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1. This Addendum makes the “f” in “For New York State Contracts” lower case and deletes the reference to “Appendix J” and replaces it with “Appendix I” in Section 5.3.1 to read as follows:

### 5.3 General Terms and Conditions

#### 5.3.1 Applicable Law

The term "applicable law," as used in this Contract, means, without limitation, all Federal and State law, and the regulations, policies, procedures, and instructions of CMS and the NYSDOH as existing now or during the term of this Contract, except as modified by CMS and NYSDOH pursuant to the MOU and this Contract. All applicable Federal and State laws, regulations, policies, and procedures are hereby incorporated into this Contract by reference, pursuant to Section 5.6.1.3 of this Contract. Notwithstanding any provision to the contrary, however, the parties agree that clauses 4-13 and clauses 16-26 of Appendix I, the Standard Clauses for New York State Contracts, do not apply to CMS, HHS, or any other agency of the Federal government.

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2. This Addendum deletes Sections 5.6.2.1 and 5.6.2.2 and replaces them as follows:

5.6.2 In the event of any conflict among the documents that are a part of this Contract, including all appendices, the order of priority to interpret the Contract shall be as follows:

5.6.2.1 **Appendix I, the Standard Clauses for New York State Contracts.** Notwithstanding any provision to the contrary, however, the parties agree that clauses 4-13 and clauses 16-26 of Appendix I, the Standard Clauses for New York State Contracts, do not apply to CMS, HHS, or any other agency of the Federal government;

5.6.2.2 The Contract terms and conditions, including all other appendices.

5.6.2.3 Capitated Financial Alignment Application;

5.6.2.4 The Memorandum of Understanding between CMS and New York State; and

- 5.6.2.5 Any State or Federal Requirements or Instructions or updates thereto released to MMPs. Examples include the annual rate report, State policy bulletins, Medicare-Medicaid Marketing Guidance, Medicare-Medicaid Plan Enrollment and Disenrollment Guidance, IDT Policy, Reserve Requirements Guidance, ADA Accessibility Attestation Form, and Nursing Facility Quality Standards Guidance.
- 5.6.2.6 Notwithstanding the foregoing, if there is any conflict in any of the documents listed above between the federal requirements regarding this agreement and any State requirements, the federal requirements shall prevail.

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In Witness Whereof the FIDA Plan has caused this Addendum to be executed by the authorized officer:

\_\_\_\_\_  
(Authorized Signatory)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Initial)

\_\_\_\_\_  
(Date)