into a new subcontract or consultant agreement or terminates or replaces a subcontract or consultant agreement.

8. Lobbying and Political Activities

A. The LLA shall not use funds for this agreement to support lobbying activities. Lobbying, for the purposes of this agreement, is defined as any explicit attempt to promote a "yes" or "no"

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vote on a specific piece of legislation, local ordinance, or ballot measure, through any oral, written, or other form of communication.

B. The LLA shall not use funds for this agreement to promote any candidate for an elective public office.

9. Elected Officials

No funds, pursuant to this agreement, shall be used to feature in any manner the image or voice of any elected public official or candidate for elected office, or directly present the views of any elected public official or candidate for elected office.

10. Confidentiality of Information

The provisions of paragraph 10, Confidentiality of Information, in Exhibit D(S), "Special Terms and Conditions," are supplemented by the following paragraphs.

A. All financial, statistical, personal, technical, and other data and information relating to CDPH operations which are designated confidential by CDPH or developed by the LLA and deemed confidential by CDPH, shall be protected by the LLA from unauthorized use and disclosure, subject to the requirements of State and federal law. If the methods and procedures employed by the LLA for the protection of the LLA's data and information are deemed by CDPH to be adequate for the protection of the confidential information, such methods and procedures may be used to carry out the intent of this paragraph. If the methods and procedures employed by the LLA are deemed by CDPH to be inadequate, CDPH, in cooperation with the LLA, will specify the procedures to be followed.

B. The LLA and all subcontractors shall immediately notify the CDPH Procurement Manager of any request from a third party for disclosure of any information relating to this agreement, including, but not limited to, subpoena, deposition proceedings, court order or other legal action. Unless the CDPH Procurement Manager authorizes the disclosure of the information in writing, the LLA and all subcontractors shall use every means, to the maximum extent permitted by law and at no cost to CDPH, to protect the information from disclosure.