



# CONTRACT AMENDMENT COVER SHEET

<b>Agency Tracking #</b> 31865-00425	<b>Edison ID</b> 47607	<b>Contract #</b>	<b>Amendment #</b> 01		
<b>Contractor Legal Entity Name</b> Maximus Health Services, Inc.			<b>Edison Vendor ID</b> 0000191173		
<b>Amendment Purpose &amp; Effect(s)</b> Extends Term, Updates Scope and Payment Terms					
<b>Amendment Changes Contract End Date:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<b>End Date:</b> December 7, 2017			
<b>TOTAL Contract Amount INCREASE or DECREASE per this Amendment</b> (zero if N/A):			<b>\$ 0.00</b>		
<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2016	\$95,416.10	\$858,745.05			\$954,161.15
2017	\$820,200.00	\$7,381,800.00			\$8,202,000.00
2018	\$517,907.70	\$4,661,169.15			\$5,179,076.85
<b>TOTAL:</b>	<b>\$1,433,523.80</b>	<b>\$12,901,714.20</b>			<b>\$14,335,238.00</b>
<b>American Recovery and Reinvestment Act (ARRA) Funding:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
<b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.			<i>CPO USE</i>		
<b>Speed Chart (optional)</b> TN00000400		<b>Account Code (optional)</b> 70803000			



**AMENDMENT #1 TO #47607  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION  
MAXIMUS HEALTH SERVICES, INC.**

This Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration, hereinafter referred to as the "State" and Maximus Health Services, Inc., hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. The following is added as new contract Section A.7.q.:
  - A.7.q. The Contractor shall provide to the State full access to the MAXeATS system by HCFA employees to generate correspondence, process redeterminations, view the entire case record and all associated documents and record of case actions, and update the eligibility status for TennCare and CoverKids enrollees. To these ends, MaxeATS shall interface with the print/mail system of Maximus and the State's Medicaid Management Information System (MMIS, or interChange or "iC") to complete these and other transactions. The Contractor shall make modifications to the MAXeATS system as requested by the State in writing. Such modifications shall be described in a Change Action Request (CAR) pursuant to the procedures set out in Ongoing Operations Plan (the "Plan"). The implementation of any CAR shall follow the procedures set out in the Plan.
    - i. The requested modifications to MAXeATS may include, but shall not be limited to, new letter notices or denials to be sent to customers; modifications to existing notices or denials; changes to existing notices or denial reasons; changes to interfaces between the State's systems and the MAXeATS system; and changes to logic within the MAXeATS system.
    - ii. Notwithstanding the foregoing, Maximus shall make changes without any costs to the State for (a) notices and system changes specifically related to the CoverKids redetermination effort; (b) notices and system changes related to the removal of § 2101(f) eligibility for children under age 19 in the second year of redeterminations (since this provision of the Affordable Care Act and the implementing regulations at 42 CFR § 457.310(d) will no longer apply); and (c) updates to static (i.e., non-variable) text within existing notices.
    - iii. The Contractor shall be reimbursed as compensation for the written requested modifications described in this Section A.7.q. in accordance to payment rate in Contract Section C.3.e. Once the completed impact and cost assessments (including a Level of Effort) prepared by Contractor are reviewed by the Contractor Project Manager and the Redetermination Administrator, the State and Contractor shall finalize the cost of the requested modification in good faith and in a timely manner. This section, Contract A.7.q., and all subsections, shall take effect on or after December 6, 2016 and shall only apply to changes requested by the State after this date.
2. Contract Section B.1 is deleted in its entirety and replaced with the following:
  - B.1. This Contract shall be effective on September 8, 2015 ("Effective Date") and ending on December 7, 2017 ("Term"). The State shall have no obligation for goods delivered or services provided by the Contractor prior to the Effective Date.



3. The following is added as Contract Section C.3.e:

C.3.e. Notice Changes and System development enhancement costs with MAXeATS as specified in A.7.q. are reimbursed at a rate of \$164.00 per hour, not to exceed 10,000 hours per each option year.

**Required Approvals.** The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

**Amendment Effective Date.** The revisions set forth herein shall be effective December 7, 2016. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

**IN WITNESS WHEREOF,**

**MAXIMUS HEALTH SERVICES, INC.**

*Bruce Perkins* \_\_\_\_\_ *10/12/16*  
CONTRACTOR SIGNATURE DATE

*Bruce Perkins Sr. Vice President*  
\_\_\_\_\_  
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

**DEPARTMENT OF FINANCE AND ADMINISTRATION  
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION:**

*Larry B. Martin* \_\_\_\_\_ *10/17/16*  
LARRY B. MARTIN, COMMISSIONER DATE



# CONTRACT

(fee-for-goods or services contract with an individual, business, non-profit, or governmental entity of another state)

<b>Begin Date</b> September 8, 2015	<b>End Date</b> December 7, 2016	<b>Agency Tracking #</b> 31865-00425	<b>Edison Record ID</b> 47607		
<b>Contractor Legal Entity Name</b> Maximus Health Services, Inc.				<b>Edison Vendor ID</b> 0000191173	
<b>Goods or Services Caption (one line only)</b> Eligibility Redetermination Processing Center Services					
<b>Contractor</b> <input checked="" type="checkbox"/> Contractor			<b>CFDA #</b> 93.778 Dept of Health & Human Services/Title XIX		
<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2016	\$836,222.00	\$7,526,000.00			\$8,362,222.00
2017	\$597,302.00	\$5,375,714.00			\$5,973,016.00
<b>TOTAL:</b>	<b>\$1,433,524.00</b>	<b>\$12,901,714.00</b>			<b>\$14,335,238.00</b>
<b>Contractor Ownership Characteristics:</b>					
<input type="checkbox"/> Minority Business Enterprise (MBE): African American, Asian American, Hispanic American, Native American					
<input type="checkbox"/> Woman Business Enterprise (WBE)					
<input type="checkbox"/> Tennessee Service Disabled Veteran Enterprise (SDVBE)					
<input type="checkbox"/> Tennessee Small Business Enterprise (SBE): \$10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.					
<input checked="" type="checkbox"/> Other: For-Profit Corporation					
<b>Selection Method &amp; Process Summary (mark the correct response to confirm the associated summary)</b>					
<input checked="" type="checkbox"/> Competitive Selection			Competitive Negotiation		
<input type="checkbox"/> Other					
<b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.					
<b>Speed Chart (optional)</b> TN00000400			<b>Account Code (optional)</b> 70803000		



**CONTRACT**  
**BETWEEN THE STATE OF TENNESSEE,**  
**DEPARTMENT OF FINANCE AND ADMINISTRATION**  
**DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION**  
**MAXIMUS HEALTH SERVICES, INC.**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration, hereinafter referred to as the 'State' or "HCFA" and Maximus Health Services, Inc., hereinafter referred to as the "Contractor," is to provide operation of an Eligibility Redetermination Processing Center, as defined in the "SCOPE OF SERVICES."

The Contractor is For-Profit Corporation,  
Contractor Place of Incorporation or Organization: Virginia  
Contractor Edison Registration ID # 0000191173

**A. SCOPE OF SERVICES**

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timeliness as specified by this Contract. Definitions and Terms associated with this Contract are located in Attachment A.
- A.2. Eligibility Redetermination Processing Center. The Contractor shall operate an Eligibility Redetermination Processing Center (hereinafter referred to as "Processing Center" or "Facility" or "Facilities") to support TennCare efforts to redetermine eligibility for the last remaining subset of approximately 560,000 members of TennCare (and potentially those in CoverKids) subject to redetermination for whom the State has not yet redetermined eligibility in 2015. The Contractor's efforts shall complement the State's ongoing efforts in which TennCare has already redetermined eligibility for approximately 661,000 members in 2015. Likewise, the Contractor's effort shall parallel the Social Security Administration's efforts to redetermine eligibility for 187,000 additional members are enrolled via the SSI program (for whom the Social Security Administration and not TennCare has redetermination responsibility).
- a. Contract Requirements. The Contractor shall operate an Processing Center that uses a toll-free telephone number, toll-free fax number, and a Post Office box mailing address that the Contractor shall cede to the State in a manner consistent with Section A.19. The toll-free telephone number, toll-free fax number, and Post Office box mailing address shall remain the property of the State when the Contractor's contractual relationship with the State has ended. The fax number and mailing address shall serve as the "front-end" entry point for redetermination.
- b. Location. Unless otherwise directed by the State, the Contractor's primary Processing Center and its staff shall be located in the forty eight (48) states or the District of Columbia within the continental United States so as to facilitate prompt mail delivery and receipt.
- i. At the Contractor's discretion, the Contractor may use a multiple Processing Center model (i.e., the use of more than one facility to operate the Processing Center) to ensure adequate staffing and back-up capabilities. In the event that a multiple Processing Center model is used, all Facilities shall comply with location requirements as specified in this Section.
- ii. All performance standards, reporting, training, and quality assurance requirements of this contract shall apply to all Contractor Facilities and staff. Under no circumstances shall the Contractor transmit data to or conduct business under this Contract at any location outside of the continental United States.



- c. Facilities. The Contractor shall maintain Processing Center facilities for the performance of its responsibilities under this Contract in a location specified in Section A.2.b.
- i. The Contractor shall not change the location of its Facilities without prior written State approval. If the Contractor wishes to relocate its Facilities during the term of this Contract, the Contractor shall provide thirty (30) days prior written notice to the State of its intent to relocate. The State shall not unreasonably withhold its consent to the relocation, provided the proposed relocation site complies with the requirements of Section A.2.b. and is otherwise acceptable to the State. The Contractor shall accomplish such relocation in such a way as to prevent any down time to Processing Center operations.
  - ii. The Contractor shall ensure that office space, mail room services, telephones, and computer equipment and networks, staff, and other requirements needed for the operation of the Facilities are in place and functioning throughout the duration of the Contract.
  - iii. The Contractor shall have sufficient space within its Facilities to accommodate all staff, equipment, and systems necessary to ensure efficient performance of its responsibilities under the Contract, and allow for expansion as Contract needs evolve.
  - iv. The Contractor shall maintain at the Processing Center location described in Section A.2.b. at least one (1) office and two (2) cubicle spaces for three (3) State staff.
  - v. The Contractor shall ensure that its Facilities and any facilities used by its subcontractors are in compliance with HIPAA/HITECH and other applicable federal and state laws with respect to administrative, physical and technical safeguards.
  - vi. The Contractor shall ensure that appropriate and adequate insurance is maintained for the Processing Center described in Section A.2 and any other facility at which the Contractor performs work under this Contract.
  - vii. Unless otherwise directed in writing by the State to implement at a later date, the Contractor shall ensure that the Processing Center is fully operational by the Processing Center implementation date described in Section A.21.
- d. Hours of Operations. The Contractor shall normally operate the Processing Center and provide services at least forty (40) hours each week. Unless approved in advance and in writing by the State, the Contractor shall be closed on all state holidays. The Contractor shall notify the State in writing with the Processing Center's hours of operations. The Contractor shall maintain normal business operations during said hours. The Contractor shall ensure that methods of communication required under this Contract, including telephones, Telecommunications Relay Service (TRS), telephonic interpreter services, and fax services are available for utilization during said hours. Any scheduled downtime for maintenance shall occur outside of said hours unless otherwise approved in writing by the State in advance of the proposed maintenance downtime.
- e. Accessibility for Individuals with Hearing and/or Speech Disabilities. At no cost to the caller and for the hours of operation specified in A.2.d., the Contractor shall provide the Processing Center with a telecommunications relay service (TRS) in order to serve individuals with hearing and/or speech disabilities. Unless otherwise directed in writing by the State, the Contractor shall use the Tennessee Relay Service (TNRS) offered by the Tennessee Regulatory Authority (TRA) as its TRS provider. These services shall be provided at no additional cost to the State. Should the Contractor use an automated-attendant system, including, but not limited to, voicemail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTYs and all forms of FCC-approved telecommunications relay systems, including Internet-based relay systems. These effective real-time



communication services shall be provided at no additional cost to the caller and the State.

- f. **Accessibility for Individuals with Limited English Proficiency (LEP).** For purposes of this Contract, "Individuals with Limited English Proficiency" shall be defined as individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.
- i. For the hours of operation specified in A.2.d., the Contractor shall staff the Processing Center with a sufficient number of bilingual staff with tested oral and written fluency in both English and Spanish to provide support to all Spanish-speaking callers.
  - ii. At no cost to the caller and for the hours of operation specified in A.2.d., the Contractor shall equip the Processing Center with real time, third-party telephonic interpreter services to all non-Spanish callers who are Individuals with Limited English Proficiency. Third party telephonic interpreter services for callers with LEP shall, at a minimum, include Arabic, Mandarin, Korean, Kurdish dialects (i.e., Kurmanji), Somali, Japanese, and Vietnamese and other languages as may be designated by the State. If the Contractor utilizes an outside source in providing third-party telephonic interpreter services, this outside source shall be considered a subcontractor and shall comply with subcontractor requirements as specified in Section D of this Contract. These services shall be provided at no additional cost to the State.
- g. **Mailing Services.** The Contractor shall send both English- and Spanish-language notices to each member using only the templates provided by the State. In addition, these notices shall include language and disability assistance taglines that contain information about how LEP members and members with disabilities can access the Contractor's free communication assistance services. Unless otherwise directed in writing by the State, the Contractor shall generate the notices using a single-sided or double-sided format, as directed by the State, on standard white paper and six-inch by nine-inch (6" x 9") envelopes with the return address of the Processing Center. The Contractor shall ensure that the printed date on the notice reflects the actual mailing date.
- i. The Contractor shall maintain an electronic record of all notices that captures the recipient name, address, and mail date of each mailing. The Contractor shall also maintain an electronic copy of each mailed notice in the CRM record for the corresponding individual.
  - ii. The Contractor shall transmit updated records of such mailings to the State for reconciliation purposes at least weekly in a format and method approved in advance and in writing by the State.
  - iii. The State will reimburse the Contractor for the actual costs of mailing all notices in a manner consistent with Section C.3. Unless otherwise directed in writing by the State, the Contractor shall not send other outgoing mail to members other than the notices described in this Contract.
  - iv. The Contractor shall make use of all reasonable measures to mail to a corrected address any mailing that the United States Postal Service (USPS) returns as undeliverable. The Contractor shall develop a procedure, subject to State review and approval, for the processing of all returned mail and change of address cards received from the USPS. The procedure shall describe in detail the efforts that the Contractor shall undertake to obtain updated mailing and contact information for the individual(s) associated with each piece of returned mail. In addition the procedure shall set out how copies of returned mail/envelopes are to be archived.
- h. **Service Level Performance Standards.** The Contractor shall provide sufficient staff to meet the following performance standard. For all Performance Standards measured in



percentages, calculations for said percentages shall be made using the following standard: less than five-tenths (.5) of a percentage point will round down to the nearest percentage point and five-tenths (.5) and over will round up to the nearest percentage point.

- i. *Initial Mailing.* The Contractor shall mail a redetermination notice for up to 100,000 members, as determined by the State, in any one month in a manner consistent with Section A.3.a. within fifteen (15) days of receiving the list of members and their contact information from the State. Notwithstanding this requirement, HCFA intends to work with the Contractor to implement the initial mailings in a gradual fashion such that the first one or two months may have substantially lower volumes. Further, HCFA reserves the right to modify the volume of initial mailings such that the monthly total does not exceed 100,000.
- ii. *Processing Time.* The Contractor shall conduct redetermination processing and either (1) send a request for additional information or re-application referral notice or (2) render a correct eligibility assessment and mail the notice(s) as described in Section A.3.c. within thirty (30) days of receiving the redetermination forms and supporting materials or any subsequent verifications.
- iii. *Transmission Time.* The Contractor shall transmit the decision data, lists, and required reports to the State in a manner consistent with Section A.3.c. and A.11.
- iv. *Successful Fax Rate.* The Processing Center shall maintain a daily Successful Fax Rate of ninety percent (90%) or greater at all times without exception.

A.3. Redetermination Processing Center Functions. Unless otherwise directed in writing by the State to implement at a later date (and subject to the Readiness Review requirements described in Section A.16), the Contractor shall perform redetermination-related functions described herein on and after the Processing Center implementation date described in Section A.21. The Contractor shall perform such functions in accordance with the Contractor's Processing Center policies and procedures (SOPs) and Contract policies and procedures (Contract P&Ps) approved by the State. The Contractor's SOPs and Contract P&Ps may be revised from time to time at the request of the State and shall supplement the general descriptions of the Processing Center functions set forth herein.

- a. *Initial Mailing.* The Contractor shall produce and mail blank redetermination forms to the corresponding lists of individuals provided by the State on a monthly basis. The Contractor shall complete these mailings within the timeframe described in Section A.2.h. The Contractor shall send a modified version of this mailing for members for whom the State does not have a record of verified U.S. citizenship or eligible alien status.
- b. *Document Management Services.* The Contractor shall provide document handling services for all redetermination materials it receives.
  - i. The Contractor shall provide and maintain a dedicated Post Office (P.O.) Box, a dedicated toll-free telephone number and a dedicated toll-free fax number at the principal place of operations as described in Section A.2.b for the purpose of receiving and processing member correspondence and undeliverable mail. At the conclusion of this contract, the State shall have the right to assume full control and ownership of these numbers and this P.O. box as discussed in Section A.19. While not required under this Contract, the State does have a preference for a P.O. box that has a Tennessee address (in order to reduce member confusion about returning documents to a non-Tennessee address).
  - ii. The Contractor shall establish written policies and procedures necessary for coordination and ensure compatibility of systems and efficient, effective handoff of data and materials at the conclusion of this Contract. Such policies and procedures must be approved by the State.



- c. Redetermination Processing. The Contractor shall perform and complete redetermination for each member for whom the Contractor receives redetermination forms and supporting materials. The Contractor shall complete the redetermination for any member within the timeframe described in Section A.2.h.ii. Unless otherwise directed in writing by the State:
- i. The Contractor shall determine whether the redetermination form is signed. The Contractor shall send an "incomplete" notice to any individual for whom an unsigned redetermination form was returned. Additionally, the Contractor shall send request for additional information to any individual who reports income on his or her redetermination form but did not include verifications. The request for additional information will not affect the timing of the notice described in Section A.3.f.
  - ii. The Contractor shall determine whether the redetermination form includes at least one individual who has had active TennCare eligibility in InterChange within the ninety (90) day period prior to the date on which the Contractor received the redetermination form. The Contractor shall send a "re-application referral" notice to any individual who returns a redetermination form that does not meet this criterion; such notice will advise the former member to re-apply for TennCare using the appropriate application channels.
  - iii. The Contractor shall enter non-financial information from signed, promptly-returned redetermination forms and verified income information from supporting materials in the "MAGI-in-the-Cloud" system. The Contractor shall then generate an extract file of the MAGI-in-the-Cloud results for each individual.
  - iv. For the small proportion of members for which the State does not have verification of U.S. citizenship or eligible alien status, the Contractor shall review citizenship and immigration verifications provided by members for whom the State does not have a record of verified citizenship or eligible alien status. The Contractor shall make a determination about whether citizenship verification satisfies the federal "satisfactory documentary evidence" standard of citizenship and related alien documentation requirements described at 42 CFR § 435.406 *et seq.* Further, the Contractor shall conduct inquiries using the Systematic Alien Verification for Entitlements (SAVE) system to the extent permitted by federal law. To the extent that the Contractor cannot conduct SAVE inquiries directly, the Contractor shall coordinate such inquiries with the State's designee.
  - v. The Contractor shall rely on verifications of income provided by the member to confirm the income information provided on the redetermination form. To the extent that the reported and verified incomes are not reasonably compatible (as defined by the State), the Contractor shall rely on the higher of the self-reported and verified amount(s).
  - vi. The Contractor shall save each extracted results file in the CRM and label it with the identifying information of the member.
  - vii. As part of the redetermination process, the Contractor shall perform an initial assessment for TennCare Standard (both Standard Uninsured and Standard Medically Eligible) for individuals under age 19 who appear to be ineligible for ongoing Medicaid coverage. Specifically the Contractor shall:
    1. Send "Access to Coverage" forms to individuals under age 19 currently enrolled in TennCare and TennCare Standard if (a) they now appear ineligible for ongoing Medicaid coverage; (b) they do not allege medical bills; and (c) their income is below 211% FPL;



2. Mail approvals to such individuals described in (1) above for TennCare Standard Uninsured if they promptly return the Access to Coverage forms and access to coverage = No;
  3. Mail approvals to individuals for TennCare Standard Medically Eligible if (a) they are ineligible for Medicaid or TennCare Standard Uninsured (because they have incomes at or above 211% FPL; (b) they do not allege medical bills; and (c) their Medically Eligible (ME) indicator in interChange = Yes;
  4. Mail Medically Eligible (ME) packets to all other children who may potentially be eligible under the Standard Medically Eligible category. The packet shall have a return address of the Contractor, and the Contractor shall determine CoverKids eligibility for all individuals who do not return the Medically Eligible packets. Further, the Contractor shall transfer to the State any individuals who do promptly return the ME packets (even if such packets are incomplete). The State will perform the ME and other eligibility redeterminations (including screening for CoverKids) for individuals who promptly return the ME packets.
- viii. Using the notice templates provided by the State, the Contractor shall mail (1) an ongoing MAGI approval notice to individuals who are eligible for TennCare under a MAGI category; (2) an Access to Coverage form as described in subsection (vii) above; (3) a Medically Eligible packets as described in subsection (vii) above; (4) a CoverKids approval notice for pregnant women without medical bills or for children under age 19 without medical bills who are eligible for CoverKids; and (5) a denial/termination notice for members who are no longer eligible and did not group in a non-MAGI category. The Contractor shall individualize the notices by including the member's name, address, new eligibility dates (for approvals), denial reasons, termination dates, etc. in variable fields as appropriate.
  - ix. The Contractor shall transmit to the State accurate, aggregated records of (1) individual-level MAGI Medicaid approvals; (2) CoverKids approvals; (3) MAGI denials/terminations with no non-MAGI involvement; (4) non-MAGI referrals (including any pregnant women or children under age 19 who allege having medical bills); and (5) terminations (as described in Section A.3.f. below). The Contractor shall transmit these aggregated data to the State on a daily, weekly, and monthly basis in a format and method approved in advance and in writing by the State.
  - x. The Contractor shall transmit to the State a list of members who returned their redetermination form within thirty (30) days of the date on their redetermination notice but whom the Contractor had previously included on a list described in Section A.3.c.ix above. The Contractor shall transmit these aggregated data to the State on a daily basis in a format and method approved in advance and in writing by the State.
  - xi. Consistent with 42 CFR § 435.916(a)(3)(iii), the Contractor shall accept redetermination forms received within ninety (90) days following a member's eligibility end date in a manner consistent with the process described herein. The Contractor shall report to the State the date on which the member returned the redetermination form if approved for ongoing eligibility.
  - xii. The Contractor shall accept from the State status updates on non-MAGI referrals sent to the State, shall update their system with the final disposition, and shall mail the approval or denial/termination notice to the member. This information may be provided in a daily file or by manual update. Denial/termination notices must include the reason the member is no longer eligible and include variable data such as dates for appeals and income amounts. This



information will also be used to provide a reconciliation of all members who were mailed the initial redetermination notice.

- d. Outbound Telephone Services.
  - i. Consistent with Section A.3.c.i., the Contractor shall conduct outbound calls to individuals who return unsigned, incomplete, or illegible materials (including those damaged by the mail) in order to clarify any missing or unclear information. Similarly, the Contractor shall conduct outbound outreach calls to individuals who return verifications (e.g., of income) but no redetermination form and the Contractor is unable to determine the members of the household to which the verification may relate. During outbound calls, the Contractor shall also provide communication assistance services to LEP individuals and individuals with disabilities as set for the in Sections A.2.e. and A.2.f.
  - ii. The Contractor shall maintain a record of the date, time, and nature of all such outbound calls in the CRM for the corresponding individual(s).
  - iii. As part of its Processing Center SOPs described in Section A.10.e. and Call Center scripts described in Section A.7.i.i., the Contractor shall develop its Outbound Call (including call backs) methodology and timeframes. Additionally, the Contractor shall develop authentication protocols and voicemail scripts.
  - iv. The Contractor shall use non-government databases to obtain telephone numbers for individuals if such numbers are not otherwise available.
- e. Inbound Telephone Services.
  - i. The Contractor shall answer member questions regarding redetermination and provide assistance and support as appropriate. However, the Contractor shall not perform phone-based redeterminations in the absence of a redetermination form returned by the member. Telephonic assistance shall include self-service through Interactive Voice Response (IVR) and, during operating hours described in Section A.2.d, live voice support.
  - ii. Inbound call procedures shall include but not be limited to:
    - 1. Identifying and authenticating callers or their authorized representatives in accordance with State-approved authentication protocol and HIPAA/HITECH as supplemented by additional safeguards developed by the State.
    - 2. Completing the work associated with redetermination case processing, reporting, and data entry before accepting new calls or beginning work on different cases.
    - 3. Fully assisting callers as completely and consistently as possible within the scope of this Contract.
    - 4. Escalating calls to supervisor or other management team member upon request of the member and otherwise when appropriate.
- f. Termination Notice. The Contractor shall mail to any member who has not returned a signed redetermination a twenty (20) day advance notice of termination after the due date in the initial mailing described in Section A.3.a. The Contractor shall individualize each notice by including the member's eligibility end date in the notice.

#### A.4 Optional Services.

- a. Optional Additional Population. At the option of the State, the Contractor shall provide redetermination-related functions described in this Contract for the CoverKids program as well as the TennCare program. If the State exercises this option, then the Contractor



shall (unless otherwise directed in writing by the State) provide the identical redetermination-related services described in this Contract for this additional population.

- b. **Optional Additional Period.** At the option of the State, the Contractor shall provide redetermination-related functions described in this Contract for the TennCare and/or CoverKids program for calendar years 2016 and thereafter, and shall extend the Contract as necessary in accordance with Section B.2 hereunder. The State will notify the Contractor within ninety (90) days of the current Contract end date if the State plans to exercise this option. If the State exercises this option, then Contractor shall, unless otherwise directed in writing by the State, provide the identical redetermination-related services described in this Contract for an additional period for the population(s) specified by the State. If the State were to exercise this option, the State may prioritize redeterminations for those already approved using available Food Stamps/Supplemental Nutrition Assistance Program (SNAP) data such that the Contractor focuses on the completion of these redeterminations by the end of calendar year 2016.

The State has sole discretion in determining whether or not to implement this Section A.4 or any part thereof, and the State decision shall not be subject to appeal.

- A.5 **Eligibility Appeals Support.** The Contractor shall provide to the State a detailed information packet for each individual member within five (5) business days of the State's request. Unless otherwise directed by the State, the packet shall consist of all notices that the Contractor mailed to the individual; all CRM and case record notes; all redetermination materials that the Contractor received from the individual and members his/her household; and all MAGI-in-the-Cloud eligibility extracts for the member as described in in Section A.3.c.iii. The Contractor shall provide the packet in a format and manner approved in advance and in writing by the State. If necessary, the Contractor shall provide a witness available by phone, at such time as the State requests, in order to testify in administrative proceedings about the functioning of the records system in which these records are generated or stored.
- A.6. **Workforce Requirements.** The Contractor shall provide an organization of dedicated staff that shall be responsible for each of the functions detailed in the Contract. The Contractor shall staff the Processing Center with sufficient numbers of trained administrative and programmatic personnel – clerical, program, technical and management – to ensure efficient completion of its responsibilities within this Contract.
  - a. The Contractor shall maintain an organization chart that depicts all administrative, functional, and programmatic reporting relationships of staff that perform services under the Contract, including any subcontractors of the Contract, and submit the chart to the State for review and approval whenever a change to such organizational chart is proposed.
  - b. The Contractor shall maintain an alphabetical by last name listing of the titles, responsibilities, location, telephone numbers, and email addresses for all administrative and programmatic Contractor staff that will perform services under the Contract, and provide the list to the State whenever a change occurs.
  - c. The Contractor shall maintain updated, detailed job descriptions for each of the positions that have ongoing responsibility for the functions in the Contract, and submit said descriptions in advance to the State for review and approval whenever changes to such job descriptions are proposed.
  - d. The Contractor shall ensure that all persons, including independent contractors, subcontractors and consultants assigned by it to perform under the Contract shall have the credentials necessary and be fully qualified and trained, as required and specified in this Contract, to perform the services required herein.
  - e. The Contractor shall notify the State in writing in advance whenever the Contractor has reason to believe that staffing levels will temporarily adversely affect operational levels.
  - f. The Contractor shall ensure that all Contractor workforce members (employees, consultants, contractors, subcontractors, or any other member of the Contractor's



workforce) assigned to this Contract, are adequately trained to comply with Medicaid and CHIP safeguarding regulations, HIPAA/HITECH and any other federal or State privacy and security laws, including, but not limited to the Gramm-Leach Bliley Act (GLBA); the Privacy Act of 1974, as amended; the Tennessee Consumer Protection Act, Identity Theft Safeguards, The Red Flag Rules; the Tennessee Consumer Protection Act, Identity Theft Safeguards, and 26 U.S.C. § 6103(p)(4) that applies to authorized recipients of FTI. The Contractor and its subcontractors shall comply with the provisions of 42 U.S.C. § 1396a(a)(68) *et seq.* as applicable, regarding policies and education of employees as regards the terms of the False Claims Act and whistleblower protections.

- g. Key Personnel. The Contractor shall submit to the State for prior review and approval the names, titles, and résumés of candidates for initial engagement of Key Personnel and whenever a change in Key Personnel is proposed. If, during the term of this Contract, any Key Personnel should leave the Contractor's employment or the State requests that a specific Key Personnel no longer work onsite, the Contractor shall fill the vacant Key Personnel position, within thirty (30) days from the date of the Key Personnel leaving his/her position with the Contractor or being barred from working onsite, with a replacement that is satisfactory to the State. Until a qualified and acceptable replacement is available, Contractor shall temporarily fill such Key Personnel position, within three (3) business days of a vacancy occurring, with a qualified Contractor corporate staff resource who shall perform the Key Personnel duties at the Processing Center location if this Contract requires that particular Key Personnel position to be located onsite. Failure to timely replace Key Personnel may result in Liquidated Damages as set forth in Attachment B.
- i. Upon the State's request, the Contractor shall offer the State an opportunity to interview any proposed replacement(s) to Key Personnel. The State may, at any time during the Contract period disapprove any Key Personnel assigned by the Contractor to perform work under this Contract. Upon notification by the State to the Contractor that Key Personnel has been disapproved, the Key Personnel shall immediately cease work under this Contract. The decision of the State on these matters shall not be subject to appeal.
- ii. The Contractor shall not remove any approved Key Personnel from her/his assigned duties under the Contract for any period of time exceeding two (2) weeks without State prior written approval. Key Personnel named in the Proposal will be required to be assigned to this project from the Contract inception through 90 days after go live. Exceptions to this requirement will be granted by the State for good cause. Good cause includes, but is not limited to, sickness/injury, retirement, or termination of employment with the Contractor. The Contractor shall notify the State in writing of any proposed change in Key Personnel at least thirty (30) days prior to the change or as soon as the change is known if the employee's notification to the contractor is less than this period. The State understands that Key Personnel will on occasion take vacation time or attend corporate functions, which will require brief time away from their assigned duties.
- iii. For each position designated as Key Personnel, and other positions upon State request, the Contractor shall identify the individual(s) who will serve as "back up" or interim successor(s) to these Key Personnel positions in the event the Key Personnel position becomes vacant. Both the interim and permanent replacement shall remain subject to the State's right to review and approve such appointments.
- h. The Contractor shall designate as Key Personnel the following positions.
- i. Executive Director. The Executive Director shall serve as the single point of contact for the State and have overall responsibility for the Contractor's functions under the Contract. The Executive Director shall have the authority to make decisions and resolve problems on behalf of the Contractor with the State. This individual shall be onsite and full-time for the duration of the Contract.



- ii. **Project Manager.** The Contractor shall provide a dedicated Project Manager who shall serve as the Contractor's project manager for the duration of this Contract, including both implementation and ongoing operations. This individual will coordinate the management of the program with the HCFA Technical Advisory Services contractor and the HCFA Strategic Project Management Office as directed by the State. This individual shall have demonstrated experience implementing Processing Centers of similar scale and scope on behalf of one or more public sector health and human services agency(ies). This individual shall be onsite for the duration of the Contract. The Contractor shall provide additional project management to the Processing Center onsite and full-time in the event of major changes including but not limited to HCFA policy and procedural changes or the implementation of all or part of Section A.4 of this Contract.
  - iii. **Technology Manager.** The Technology Manager shall be responsible for oversight of systems performance and shall be accessible and available on a full-time basis. This individual shall be onsite for the duration of the Contract.
  - iv. **Director of Business Process Compliance.** The Business Process Compliance Manager shall be responsible for the integration of the BPC program activities into all program operations to ensure program compliance, improve management and performance, and reduce risk and areas of vulnerability, specifically for maintaining policies and procedures and overall improvement efforts related to the staff performance, systems functioning, and business processes. This individual shall also have primary responsibility for reviewing operational analytics, designing and performing ongoing service evaluations, and analyzing ongoing issues to determine root causes and develop solutions. This individual shall be onsite and full-time for the duration of the Contract.
  - v. **Training Manager.** The Program Training Manager shall be responsible for managing all training programs and activities under this Contract. The Training Manager shall work closely with the Quality Assurance Manager and the Director of Business Process Compliance to ensure that training programs adequately address all needs of the Processing Center. This individual shall be onsite for the duration of the Contract.
  - vi. **Privacy Official.** The Contractor shall designate a Privacy Official who is responsible for the development and implementation of the policies, procedures and practices according to the HIPAA Privacy and Security Rules. The Contractor shall designate a contact person or office who is responsible for receiving privacy and security-related complaints and who is able to provide further information about privacy and security-related matters. This position must be documented pursuant to federal privacy regulations.
  - vii. **Non-discrimination Compliance Coordinator.** In accordance with Section E.26, the Contractor shall designate an employee to be responsible for the Contractor's compliance with all applicable Federal and State civil rights laws, regulations, rules, guidance and policies. viii. **On Call Staff.** The Contractor shall designate an individual responsible for being on call to the State after business hours, on weekends and State holidays, three hundred sixty-five (365) days a year, with the skills and authority to research, report, and resolve urgent matters as determined necessary by the State. The Contractor shall establish a single direct contact number for the individual assigned to perform on call duties. This individual shall be onsite and full-time for the duration of the Contract. At the Contractor's discretion, this position may be combined with any other Key Personnel position that is designated as onsite and full-time.
- i. **Processing Center Staffing.** The Contractor shall provide adequate staff to perform all Processing Center functions as specified in this Contract.
    - i. **Staff Recruitment and Retention.** The Contractor shall use proactive recruitment and retention practices to maintain the capability of responding quickly to staff



turnover and attrition, absenteeism, poorly performing personnel, and/or increases in workload volume. The Contractor shall meet the Performance Standards as specified in Section A.2.h. and shall be subject to liquidated damages as specified in Attachment B for failure to meet the Performance Standards even in the event of staff turnover and attrition, absenteeism, poorly performing personnel, and/or increases in workload volume. The Contractor shall make every effort to retain qualified staff and minimize attrition.

- ii. Staff Certification requirements. All Processing Center staff shall undergo training, testing, and certification as specified in Section A.8 in customer service, data entry skills, writing skills, cultural competency, and accessing services/supports for materials from LEP individuals and individuals with disabilities. In addition, staff shall train, test, and be certified in their knowledge of TennCare policies and procedures. Training materials for the TennCare program must be approved by the State. The Contractor shall, upon request by the State, remove staff from their specific job function or project based on performance deficiencies such as but not limited to the lack of knowledge and skills necessary to perform contracted activities.
- iii. Member Representatives (MRs) or equivalent classification. The Contractor shall ensure competent and trained individuals perform the customer service and redetermination functions onsite at the Processing Center.
- iv. The Contractor's staff shall comply with communication and escalation procedures established by the State to interface with Member Services as appropriate.
- v. MRs and their supervisors shall utilize the State's InterChange database in addition to the Contractor's required systems as specified in Section A.7.

A.7. Technical and Infrastructure Requirements. The Contractor shall be responsible for obtaining, installing, configuring, testing, deploying, and operating the technology and infrastructure, including hardware and software, that meets the requirements specified in this Section and in Section E.26.d. The Contractor's Processing Center shall provide services management systems and communications infrastructure that can manage all contact volume and achieve the performance standards described in Section A.2.h. The Contractor's services management systems shall be scalable and flexible so they can be adapted as needed in response to program or enrollment changes. The Contractor's services management systems shall have the ability to provide system-generated, auditable reports required under Section A.11.

- a. The Contractor shall provide the State and its designated staff with access to the Contractor's services management systems and train designated staff on their use. The Contractor shall assign and manage user accounts for approximately 750 State designated staff, and provide password reset functionality or a Contractor contact who will perform this function.
- b. The Contractor shall maintain secure connection to Contractor systems for designated State staff.
- c. The Contractor shall maintain all necessary hardware required.
- d. The Contractor shall maintain current and adequate virus protection software on all Contractor hardware and software.
- e. The Contractor's services management systems shall handle multiple user types and permissions for individuals or groups (example, key personnel only).
- f. The Contractor shall ensure the privacy and security of member information and comply with all requirements of the Contract, including but not limited to Sections E.13, E.17, E.18, E.19, E.21, E.22, and E.25 hereof.



- g. Contract Management Portal (CMP). The Contractor shall develop and maintain a secure web-based CMP to serve as a collaboration tool between the Contractor and the State while performing the operations described in this Contract. The CMP shall serve as a repository for all documents related to the execution of the Contract, maintain staff contact information and schedules, and track all relevant issues and incidents. The CMP shall be accessible to both the State and Contractor.

The CMP system shall store, in an easily retrievable manner, all contract-related documents, including but not limited to the signed contract, organizational chart and staff contact list, service level expectations, technical specifications for all applications, continuity of operations plans, disaster recovery plans, required reports, ORRs, documents related to Joint Contractor/State meetings, including agenda and meeting minutes, issues and incident reports, and all project plan documents, both in Microsoft Project format and PDF, or as otherwise directed by the State. Documents shall be logged with author and posting time, and include version control functionality.

- h. Telecommunications Systems. The Contractor shall acquire, install, configure, and maintain telephone systems that provide at a minimum Interactive Voice Response (IVR) capability, Automated Call Distribution Capability (ACD), call monitoring capability, and call recording capability (including audio recording of the call and video "computer desktop" recording). The Contractor's system capabilities shall specifically include but not be limited to call transferring, call conferencing, speed dialing and redialing, and live call monitoring and supervisory call interruption.
- i. System(s) used for call tracking, managing, monitoring, recording, and reporting of both inbound and outbound calls shall have web-based accessibility.
  - ii. The ACD shall perform skills-based routing based on rules driven logic that assigns incoming calls to an MR with the skill to handle the call based on the caller's touch tone response to recorded prompts. The ACD shall support skill-based routing of responses to prompts that offer options including but not limited to Spanish language, additional information for redeterminations, address and fax number information, etc.
  - iii. Touch tone IVR services shall support intuitive and easy to follow self-service functions as well as caller-directed transfers to designated entities including but not limited to health plans and designated State entities. The Contractor's IVR shall be highly configurable and scalable with the capacity to establish up to five (5) levels of self-service along with an option for the caller to speak to a live representative at any time during the call.
  - iv. The Contractor's IVR and ACD systems shall be capable of modifications as requested by and at no additional cost to the State. Configuration management documentation shall include history of all changes made to the IVR and ACD including date and time of deployment of change.
  - v. The Contractor's call recording system shall record one hundred percent (100%) of all calls in an accessible and searchable format. The Contractor shall retrieve recorded calls for the State; within one (1) hour during normal operating hours of receiving a request from the State for any call within the previous ninety (90) days and retrieve for the State, within one (1) business day of receiving a request from the State for any call made within the previous seven (7) years. In addition, the Contractor shall provide the State and its designees with secure web-based, remote access to the Contractor's call recording system and train designated staff on its use. The Contractor's system shall support recorded call searching capability at minimum by date and time, by MR, or by incoming telephone number.
  - vi. The Contractor's system shall provide pre-recorded greeting messaging that has been approved in advance and in writing by the State and shall allow callers to hear said greetings twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year. The Contractor shall play State approved pre-recorded music for callers while they are on hold. The Contractor shall record



and deploy temporary messages to support initiatives including open enrollment as directed by the State. The Contractor shall not play advertising or informational messages for callers while they are on hold unless approved in advance and in writing by the State (or the State directs the Contractor to play certain messages). Additionally, the Contractor's systems shall provide a message that notifies callers that calls may be monitored by the Contractor and the State for quality control purposes. The system shall be capable of recording and implementing messages remotely, in the cases of after-hours messages and temporary emergency closure messages (weather and other events). The Contractor shall ensure that voice talent and voice recordings are approved by the State, that the voice talent secured meets professional standards, and that updates to voice recordings are provided as needed. The Contractor's system shall play an automated estimated wait time recording for callers in queue when wait time exceeds forty five (45) seconds. The Contractor's system shall provide prompts and messaging in English and Spanish languages and other languages designated by the State.

- vii. The Contractor's system shall be capable of performing outbound calling through a mass notification system such as predictive dialing or other mass outbound call functionality to support outbound call activities.
  - viii. The Contractor shall develop and refine its system to account for the use of older or outdated technology (e.g., fax technology) on the part of external stakeholders.
- i. Customer Relationship Management System (CRM). The Contractor shall install, configure and maintain a customer relationship management system to support operations described in this Contract. The CRM shall be used to document one hundred percent (100%) of incoming/outgoing calls received or made, and shall support and interface with document imaging and indexing of one hundred percent (100%) of mailed and faxed correspondence.
- i. The CRM shall use a dynamic call center interview script that prompts the Contractor's staff with follow-up questions based on the caller's responses to prior questions, thereby minimizing the use of job aids (e.g., frequently asked questions, etc.) by the Contractor's staff when providing routine assistance to callers. Stated differently, the Contractor's scripted questions shall correlate directly with answer fields in dynamic, branching workflows.
  - ii. The Contractor shall create contact records in its CRM only for members (which do not include authorized representatives or other third parties). The Contractor shall at all times collect information in the record about the caller even if the caller is calling on behalf of another individual. The Contractor shall maintain such information under the contact record for the individual or enrollee who is the subject of the call and not create separate contact records for authorized representatives, staff of health care providers, or other non-applicant, non-enrollee individuals. The Contractor shall make every effort to avoid creation of multiple, duplicative contact records and conduct regular and ongoing efforts to join or link existing duplicate records in its CRM. Failure to comply with these requirements or to timely correct multiple or duplicative records may result in liquidated damages pursuant to Contract Attachment B of this Contract.
  - iii. The Contractor, through its CRM, shall easily identify past interactions with callers such that the Contractor's staff can easily see a record and summary of past contacts and interactions with callers via phone, fax, and mail.
  - iv. The CRM shall document the caller's request(s), information provided by the caller, and nature of the call in a free text field with no less than a two thousand (2,000) character limit. For all other fields in the CRM, data shall be captured consistently with uniform values to allow for accurate reporting.



- v. The CRM shall be used to assign all encounters that are not fully resolved to a workflow queue that supports multiple levels of assignment, and that provides email or other alerts to individuals assigned a workflow item.
- viii. The Contractor shall provide the State and its designees with secure web-based access to the Contractor's CRM and train designated State staff on its use.
- ix. Unless otherwise directed by the State, the Contractor shall direct any caller who wishes to report a change of address or other interim change to contact TNHC.
- j. Content Management System (CMS). The Content Management System shall serve as an electronic (paperless) repository of information and resources that support Contractor staff in meeting the requirements of this Contract.
  - i. Information contained in the Content Management System shall include, but not be limited to, training materials, reference materials, frequently asked questions (FAQs), policies, and a rule-based solution finder which supports "if/then" logic to allow the user to retrieve information to address common scenarios. The CMS shall support various media formats, including instructional videos, audio, and visual presentation.
  - ii. The Content Management System shall contain reliable, intuitive search functionality that easily retrieves information by topic, keyword, and posting date while the customer record remains visible, and shall allow for document printing capabilities.
- k. Document Management System (DMS). The Document Management System may be a component of the CRM and shall serve as an electronic repository of mailed and faxed correspondence.
  - i. The Contractor shall fully process all mailed and faxed correspondence within one (1) business day of receipt, including converting all mailed and faxed correspondence to an electronic format, storing in a document management system that has searching and reporting functionality, and uploading to State systems or delivering to State staff as appropriate. The Contractor shall utilize scanning and conversion technology that is compatible with and/or required by the State's systems. The resulting electronic product from the scanning effort shall be in a format that cannot be altered and can be preserved for the contractually required retention period. Once the Contractor has checked the scanned image for quality and accuracy, the paper product should be properly disposed of within HIPAA compliant guidelines.
  - ii. The Contractor shall utilize a document scanning solution that produces a digital image that meets an image quality standard (at least equivalent to that used by the U.S. National Archives and Records Administration) that is capable of supporting character, data, and form recognition. Scanning solution must be capable of recognizing scanned bar or Quick Response (QR) codes.
  - iii. The Contractor shall ensure that a scanned copy of a faxed document captures the full extent of the fax associated with a particular individual. Unless otherwise directed by the State, the Contractor shall make every commercially reasonable effort to contact the sender of the fax if the received fax appears incomplete to confirm whether the Contractor received all relevant pages and, as necessary, request that the sender refax the documents. The Contractor shall also comply with the reporting requirements in Section A.13.b. for incomplete faxes.
  - v. To the extent that the Contractor receives multiple types of verifications or materials for multiple individuals, the Contractor shall separate each document and label and store the document as an independent file. In the event that the Contractor receives a fax involving separate, unrelated individuals or cases (e.g., a



"mass fax" from a health care facility), then the Contractor shall create separate scanned files that contain only information relevant to the individual or case for the record to which the Contractor shall upload said file. Conversely, if the Contractor receives multiple files (e.g., incomplete faxes with parts of the same underlying material or file for an individual), the Contractor shall consolidate the files into a single document and file.

- vi. The Contractor's DMS shall be searchable on data elements including but not limited to customer name, sender's fax number (if available), and the date of receipt of a document by the Processing Center.
- i. **Status System.** The Contractor shall maintain a database searchable by name, Social Security Number, and/or date of birth that provides up-to-date information as to whether the Contractor has received redetermination materials for specified individuals and whether a decision has been made and notice mailed. The Contractor will install, configure, and maintain State-approved technology to provide read-only access to the system by up to 750 individual users from the State or the State's vendor operating the Tennessee Health Connection (TNHC).
- m. **Interfaces and Data Exchanges to Other Systems.** The Contractor shall install, configure, and maintain State-approved technology to allow for secure information exchange between the Contractor's CRM and State-designated systems through interfaces or file exchange as directed by the State.
  - i. **File Format Specifications.** Unless otherwise specified by the State, the format specifications associated with a file or a stream of data being exchanged between the Contractor and the State will conform to applicable HIPAA standards.
- n. **Information Retention.** The Contractor shall maintain in Contractor's Systems all data it receives in accordance with this Section A.7. Technical and Infrastructure Requirements, and shall retain such information (including audio files described in Section A.7.h.v.) for seven (7) years in either live and/or archival systems and for a minimum of five (5) years from date of last payment under this Contract in live systems. The State shall extend the duration of the retention period at its discretion and as indicated to the Contractor as needed for ongoing audits or other purposes.
  - i. The Contractor shall retrieve any information retained in its archival system within two (2) business days of the request by the State. Such retrieval shall be at no cost to the State. The provisions of this Section shall survive the termination of the Contract.
- o. **Routine System Maintenance.** The Contractor shall pay all costs associated with routine maintenance, defect correction, system changes required to effect changes in State and federal statutes and regulations, and production control activities requested by the State for all Contractor's Systems.
- p. **TennCare Systems Connectivity and Access.** The Contractor shall maintain dedicated connectivity to State systems, including InterChange. To this end, the Contractor shall coordinate with the State as required by Section A.15.d.iii.
  - i. On an on-going basis, the Contractor shall submit appropriately completed TennCare Management Information Systems (TCMIS) and Acceptable Use Policy (AUP) forms to HCFA Security to request access to necessary State systems and applications for all Contractor staff and subcontractors. The Contractor shall immediately inform the State through State identified procedures when any employee leaves the Contractor's employment. Where possible the State should be informed of an employee's termination prior to the termination date.
  - ii. The Contractor shall acquire and maintain proficiency in using State owned systems and applications in operation of the Processing Center, and shall be



responsible to identify and timely notify the State of any technical problems associated with such systems that impact the Contractor's ability to perform contracted activities.

A.8. Training Program. The Contractor shall develop and maintain a training program approved by the State that includes new hire, remedial, and policy/process change modules and that provides all staff with the knowledge and skills they require to effectively, correctly, and competently perform the Contractor's responsibilities. All Contractor-developed training and reference materials shall be submitted to the State for review and approval prior to implementation. The State may request modifications to the Contractor's training program to improve the quality and efficiency of Processing Center operations and to ensure that performance and or operational issues are promptly addressed.

- a. Computer/system Skills training topics shall include accurate data entry and grammatically correct keyboarding, and the operation of all utilized software, applications, and systems including but not limited to Word, Excel, email, InterChange, CRM, CMS, DMS, telephonic and TRS systems, and fax systems.
- b. Program training curriculum materials as provided by the State shall include, but not be limited to TennCare/CHIP program rules, policies, and procedures pertaining to eligibility, enrollment, and redetermination processing, nondiscrimination compliance, and roles and responsibilities between and among HCFA, the State, and other contractors. The State will not provide a curriculum for HIPAA/HITECH compliance, however, the Contractor is expected to develop and provide this training to all Contractor staff.
- c. The Contractor's training program shall apply the use of interactive training modules, including role play and practice exercises, open discussion modules, particularly for topics subject to differences in interpretation, role based modules, small group and large group conventional instructor led training, individual training sessions, and self-learning modules through computer based instruction.
- d. The Contractor's training program shall provide pre-and-post training tests to test staff retention and effectiveness of training modules.
- e. The Contractor shall develop role-based written and oral certification exams approved by the State and shall require every staff member to complete certification prior to the staff member performing his/her role within the Processing Center. Certification completion shall consist of a ninety percent (90%) or higher score achieved in all facets of the exams.

A.9. Processing Center Business Process Compliance (BPC) and Quality Assurance (QA). The Contractor shall establish ongoing, comprehensive, and reportable BPC and QA programs (including intensive quality assurance of document intake to Processing Center) that evaluate all functional areas of the Processing Center including but not limited to staff performance and systems operations via an electronic scoring method that includes specific evaluation criteria and values for each criterion. More generally, the Contractor shall continually assess and help to improve performance among the (a) people, (b) process, and (c) technology at work in the Processing Center.

With respect to the QA activities for mail operations and document processing, the Contractor shall comply with calibration of processes to ensure optimization of performance established by the State to ensure that the Contractor's quality evaluations are compatible and consistent with the State's. All Contractor-developed QA materials shall be submitted to the State for review and approval prior to implementation. The State may request modifications to the Contractor's QA program to improve the quality and efficiency of Processing Center operations and to ensure that performance and or operational issues are promptly addressed. The Contractor shall comply with reporting requirements as specified in Section A.11, and RPT-03, Contractor's Quality Assurance Report.

- a. Criteria to evaluate documentation and action taken associated with redetermination processing but not be limited to accuracy of data entry, grammatical accuracy of documentation, and accuracy of action taken.



- b. Document processing evaluation criteria shall include but not be limited to accuracy of data entry, and accuracy of action taken.
  - c. Evaluation criteria for systems operations shall include but not be limited to the Contractor's operational standards on a daily, weekly, monthly, and/or quarterly timeframe as appropriate.
- A.10. Materials Development. The Contractor shall be responsible for writing, editing, updating and obtaining State approval on all written materials used in and for the Processing Center, including but not limited to training materials, quality assurance materials, and reporting analysis formats and templates. All materials produced by or at the direction of the Contractor for use in the course of this Contract are subject to prior, written approval by the State. The State reserves the right to require changes as it deems appropriate.
- a. Unless approved in advance and in writing by the State, the Contractor may not place a corporate or other identifying brand, logo, or trademark on any materials produced by the Contractor for use in the course of this Contract.
  - b. The Contractor shall use commercially available software to develop all written materials. If the Contractor prefers to use a software product other than or in addition to the following list, it must receive prior written approval from the State. Acceptable software includes InDesign, Quark Xpress, Microsoft Office, Microsoft Publisher, Adobe Pagemaker and Adobe Acrobat Professional.
  - c. The Contractor shall provide to the State electronic templates of all materials in a format that the State can easily alter, edit, revise, and update.
  - e. Processing Center Standard Operating Procedures (SOPs). The Contractor shall develop electronically accessible Processing Center SOPs (with comprehensive business process diagrams) for staff's instruction and reference.
    - i. SOPs shall include but not be limited to instructions related to mail operations, redetermination processing, use of translation services, and emergency procedures for business continuity including, but not limited to, fire drills, temporary technical computer/application/server outage issues, and temporary power outages.
    - ii. The Contractor shall submit this SOP deliverable for State review by the date described in Section A.21. The State will review and approve this deliverable and may request modifications or revisions as it deems appropriate. After obtaining advance written approval from the State, the Contractor shall implement and comply with these SOPs.
    - iii. The Contractor shall maintain all approved SOPs and their revisions/versions in a searchable format so they can be quickly located in the Contractor's Content Management System.
  - f. Contract Policies and Procedures (Contract P&Ps). The Contractor shall develop Contract P&Ps for the on-going scope of this Contract, for the Contractor's and the State's reference. The Contractor shall maintain all approved Contract P&Ps and their revisions/versions in a searchable format so they can be quickly located in the Contract Management Portal. Contract P&Ps shall include but not be limited to:
    - i. Coordination with Other State contractors and State Agencies: Describes processes for coordination with other contractors and agencies including but not limited to TennCare Member Services, HCFA IT, HCFA Security, HCFA's Office of General Counsel, HCFA Privacy Office, TennCare OIG and HCFA's Office of Nondiscrimination.



- ii. Administration: Describes hours of operations, privacy and HIPAA/HITECH compliance, systems and facility security protocols; workplace principles, including, but not limited to nondiscrimination compliance and cultural competence; chain of command, and responsibilities.
- iii. Document Processing: Details processes required to ensure incoming and outgoing materials are managed, protected and secured.
- iv. Systems Documentation: Details processes required to ensure that all systems operate with correct business rules and are maintained on a consistent basis.
- v. The Contractor shall submit this Contract P&P deliverable for State review by the date described in Section A.21. The State will review and approve this deliverable and may request modifications or revisions as it deems appropriate. After obtaining advance written approval from the State, the Contractor shall implement and comply with these Contract P&Ps.

A.11. Reporting Requirements. The Contractor shall accurately compile and submit to the State the required reports in a manner and at the times and dates specified in writing by the State. Unless otherwise directed in writing by the State:

- a. The Contractor shall ensure that reports are systematic and automated rather than manually-developed.
- b. The State will review and approve all reporting templates and may request modifications or revisions as it deems appropriate; the Contractor shall modify its reporting formats and methodology to report additional information as requested by the State.
- c. The Contractor shall supply responses to ORRs to the State per the State's request, within the timeframe specified and at no additional cost to the State. Consistent with Section A.7.g., the Contractor shall also store all such reports in the CMP, allowing the State to have access to the electronic version of each report through said portal.
- d. The Contractor shall allow the State direct access to the reporting features of the CMR and DMS so that staff can independently generate reports using different variables or specifications. The Contractor shall provide training and ongoing technical assistance to the State for this purpose.
- e. The Contractor shall deliver a daily electronic report in Microsoft Excel or other approved format a Comprehensive Inventory of Records with data for each member including but not limited to the following data fields:
  1. Contractor-Assigned Case/Household Number;
  2. Contractor-Assigned Individual Identifier (if any);
  3. RIDS Identifier (currently or most recently active);
  4. First Name;
  5. Middle Name;
  6. Last Name;
  7. Date of Birth;
  8. Social Security Number;
  9. Street Address (most recent);
  10. City (most recent);
  11. State (most recent);
  12. ZIP Code (most recent);
  13. Household Size (most recent);
  14. MAGI (most recent);
  15. Telephone Number (most recent);
  16. Date of Redetermination Notice (most recent);



17. Date Redetermination Form Received (most recent, not including dates of receipt for separate verifications);
18. Hyperlink(s) to CRM and DMS record(s);
19. Hyperlink to MAGI-in-the-Cloud results record (most recent);
20. Date of request for additional information (most recent);
21. Date of Re-Application Referral notice (most recent);
22. Date of MAGI Medicaid Approval notice (most recent);
23. Date of CoverKids Approval notice (most recent);
24. Date of Non-MAGI Referral (most recent);
25. Date of MAGI Denial/Termination notice (most recent);
26. Date of Termination for Non-Response notice (most recent);
27. Flag noting Late Return of Redetermination forms;
28. Flag noting individuals with active eligibility in InterChange at the time of redetermination processing but who had active eligibility within the 90-day period prior to date on which the Contractor received the redetermination form; and
29. Flag noting individuals without active eligibility in InterChange at the time of redetermination processing but who had active eligibility within the 90-day period prior to date on which the Contractor received the redetermination form.

A.12. Business Continuity and Disaster Recovery. The Contractor shall submit a formal Business Continuity-Disaster Recovery Plan (BC-DR) by the date specified in Section A.21. The Contractor will apply recognized industry standards governing disaster preparedness and recovery including the ability to continue operations during hours specified in Section A.2.d, in the event that the central site is rendered inoperable.

- a. The Contractor will maintain the ability to implement the BC-DR plan within a two (2) hour window from the time of the State's direction to implement such plan. Such plan must provide for seamless operation of all contracted activities and Processing Center functionality as specified herein. Any/all back-up contract centers must have an ACD system and remote access via telephone and simple internet connection. Contractor employees must be familiar with emergency procedures.
- b. Upon the State's request, the Contractor shall test the BC-DR with the results added to the BC-DR plan document. The BC-DR must be able to meet the requirements of any applicable state and federal regulations and policies of the State. The BC-DR must include sufficient information to show that the following requirements are met:
  - i. Emergency procedures that include steps to take in the event of short-term interruptions in normal operations, including but not limited to fire drills, temporary technical computer/application/server outage issues, temporary power outages, and in the event that all representatives are logged out/unavailable.
  - ii. Emergency procedures that include steps to take in the event that central and/or satellite data processing, telecommunications, imaging management facilities and functions therein, hardware and software are destroyed or damaged.
  - iii. Emergency procedures that include steps to take in the occurrence of system interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of transactions that are active in a live system at the time of the outage or of data maintained in a live or archival system that does or does not cause unscheduled system unavailability.
  - iv. Emergency procedures that include steps to take in the event of a disaster by storm, fire, water damage, sabotage, criminal action, bomb threats, etc., rendering the central site inoperable.
- c. The Contractor shall periodically, but no less than annually, test its BC-DR plan through simulated disasters and lower level failures in order to demonstrate to the State that it



can restore System functions per the standards outlined in this Section of the Contract. Advance notice of the test is to be given to the State so that state personnel may observe the test onsite in real time. Test results must be shared with the State within three (3) business days of the conclusion of the test.

- d. In the event that the Contractor fails to demonstrate in the tests of its BC-DR plan that it can restore system functions per the standards outlined in this Contract, the Contractor shall submit to the State a Corrective Action Plan that describes how the failure shall be resolved. The Contractor shall deliver the Corrective Action Plan within three (3) business days of the conclusion of the test.
- A.13. Problem Notification. At the point at which the Contractor discovers or reasonably should have known of any problem that is reasonably likely to jeopardize the Contractor's ability to perform any function as specified in this Contract, the Contractor shall notify the applicable State staff (as well as the State's designated general contact for this Contract) in person, via phone, and email within one (1) hour if the problem is discovered within the business day and no later than 9:00 a.m. CT the following business day if the problem occurs after close of business.
- a. Corrective Action Plan. Unless otherwise directed by the State, the Contractor shall within three (3) business days of a problem's occurrence deliver comprehensive written documentation, including a Corrective Action Plan that describes how the Contractor shall determine the root cause of the issue, remedied the immediate operational challenges, and prevent this or similar problems from occurring again.
- b. The Contractor shall treat any known or suspected occurrence of "dead air" in which a caller is unable to talk with a Contractor's representatives (e.g., because of telephony or connectivity issues) as a reportable problem under this Section. The Contractor shall report within one (1) business day, unless otherwise directed in writing by the State, the Contractor shall report any complaints from callers regarding blocked calls, inaccurate IVR functionality, blocked faxes, incomplete faxes, and customer complaints specifically about the Contractor's technology and related performance as reportable problems under this Section.
- A.14. Project Management Plan. The Contractor shall establish and maintain a Project Management Plan through the life of the Contract of sufficient capacity and scalability to support all phases of the Contract including start-up and end of contract transitioning. The Project Management Plan shall include both a start-up component and a separate ongoing operations component (described in Section A.18). The Project Management Plan shall conform to industry accepted management guidelines, specifically the Project Management Institute's PMBOK (Project Management Book of Knowledge). The Project Management Plan shall practice project management methodologies and disciplines that can handle complex projects and can be scaled to meet changing needs. The Project Management Plan shall include a comprehensive work breakdown structure (WBS) for each functional area of the Contractor's responsibilities.
- a. The Contractor's Project Management Plan shall be the document of record for tracking critical path activities, tasks, milestones, deliverables, resources, and duration estimates. The activities, tasks, milestones and deliverables contained in the Project Management Plan, and all changes thereto made by the approved Control Memorandum process specified in Section A.17 are considered to be incorporated into this Contract once the Project Management Plan or the applicable change has been approved by the State.
- b. The Contractor shall submit its final Project Management Plan to the State for review and approval by the State by the date specified in Section A.21. Failure to comply with the Deliverables/Timelines as specified herein may result in liquidated damages as set forth in Attachment B.
- c. Format for Deliverables: Unless otherwise directed in writing by the State, the Contractor shall submit all deliverables under this Contract electronically with an original non PDF file(s) using the Microsoft Office 2010 suite of tools (Word, Excel, PowerPoint, etc. and Microsoft Project for project planning), or such other software as the State directs.



A.15. Other Start-up Deliverables.

- a. Staffing Plan. The Contractor shall provide its staffing plan to the State by the date specified in Section A.21 and shall include the following:
  - i. Roster of Key Personnel: The Contractor shall ensure that all Key Personnel approved by the State are on staff on the Contract start date, or a date as agreed to in writing by the State. The roster shall include names, titles, location, and contact information, including email addresses and telephone numbers. -
  - ii. Organizational Chart: The Contractor shall provide its Organizational Chart for all administrative, functional, and programmatic reporting relationships and responsibilities of staff performing services under the Contract, including any subcontractors of the Contract.
  - iii. Job Descriptions: The Contractor shall submit detailed job descriptions for all functions listed in the Organizational Chart.
  - iv. Recruitment and retention strategies: The Contractor shall submit its plan for recruiting and retaining Processing Center staff that includes new hire education and experience requirements, salary ranges, and benefits offered.
  - v. State Review/Approval: The State will review this deliverable and may request modifications or revisions as it deems appropriate.
- b. Training Plan. The Contractor shall submit its training program plan and materials to the State for approval by the date specified in Section A.21.
  - i. Staff Training Certifications. The Contractor shall conduct a training program and submit staff certification results for all Processing Center staff by the Processing Center implementation date.
  - ii. State Review/Approval: The State will review and approve this deliverable and may request modifications or revisions as it deems appropriate.
- c. Business Process Compliance Plan. The Contractor shall submit its business process compliance program plan and materials to the State for approval by the date specified in Section A.21. The State will review and approve this deliverable and may request modifications or revisions as it deems appropriate.
- d. Systems Development Plan. The Contractor shall submit its systems development plan and materials to the State for approval by the date specified in Section A.21.
  - i. The Contractor shall make provisions for third party telephonic interpreter services and TRS no later than thirty (30) days prior to the Processing Center implementation date.
  - ii. The Contractor shall provide demonstrations of its IVR, ACD, CMP, CRM, CMS, and DMS for the State during the Readiness Review described in Section A.16.
  - iii. The Contractor to begin working with the State's Office for Information Resources (OIR) and HCFA IT immediately upon the Contract Start Date to use the OIR "Build Book" to determine network adequacy requirements, coordinate network security requirements (e.g., VPN, point-to-point, etc.), and share documentation (e.g., Build Book and network diagrams).
  - iv. The Contractor shall meet with the State to establish process and protocol in accessing and interfacing with State systems no later than the corresponding date described in Section A.21 and shall provide testing outcomes for the State's approval of all interfaces with said systems no later than corresponding date described in Section A.21. Past experience suggests that this process and



successfully establishing connectivity and exchanging data is both extensive and time-intensive.

- v. State Review/Approval: The State will review and approve this deliverable and may request modifications or revisions as it deems appropriate.
- e. Systems Security Plan. The Contractor shall develop and maintain for all Facilities or other locations performing work under this Contract a System Security Plan (SSP) that complies with the standards set forth in:
- i. National Institute of Standards and Technology Special Publication 800-47 Security Guide for Interconnection Information Technology Systems;
  - ii. National Institute of Standards and Technology Special Publication 800-53 Revision 3 Recommended Security Controls for Federal Information Systems and Organizations;
  - iii. Centers for Medicare & Medicaid Services ACA System Security Plan Attachment 1 SSP Workbook Version 1;
  - iv. Centers for Medicare & Medicaid Catalog of Minimum Acceptable Risk Controls for Exchanges – Exchange Reference Architecture Supplement Version 1; and
  - v. Centers for Medicare & Medicaid CMS Information Security Assessment Procedures Version 2.

The SSP should specifically address access control, awareness and training, audit and accountability, security assessment and authorization, configuration management, contingency planning, identification and authentication, incident response, maintenance, media protection, physical environment protection, planning, personnel security, risk assessment, system and services acquisition, system and communications protection, systems and information integrity, and program management. The SSP may reference existing policies and procedures and other materials, though the Contractor shall produce copies of all such materials upon demand by the State.

- A.16. Readiness Review. Prior to commencement of Processing Center operations, the Contractor shall demonstrate to the State's satisfaction that it is able to meet the requirements of this Contract. The Contractor shall participate in a comprehensive readiness review to be conducted by the State by the date specified in Section A.21. The readiness review shall consist of a desk audit of start-up deliverables, one or more onsite reviews and any necessary follow-up regarding issues stemming from an onsite review or issues that are not adequately addressed during an onsite review.
- a. The Scope of the Readiness Review will include, but will not be limited to, the following deliverables: comprehensive business process flow diagrams, policies and procedures, staffing configuration and detailed plan, data and information exchange, customer service standards, records management, materials and program manuals, information systems, and facility components. The Contractor shall submit the final business process flow diagrams for key functions described in this Section A.16.a. to the State by the date described in Section A.21.
  - b. Onsite reviews will consist of, at a minimum, follow-up on items identified in the desk audit, participation in training activities, system testing, a walk-through of the Contractor's operations, systems demonstrations, administrative, physical and technical safeguards, and interviews with Contractor's staff. The scope of the review may include all requirements of this Contract as determined relevant by the State.
  - c. The State shall work with the Contractor to determine appropriate dates for onsite reviews and shall notify the Contractor in advance regarding dates for scheduled onsite reviews and expectations.



d. Based on the results of the review activities, the State will issue a letter of findings and, if needed, will request a corrective action plan from the Contractor. The State shall have the right to postpone the Processing Center implementation date based upon inadequate project status determined from the readiness review. State decisions regarding postponement shall not be subject to appeal. Postponement of the Processing Center implementation date may result in liquidated damages to the Contractor as detailed in Attachment B. If the Contractor is unable to demonstrate its ability to meet the requirements of this Contract, as determined by the State, within the timeframes specified by the State, the State may terminate this Contract in accordance with Section D. and have no liability for payment to the Contractor.

A.17. Control Memorandum(a) (CM) Process - The CM process shall be utilized by the State to clarify Contract requirements, issue instruction to the Contractor, document action required of the Contractor, or request information from the Contractor. In addition, the CM process shall be used by the State to impose assessments of damages, either actual or liquidated. This process will be used to address issues or matters that do not require a contract amendment. Each CM must be in writing and indicate the date on which it was issued. CMs may provide relevant history, background, and other pertinent information regarding the issue(s) being addressed in the CM. Each CM will establish a deadline or timeframe for the Contractor's reply or other action. All CMs submitted to the Contractor must be signed and approved by the State's Project Director (or his/her designee). When the CM pertains to damages, either actual or liquidated, the State may issue consecutive CMs, as may be necessary or appropriate.

a. A CM may include one (1) or more of the following five (5) components of the CM process described below:

- (1) On Request Report (ORR) - a request directing the Contractor to provide information by the time and date set out in the CM.
- (2) Control Directive (CD) - instructions that require the Contractor to complete, within a designated timeframe, one (1) or more deliverables or to perform any other request from the State that is within the scope of the Contract. A CD may also provide clarification of certain Contract terms. Once a CM/CD has been issued, it shall be considered to be incorporated into this Contract.
- (3) Notice of Potential Damages (Actual or Liquidated) (NPD) – notification to the Contractor that the State has determined that a potential Contract performance or compliance issue exists and that the State is contemplating assessing damages, actual and/or liquidated. The NPD shall identify the Contract provision(s) on which the State determination rests.
- (4) Notice of Calculation of Potential Damages (Actual or Liquidated) (NPCD) – notification to the Contractor that provides a calculation of the amount of potential damages, actual and/or liquidated, that the State is contemplating assessing against the Contractor. NPDs and NPCDs may be issued consecutively or simultaneously.
- (5) Notice of Intent to Assess Damages (Actual or Liquidated) (NIAD) – notification to the Contractor that the State is assessing damages and specifying whether the damages are actual damages, liquidated damages, or both. The NIAD shall identify the NPD and NPCD upon which it is based. The NIAD shall specify the total amount and type of damages, whether actual or liquidated, the State intends to assess. Following the issuance of an NIAD, the State may elect to withhold damages from payments due to Contractor. The State may not issue a NIAD without first issuing a NPD and a NPCD.

b. Damages for failure to comply with CM. Contractor shall fully comply with all CMs. Failure to do so may result in sanctions, including liquidated damages as listed in Attachment B (Liquidated Damages) and/or termination of the Contract.

c. Appeal of Damages by Contractor. Contractor may appeal either the basis for NPD or calculation of NPCD potential damages, either actual or liquidated. To do so, the Contractor



shall submit to the State's Project Director (or his/her designee) a written response to the NPD and/or NCPD within ten (10) business days of receipt of a CM which includes a NPD or a NCPD. The State's Project Director (or his/her designee) shall review the appeal and provide notice of his/her determination to the Contractor through a CM. If the Contractor disagrees with the State's Project Director's (or his/her designee) initial appeal determination or the State's Project Director (or his/her designee) is unable to resolve the appeal, the Contractor may submit a written request to the State's Project Director (or his/her designee) that the matter be escalated to senior management of the Agency. Contractor shall submit such a request for escalation within ten (10) business days of its receipt of the initial appeal determination from the State's Project Director (or his/her designee) or of notification by the State's Project Director that he/she is unable to resolve the appeal. The State's senior management shall provide written notice of its final determination to the Contractor. Upon appeal or escalation, the State shall not increase the amount of the potential damages.

- A.18. On-Going Operations Plan. The Contractor's On-Going Operations Plan shall include the completion and delivery of all on-going Contractor responsibilities as specified in this Contract, on schedule and within budget, and shall accurately correspond with Contract P&Ps as specified in Section A.10.f with particular interest in program improvement on issues identified during implementation and as part of early Business Process Compliance and QA efforts.
- A.19. End of Contract Transition Plan. As part of its transition plan, the Contractor shall develop an Information Management and Retrieval Services Turnover Plan no later than one hundred and eighty (180) days prior to the Contract end date that includes electronic, searchable inventories of:
- a. All CRM documents;
  - b. All CMP and CMS documents including all document versions and revisions; and
  - c. All DMS documents.

The Contractor shall fully participate in a data conversion process to ensure that the State has full, ongoing access to all data during and after the end date of this Contract with no additional payments due to the Contractor. The Contractor shall provide all data to the State within in a method and format specified in writing by the State. Unless otherwise directed by the State, the Contractor shall provide historical data to the State by the end date of this Contract and updated information within thirty (30) days of the end date of this Contract.

The Contractor shall also ensure that all mail and faxes received at the P.O. box and fax line described in Section A.3.b are promptly redirected to the State. The State shall have the right to assume ownership and control of the toll-free telephone and toll-free fax numbers as well as the P.O. box.

- A.20. Transition Requirements. Prior to the end of the Contract term or extension of the Contract term, or in the event of a Contract Termination or Partial Takeover pursuant to Contract Sections D.5, D.6 and E.11, the State may contract with a successor contractor (Successor Contractor) to assume Contractor's duties and requirements upon termination of this Contract. This may result in a period of transition during which Contractor continues to provide services while the Successor Contractor prepares to assume those services, with a switch over from the Contractor to the Successor Contractor occurring on an implementation date specified by the State. The Contractor shall be required to participate as directed by the State, at no additional cost, in assisting with the transition by providing information relating to Contractor's duties and attending meetings with the State and/or Successor Contractor. Contractor shall help State and/or successor Contractor develop a Transition Plan. Contractor will at all times act in good faith towards the State and/or Successor Contractor to facilitate as smooth a transition as possible. The State will use the Control Memorandum process to specify deliverables required of the Contractor in aid of the transition process. Failure to fully and timely cooperate with the State's request or provide the requested deliverables may result in liquidated damages as specified in this Contract or in the applicable Control Memorandum. The State shall not be liable to the



Contractor for any costs and expenses relating these deliverables or to the services provided by the Contractor during the transition period, other than as set forth in Contract Section C.3.

A.21. Implementation Calendar

Unless otherwise directed in writing by the State, the Contractor shall adhere to the timeline and key dates in the following table. **Unless otherwise indicated below the Contractor shall submit draft materials to the State for review at least twelve (12) business days in advance of the date by which final materials are due.**

<b>Date</b>	<b>Description</b>
September 8, 2015	Contract Start Date
September 14, 2015	<b>Final Project Management Plan</b> as described in Section A.14 due to State.
September 28, 2015	<b>Final Staffing Plan</b> and accompanying materials as described in Section A.15.a. due to State.
September 28, 2015	<b>Final Systems Development Plan</b> and accompanying materials as described in Section A.15.d. due to State.
October 12, 2015	<b>Final Training Plan</b> and accompanying materials as described in Section A.15.b. due to State.
October 12, 2015	Contractor shall establish process and protocol in accessing and interfacing with State systems (as described in Section A.15.d.iv.).
October 19, 2015	<b>Final Processing Center SOPs</b> and accompanying materials as described in Section A.10.e due to State.
October 19, 2015	<b>Final Processing Center scripts</b> and accompanying materials as described in Section A.7.i.i. (including voicemail scripts described in Section A.3.d.iii.) due to State.
October 19, 2015	<b>Final Contract P&amp;Ps</b> and accompanying materials as described in Section A.10.f. due to State.
October 19, 2015	<b>Final comprehensive training materials</b> described in Section A.8 due to State.
October 26, 2015	<b>Final BC-DR Plan</b> and accompanying materials as described in Section A.12 due to State.
October 26, 2015	<b>Final System Security Plan (SSP)</b> and accompanying materials as described in Section A.15.e. due to State.
October 26, 2015	<b>Final reporting templates</b> and accompanying materials as described in Section A.11 due to State.
October 26, 2015	<b>Final Business Process Compliance Plan</b> and accompanying materials as described in Section A.15.c. due to State.
October 26, 2015	<b>Final comprehensive QA materials</b> described in Section A.9 due to State.
November 9, 2015	Contractor shall provide testing outcomes of all interfaces with systems (as described in Section A.15.d.iv.) to State.
November 16, 2015	Readiness Review
December 1, 2015	<b>Processing Center implementation date</b> or "go-live" date. Contractor begins initial mailings, is able to accept documents,



Date	Description
	and is performing <b>Document Management Services (DMS)</b> functions and operating systems required under Sections A.3.b. and A.7.k.
December 21, 2015	<b>Final Ongoing Operations Plan</b> described in Section A.18 due to State.

- A.22 The Contractor shall, as directed by the State and at no additional cost to the State, coordinate with, facilitate the prompt exchange of information between, and work collaboratively with any and all other State contractors and State Agencies. If required in order for the Contractor to proceed with any part of the Scope of Services which involves sharing or obtaining information of a confidential, proprietary, or otherwise valuable nature with or from another State contractor, the Contractor may be requested to sign mutually agreeable documents, including but not limited to Non-Disclosure Agreements (Non-Disclosure Documents), which are reasonably necessary to maintain cooperation and collaboration among and with any and all other State contractors and State agencies in the performance of the Contract.

All information the Contractor may receive, have disclosed to it, or otherwise becomes known to Contractor during the performance of this Contract from any other State contractor, that the State contractor considers to be propriety or confidential in nature pursuant to a Non-Disclosure Document entered into between the Contractor and another State contractor, shall be governed by such Non-Disclosure Document.

Nothing in this Section, including failure to negotiate and enter into a Non-Disclosure Document acceptable to Contactor with another State contractor, shall be construed to relieve the Contractor of its duty to perform any requirements or deliverables under this Contract. Other than as permitted in Section C. of this Contract, Payment Terms and Conditions, the Contractor shall not invoice the State for any such coordination services, and the State shall not be liable to the Contractor for payment of any such coordination services, without the prior written consent of the State.

- A.23 The parties expressly acknowledge that the State is the subject of frequent public records and litigation discovery requests, which may involve production of large volumes of documents housed in Contractor's system. The State will exert all reasonable efforts to limit the scope of the public records or litigation discovery requests it receives and/or collect costs of production from the requesting party as allowed by law. Contractor agrees to provide, at no cost to the State, any documents which are required to be produced in response to these requests.

**B. CONTRACT PERIOD:**

- B.1. This Contract shall be effective on September 8, 2015 ("Effective Date") and extend for a period of fifteen (15) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.
- B.2. Renewal Options. This Contract may be renewed upon completion of the Term. The State reserves the right to execute up to three (3) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Fourteen Million Three Hundred Thirty-Five Thousand Two Hundred Thirty Eight Dollars (\$14,335,238.00) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor



will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:
  - (1) For the transition period of September 8, 2015 – November 30, 2015 there shall be no cost to the State.
  - (2) For services performed from December 1, 2015 through November 30, 2016, the following rates shall apply:

<b>Service Description</b>	<b>Amount</b> (per compensable increment)
<b>Administrative Fee Including all Services, hosting, licensing, Operations, Maintenance and Enhancements</b>  (Up to and including ten thousand (10,000) new redeterminations per month)	<b>\$ 190,832.23/month</b>  (Up to and including ten thousand new (10,000) redeterminations* per month)
<b>Administrative Fee Including all Services, hosting, licensing, Operations, Maintenance and Enhancements</b>  (Per each increment of one thousand (1,000) new redeterminations above the baseline ten thousand (10,000) new redeterminations per month)	<b>\$ 11,153.01/month</b>  (Per each increment of one thousand (1,000) new redeterminations* above the baseline ten thousand (10,000) new redeterminations per month)

\* The term "redetermination" shall have the meaning defined in Attachment A. The invoiced amounts shall reflect the same number in the monthly report to the State described in Section A.3.c.ix.

- (3) Should Term Extension Option (Section B.2) be utilized, the following rates shall apply for services performed during extension periods.

<b>Service Description</b>	<b>Amount</b> (per compensable increment)
<b>Administrative Fee Including all Services, hosting, licensing, Operations, Maintenance and Enhancements</b>  (Up to and including fifty thousand (50,000) new redeterminations per month)	<b>\$ 661,650.00/month</b>  (Up to and including fifty thousand (50,000) new redeterminations*)



	per month)
<b>Administrative Fee Including all Services, hosting, licensing, Operations, Maintenance and Enhancements</b> <b>(Per each increment of one thousand (1,000) new redeterminations above the baseline fifty thousand (50,000) new redeterminations per month)</b>	<b>\$ 11,577.00 month</b> <b>(Per each increment of one thousand (1,000) new redeterminations* above the baseline fifty thousand (50,000) new redeterminations* per month)</b>

- c.. Pursuant to Section A.3, the State shall reimburse through a pass through cost payment actual expenditures (excluding labor) related to the production and postage of all notices.
  - d. The State will either (a) provide the Contractor with blank copies of the "Access to Coverage" form and "Medically Eligible" packets described in Section A.3.c.vii. or (b) through a pass through cost payment, reimburse the Contractor for the production of said forms and packets
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:
- 310 Great Circle Road  
Nashville, TN 37243
- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
    - (1) Invoice number (assigned by the Contractor);
    - (2) Invoice date;
    - (3) Contract number (assigned by the State);
    - (4) Customer account name: Department of Finance and Administration, Division of Health Care Finance and Administration;
    - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
    - (6) Contractor name;
    - (7) Contractor Tennessee Edison registration ID number;
    - (8) Contractor contact for invoice questions (name, phone, or email);
    - (9) Contractor remittance address;
    - (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
    - (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
    - (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
    - (13) Amount due for each compensable unit of good or service; and
    - (14) Total amount due for the invoice period.
  - b. Contractor's invoices shall:
    - (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;



- (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
    - (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
    - (4) Include shipping or delivery charges only as authorized in this Contract.
  - c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an Invoice that meets the minimum requirements of this Section C.5.
- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.
- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
  - b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**D. MANDATORY TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract, other than information or data that is necessary for one or more Contract deliverables, shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.



The State:

Department of Finance and Administration  
Division of Health Care Finance and Administration  
Bureau of HCFA  
310 Great Circle Road  
Nashville TN 37243  
Telephone # (615) 507-6443  
FAX # (615) 253-5607

The Contractor:

Maximus Health Services, Inc.  
Eric Rubin, President  
104 Addis Drive  
Churchville, PA 18966  
Telephone: (215) 840-4243  
Fax: (215) 359-1863  
Email: [ericrubin@maximus.com](mailto:ericrubin@maximus.com)

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

All information or data that is necessary for one or more deliverables set forth in this Contract shall be transmitted between HCFA and Contractor via the data transfer method specified in advance by HCFA. This may include, but shall not be limited to, transfer through HCFA's SFTP system. Failure by the Contractor to transmit information or data that is necessary for a deliverable in the manner specified by HCFA, may, at the option of HCFA, result in Liquidated Damages as set forth on Contract Attachment B hereto.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.



i. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.

D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. In addition, the Contractor shall comply with the provisions of Contract Section E.26 (Nondiscrimination Compliance Requirements) and this Section D.9 shall not be deemed to limit or abridge any requirement set forth in Section E.26.

D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment C, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to



perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
  - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
  - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including



but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.

- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for intentional torts, criminal acts, fraudulent conduct, or omissions that result in personal injuries or death.
- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.
- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
  - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
  - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
  - d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.
- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-



35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further



payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

- D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract. In addition, the Contractor shall comply with the provisions of Contract Section E.16, (Applicable Laws, Rules, Policies and Court Orders), and this Section D.25 shall not be deemed to limit or abridge any requirement set forth in Section E.16.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
  - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below);
  - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
  - e. any technical specifications provided to proposers during the procurement process to award this Contract; and,
  - f. the Contractor's response seeking this Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- E.2. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed



or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. The Contractor shall only use Confidential information for activities pursuant to and related to the performance of the Contract. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

E.3. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.

E.4. Ownership of Software and Work Products.

a. Definitions.

- (1) "Contractor-Owned Software," shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial "off-the-shelf" software which is not developed using State's money or resources.
- (2) "Custom-Developed Application Software," shall mean customized application software developed by Contractor solely for State.
- (3) "Rights Transfer Application Software," shall mean any pre-existing application software owned by Contractor or a third party, provided to State and to which Contractor will grant and assign, or will facilitate the granting and assignment of, all rights, including the source code, to State.
- (4) "Third-Party Software," shall mean software not owned by the State or the Contractor.
- (5) "Work Product," shall mean all deliverables exclusive of hardware, such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor exclusively for the State during the course of the project using State's money or resources, including Custom-Developed Application Software. If the deliverables under this Contract include Rights Transfer Application Software, the definition of Work Product shall also include such software. Work Product shall not include Contractor-Owned Software or Third-Party Software.

b. Rights and Title to the Software

- (1) All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license granted under this Contract.
- (2) All right, title and interest in and to the Work Product, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and arising out of the Work Product, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Work Product, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Work Product. Contractor and its employees, agents, contractors or representatives shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties.



- (3) All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license granted under this Contract.
- c. The Contractor may use for its own purposes the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of performing under this Contract. The Contractor may develop for itself, or for others, materials which are similar to or competitive with those that are produced under this Contract.
- E.5 State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State for the Contractor's use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less reasonable wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.
- E.6 Work Papers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis work papers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.
- E.7 Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- E.8. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.
- E.9 Intellectual Property. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the



amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

- E.10. Liquidated Damages. If failure to comply with requirements of this contract occurs, ("Liquidated Damages Event"), the State may assess damages on Contractor ("Liquidated Damages") per Attachment B. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The Parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for Contractor's failure to fulfill its obligations regarding the Liquidated Damages Event as these amounts are likely to be uncertain and not easily proven. The Contractor agrees that the Liquidated Damages are in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or any other sections of this Contract.

The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to avail itself of any other remedy available under this Contract or at law or equity.

- E.11 Partial Takeover of Contract. The State may, at its convenience and without cause, exercise a partial takeover of any service that the Contractor is obligated to perform under this Contract, including any service which is the subject of a subcontract between Contractor and a third party (a "Partial Takeover"). A Partial Takeover of this Contract by the State shall not be deemed a breach of contract. The Contractor shall be given at least thirty (30) days prior written notice of a Partial Takeover. The notice shall specify the areas of service the State will assume and the date the State will be assuming. The State's exercise of a Partial Takeover shall not alter the Contractor's other duties and responsibilities under this Contract. The State reserves the right to withhold from the Contractor any amounts the Contractor would have been paid but for the State's exercise of a Partial Takeover. The amounts shall be withheld effective as of the date the State exercises its right to a Partial Takeover. The State's exercise of its right to a Partial Takeover of this Contract shall not entitle the Contractor to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.
- E.12 Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State.
- E.13. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII.



Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law.

- E.14. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

- a. Reporting of Total Compensation of the Contractor's Executives.
- (1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:
    - i. 80 percent or more of the Contractor's annual gross revenues from federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and
    - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.



- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):
- i. Salary and bonus.
  - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
  - v. Above-market earnings on deferred compensation which is not tax qualified.
  - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.
- c. If this Contract is amended to extend the Term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the term extension becomes effective.
- d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>

The Contractor's failure to comply with the above requirements is a material breach of this Contract for which the State may terminate this Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Contractor unless and until the Contractor is in full compliance with the above requirements.

- E.15 Survival. The terms, provisions, representations, and warranties contained in Sections D.11 (Records), D.19 (Hold Harmless), D.20 (HIPAA Compliance), E.2 (Confidentiality of Records), E.7 (Prohibited Advertising), E.9 (Intellectual Property) E.13 (Personally Identifiable Information), E.19 (Notification of Breach), E.21 (SSA Data), and E.25 (IRS Data) of this Contract shall survive the completion of performance, termination or expiration of this Contract.
- E.16. Applicable Laws, Rules, Policies and Court Orders. The Contractor agrees to comply with all applicable federal and State laws, rules, regulations, sub-regulatory guidance, executive orders, HCFA waivers, and all current, modified or future Court decrees, orders or judgments applicable to the State's TennCare and CHIP programs. Such compliance shall be performed at no additional cost to the State.
- E.17. Business Associate. Contractor hereby acknowledges its designation as a business associate under HIPAA and agrees to comply with all applicable HIPAA regulations. In accordance with the HIPAA regulations, the Contractor shall, at a minimum:
- a. Comply with requirements of the HIPAA, including, but not limited to, the transactions and code sets, privacy, security, and identifier regulations. Compliance includes meeting all



required transaction formats and code sets with the specified data sharing agreements required under the regulations;

- b. Transmit/receive from/to its providers, subcontractors, clearinghouses and HCFA all transactions and code sets required by HIPAA in the appropriate standard formats, utilizing appropriate and adequate safeguards, as specified under the law and as directed by HCFA so long as HCFA direction does not conflict with the law;
- c. Agree that if it is not in compliance with all applicable standards defined within the transactions and code sets, privacy, security and all subsequent HIPAA standards, that it will be in breach of this Contract and will then take all reasonable steps to cure the breach or end the violation as applicable. Since inability to meet the transactions and code sets requirements, as well as the privacy and security requirements can bring basic business practices between HCFA and the Contractor and between the Contractor and its providers and/or subcontractors to a halt, if for any reason the Contractor cannot meet the requirements of this Section, HCFA may terminate this Contract.
- d. Ensure that Protected Health Information (PHI) exchanged between the Contractor and HCFA is used only for the purposes of treatment, payment, or health care operations and health oversight and its related functions. All PHI not transmitted for these purposes or for purposes allowed under the federal HIPAA regulations shall be de-identified to secure and protect the individual enrollee's PHI;
- e. Report to HCFA's Privacy Office immediately upon becoming aware of any use or disclosure of PHI in violation of this Contract by the Contractor, its officers, directors, employees, subcontractors or agents or by a third party to which the Contractor disclosed PHI;
- f. Specify in its agreements with any agent or subcontractor that will have access to PHI that such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to the Contractor pursuant to this Section;
- g. Make its internal policies and procedures, records and other documentation related to the use and disclosure of PHI available upon request to the U.S. Secretary of Health and Human Services for the purposes of determining compliance with the HIPAA regulations;
- h. Create and adopt policies and procedures to periodically audit adherence to all HIPAA regulations;
- i. Agree to ensure that any agent, including a subcontractor, to whom it provides PHI that was created, received, maintained, or transmitted by or on behalf of HCFA agrees to use reasonable and appropriate safeguards to protect the PHI.
- j. If feasible, return or destroy all PHI, in whatever form or medium (including any electronic medium) and all copies of any data or compilations derived from and allowing identification of any individual who is a subject of that PHI upon termination, cancellation, expiration or other conclusion of the Agreement, and in accordance with this Section of this Contract. The Contractor shall complete such return or destruction as promptly as possible, but not later than thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement. The Contractor shall identify any PHI that cannot feasibly be returned or destroyed. Within such thirty (30) days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement, the Contractor shall: (1) certify an oath in writing that such return or destruction has been completed; (2) identify any PHI which cannot feasibly be returned or destroyed; and (3) certify that it will only use or disclose such PHI for those purposes that make its return or destruction infeasible;



- k. Implement all appropriate administrative, physical and technical safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Contract and, including, but not limited to, privacy, security and confidentiality requirements in 45 CFR Parts 160 and 164;
  - l. Set up appropriate mechanisms to limit use or disclosure of PHI to the minimum necessary to accomplish the intended purpose of the use or disclosure;
  - m. Create and implement policies and procedures to address present and future HIPAA regulatory requirements as needed, including, but not limited to: use and disclosure of data; de-identification of data; minimum necessary access; accounting of disclosures; enrollee's right to amend, access, request restrictions; notice of privacy practices and right to file a complaint;
  - n. Provide an appropriate level of training to its staff and employees regarding HIPAA related policies, procedures, enrollee rights and penalties prior to the HIPAA implementation deadlines and at appropriate intervals thereafter;
  - o. Track training of Contractor staff and employees and maintain signed acknowledgements by staff and employees of the Contractor's HIPAA policies;
  - p. Be allowed to use and receive information from HCFA where necessary for the management and administration of this Contract and to carry out business operations where permitted under the regulations;
  - q. Be permitted to use and disclose PHI for the Contractor's own legal responsibilities;
  - r. Adopt the appropriate procedures and access safeguards to restrict and regulate access to and use by Contractor employees and other persons performing work for the Contractor to have only minimum necessary access to PHI and personally identifiable data within their organization;
  - s. Continue to protect and secure PHI and personally identifiable information relating to enrollees who are deceased; and
  - t. Track all security incidents as defined by HIPAA and, as required by the HIPAA Reports. The Contractor shall periodically report in summary fashion to HCFA such security incidents.
- E.18. Information Holders. HCFA and the Contractor are "information holders" as defined in TCA 47-18-2107. In the event of a breach of the security of Contractor's information system, as defined by TCA 47-18-2107, the Contractor shall indemnify and hold HCFA harmless for expenses and/or damages related to the breach. Such obligations shall include, but not be limited to, mailing notifications to affected enrollees. Substitute notice to written notice, as defined by TCA 47-18-2107(e)(2) and (3), shall only be permitted with HCFA's express written approval. The Contractor shall notify HCFA's Privacy Office immediately upon becoming aware of any security incident that would constitute a "breach of the security of the system" as defined in TCA 47-18-2107.
- E.19. Notification of Breach and Notification of Suspected Breach. - The Contractor shall notify HCFA's Privacy Office immediately upon becoming aware of any incident, either confirmed or suspected, that represents or may represent unauthorized access, use or disclosure of encrypted or unencrypted computerized data that materially compromises the security, confidentiality, or integrity of enrollee PHI maintained or held by the Contractor, including any unauthorized acquisition of enrollee PHI by an employee or otherwise authorized user of the Contractor's system. This includes, but is not limited to, loss or suspected loss of remote computing or telework devices such as laptops, PDAs, Blackberrys or other Smartphones, USB drives, thumb drives, flash drives, CDs, and/or disks.



- E.20. Transmission of Contract Deliverables. All information or data that is necessary for one or more deliverable set forth in this Contract shall be transmitted between HCFA and Contractor via the data transfer method specified in advance by HCFA. This may include, but shall not be limited to, transfer through HCFA's SFTP system. Failure by the Contractor to transmit information or data that is necessary for a deliverable in the manner specified by HCFA, may, at the option of HCFA, result in liquidated damages as set forth on Contract Attachment B, hereto.
- E.21. Social Security Administration (SSA) Required Provisions for Data Security. The Contractor shall comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. §3541, *et seq.*), and related National Institute of Standards and Technology guidelines. In addition, the Contractor shall have in place administrative, physical, and technical safeguards for data.
- a. The Contractor shall not duplicate in a separate file or disseminate, without prior written permission from HCFA, the data governed by the Contract for any purpose other than that set forth in this Contract for the administration of the HCFA program. Should the Contractor propose a redisclosure of said data, the Contractor must specify in writing to HCFA the data the Contractor proposes to redisclose, to whom, and the reasons that justify the redisclosure. HCFA will not give permission for such redisclosure unless the redisclosure is required by law or essential to the administration of the HCFA program.
  - b. The Contractor agrees to abide by all relevant federal laws, restrictions on access, use, and disclosure, and security requirements in this Contract.
  - c. The Contractor shall provide a current list of the employees of such contractor with access to SSA data and provide such lists to HCFA.
  - d. The Contractor shall restrict access to the data obtained from HCFA to only those authorized employees who need such data to perform their official duties in connection with purposes identified in this Contract. The Contractor shall not further duplicate, disseminate, or disclose such data without obtaining HCFA's prior written approval.
  - e. The Contractor shall ensure that its employees:
    - (1) properly safeguard PHI/PII furnished by HCFA under this Contract from loss, theft or inadvertent disclosure;
    - (2) understand that they are responsible for safeguarding this information at all times, regardless of whether or not the Contractor employee is at his or her regular duty station;
    - (3) ensure that laptops and other electronic devices/ media containing PHI/PII are encrypted and/or password protected;
    - (4) send emails containing PHI/PII only if encrypted or if to and from addresses that are secure; and,
    - (5) limit disclosure of the information and details relating to a PHI/PII loss only to those with a need to know.

Contractor employees who access, use, or disclose HCFA or HCFA SSA-supplied data in a manner or purpose not authorized by this Contract may be subject to civil and criminal sanctions pursuant to applicable federal statutes.
  - f. Loss or Suspected Loss of Data—If an employee of the Contractor becomes aware of suspected or actual loss of PHI/PII, he or she must immediately contact HCFA



immediately upon becoming aware to report the actual or suspected loss. The Contractor will use the Loss Worksheet located at [http://www.tn.gov/assets/entities/tenncare/attachments/phi\\_piiworksheet.pdf](http://www.tn.gov/assets/entities/tenncare/attachments/phi_piiworksheet.pdf) to quickly gather and organize information about the incident. The Contractor must provide HCFA with timely updates as any additional information about the loss of PHI/PII becomes available.

If the Contractor experiences a loss or breach of said data, HCFA will determine whether or not notice to individuals whose data has been lost or breached shall be provided and the Contractor shall bear any costs associated with the notice or any mitigation.

- g. HCFA may immediately and unilaterally suspend the data flow under this Contract, or terminate this Contract, if HCFA, in its sole discretion, determines that the Contractor has: (1) made an unauthorized use or disclosure of HCFA SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this Contract.
- h. This Section further carries out Section 1106(a) of the Act (42 U.S.C. 1306), the regulations promulgated pursuant to that section (20 C.F.R. Part 401), the Privacy of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget ("OMB") guidelines, the Federal Information Security Management Act of 2002 ("FISMA") (44 U.S.C. 3541 *et seq.*), and related National Institute of Standards and Technology ("NIST") guidelines, which provide the requirements that the SSA stipulates that the Contractor must follow with regard to use, treatment, and safeguarding data in the event data is exchanged with a federal information system.
- i. Definitions
- (1) "SSA-supplied data" – information, such as an individual's social security number, supplied by the Social Security Administration to HCFA to determine entitlement or eligibility for federally-funded programs (CMPPA between SSA and F&A; IEA between SSA and HCFA).
  - (2) "Protected Health Information/Personally Identifiable Information" (PHI/PII)(45 C.F.R. 160.103; OMB Circular M-06-19) – Protected health information means individually identifiable health information that is: (i) Transmitted by electronic media; (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.
  - (3) "Individually Identifiable Health Information"– information that is a subset of health information, including demographic information collected from an individual, and: (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
  - (4) "Personally Identifiable Information" – any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, Social Security Number, date and place of birth, mother's maiden name, biometric records, including any other personal information which can be linked to an individual.



2.2. Medicaid and CHIP - The Contractor must provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan:

- a. Purposes directly related to the administration of Medicaid and CHIP include:
  - (1) establishing eligibility;
  - (2) determining the amount of medical assistance;
  - (3) providing services for beneficiaries; and,
  - (4) conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to Medicaid or CHIP administration.
  
- b. The Contractor must have adequate safeguards to assure that:
  - (1) Information is made available only to the extent necessary to assist in the valid administrative purposes of those receiving the information, and information received under 26 USC is exchanged only with parties authorized to receive that information under that section of the Code; and,
  - (2) the information is adequately stored and processed so that it is protected against unauthorized disclosure for other purposes.
  
- c. The Contractor must have criteria that govern the types of information about applicants and beneficiaries that are safeguarded. This information must include at least--
  - (1) Names and addresses;
  - (2) Medical services provided;
  - (3) Social and economic conditions or circumstances;
  - (4) Contractor evaluation of personal information;
  - (5) Medical data, including diagnosis and past history of disease or disability
  - (6) Any information received for verifying income eligibility and amount of medical assistance payments, including income information received from SSA or the Internal Revenue Service;
  - (7) Any information received for verifying income eligibility and amount of medical assistance payments;
  - (8) Income information received from SSA or the Internal Revenue Service must be safeguarded according to Medicaid and CHIP requirements;
  - (9) Any information received in connection with the identification of legally liable third party resources; and,
  - (10) Social Security Numbers.
  
- d. The Contractor must have criteria approved by HCFA specifying:
  - (1) the conditions for release and use of information about applicants and beneficiaries;
  - (2) Access to information concerning applicants or beneficiaries must be restricted to persons or Contractor representatives who are subject to standards of confidentiality that are comparable to those of HCFA;
  - (3) The Contractor shall not publish names of applicants or beneficiaries;
  - (4) The Contractor shall obtain permission from a family or individual, whenever possible, before responding to a request for information from an outside source, unless the information is to be used to verify income, eligibility and the amount of medical assistance payment to an authorized individual or entity;
  - (5) If, because of an emergency situation, time does not permit obtaining consent before release, the Contractor shall notify HCFA, the family or individual immediately after supplying the information.
  - (6) The Contractor's policies must apply to all requests for information from outside sources, including governmental bodies, the courts, or law enforcement officials.
    - i. The Contractor shall notify HCFA of any requests for information on applicants or beneficiaries by other governmental bodies, the courts or law enforcement officials ten (10) days prior to releasing the requested information.



- (7) If a court issues a subpoena for a case record or for any Contractor representative to testify concerning an applicant or beneficiary, the Contractor must notify HCFA at least ten (10) days prior to the required production date so HCFA may inform the court of the applicable statutory provisions, policies, and regulations restricting disclosure of information.
- (8) The Contractor shall not request or release information to other parties to verify income, eligibility and the amount of assistance under Medicaid or CHIP, prior to express approval from HCFA.

E.23. Employees Excluded from Medicare, Medicaid or CHIP. The Contractor does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly employ, in the performance of this Contract, employees who have been excluded from participation in the Medicare, Medicaid, and/or CHIP programs pursuant to Sections 1128 of the Social Security

E.24. Offer of Gratuities. By signing this contract, the Contractor signifies that no member of or a delegate of Congress, nor any elected or appointed official or employee of the State of Tennessee, the federal General Accounting Office, federal Department of Health and Human Services, the Center for Medicare and Medicaid Services, or any other state or federal agency has or will benefit financially or materially from this Contract. This Contract may be terminated by HCFA as provided in Section D.6, if it is determined that gratuities of any kind were offered to or received by any of the aforementioned officials or employees from the Contractor, its agent, or employees.

E.25. Internal Revenue Service (IRS) Safeguarding Of Return Information:

- a) Performance - In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:
  - (1) This provision shall not apply if information received or delivered by the Parties under this Contract is NOT "federal tax returns or return information" as defined by IRS Publication 1075 and IRC 6103.
  - (2) All work will be done under the supervision of the contractor or the contractor's employees. The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.
  - (3) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.
  - (4) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
  - (5) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.



- (6) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (7) All computer systems receiving, processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
- (8) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (9) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
- (10) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

b) Criminal/Civil Sanctions

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.



- (3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- (4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, *IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information* and Exhibit 5, *IRC Sec. 7213 Unauthorized Disclosure of Information*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

Inspection - The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safe.

- E.26. Nondiscrimination Compliance Requirements. The Contractor shall comply with all applicable federal and state civil rights laws, regulations, rules, and policies and Contract Section D.9 of this Contract.
- a) In order to demonstrate compliance with the applicable federal and State civil rights laws and regulations, which may include, but are not limited to, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and 42 U.S.C. § 18116 the Contractor shall designate a staff person to be responsible for nondiscrimination compliance.

The Contractor's Nondiscrimination Compliance Coordinator ("NCC") shall be responsible for compliance with the nondiscrimination requirements set forth in this Contract. The Contractor does not have to require that civil rights compliance be the sole function of the designated NCC staff member. However, the Contractor shall identify the designated NCC staff member to HCFA by name.

The Contractor shall report to HCFA, in writing, to the attention of the HCFA Director of Non-Discrimination Contract Compliance, within ten (10) calendar days of the commencement of any period of time that the Contractor does not have a designated staff person for nondiscrimination compliance. At such time that this function is redirected, the name of the staff member who assumed the duties shall be reported in writing to HCFAs within ten (10) calendar days of assuming the duties of the NCC.

- (1) The Contractor's NCC shall develop a nondiscrimination training plan within thirty (30) days of the implementation of this Contract and shall provide a copy of such training plan to HCFA on an annual basis and upon request. If needed, the NCC may request an extension of time for this due



date. Thereafter, this training plan shall be updated as needed to conform to changes in Federal and State law and provided to HCFA as set forth above.

On an annual basis, the NCC shall be responsible for making nondiscrimination training available to all Contractor staff and to its subcontractors that are considered to be recipients of federal financial assistance under this contract. The Contractor shall be able to show documented proof that the training was made available to the Contractor's staff and to its subcontractors that are considered to be recipients of federal financial assistance under this contract.

- (2) The Contractor shall, at a minimum, emphasize nondiscrimination in its personnel policies and procedures as it relates to hiring, promoting, operational policies, contracting processes and participation on advisory/planning boards or committees.
- (3) Prior to implementation of this Contract, Contractor shall provide its written policies and procedures that demonstrate nondiscrimination in the provision of services provided under this Contract to HCFA. These policies shall include topics, such as, the provision of language services to individuals with Limited English Proficiency and individuals requiring communication assistance in alternative formats and providing other forms of assistance to individuals with disabilities. These nondiscrimination policies and procedures shall be approved in writing by HCFA.
- (4) The Contractor shall keep such records as may be necessary in order to submit timely, complete and accurate compliance reports that may be requested by the U.S. Department of Health and Human Services ("HHS"), HCFA, and the Tennessee Human Rights Commission ("THRC") or their designees. If requested, the information shall be provided in a format and timeframe specified by HHS, HCFA, or THRC. The requested information may be necessary to enable HHS, HCFA, or THRC to ascertain whether the Contractor is complying with the applicable civil rights laws. For example, the Contractor should have available data showing the manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination. Further examples of data that could be requested can be found at 45 C.F.R. § 80.6 and 28 C.F.R. § 42.406.
- (5) The Contractor shall permit access as set forth in the applicable civil rights laws, such as, 45 C.F.R. § 80.6 to HHS, HCFA, and THRC or their designees during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain whether the Contractor is complying with the applicable civil rights laws.
- (6) The Contractor shall make available to beneficiaries and participants in HCFA's programs and other interested persons information regarding the provisions of the applicable civil rights laws as set forth in the implementing regulations, including 45 C.F.R. § 80.6 and 45 C.F.R. § 84.8. For example, a notification shall state, where appropriate, that the Contractor does not discriminate in admission or access to, or treatment or employment in, its programs or activities. The notification shall also include an identification of the responsible employee designated for its nondiscrimination compliance. This notice shall be considered a vital document and shall be available at a minimum in the English and Spanish languages.
- (7) The Contractor shall use and have available to individuals HCFA's discrimination complaint forms for the HCFA program or programs covered under this contract. These discrimination complaint forms shall be provided to individuals upon request and be available on the Contractor's website. HCFA's discrimination complaint forms are vital documents and must be available at a minimum in the English and Spanish languages. HCFA's Director of Non-Discrimination Contract Compliance shall work with the Contractor's NCC on providing the Contractor with the HCFA program's or programs' discrimination complaint forms that are required under this contract.

The Contractor shall provide assistance to individuals that request that the Contractor assist them with filing discrimination complaints with the HCFA program or programs covered under this contract. The Contractor shall inform its employees and its providers and subcontractors that are



considered to be recipients of federal financial assistance under this contract about how to assist individuals with obtaining discrimination complaint forms and assistance with submitting the forms to the HCFA program or programs covered under this contract.

- (8) Written materials provided pursuant to this Contract shall be in plain language and ensure effective communication with Limited English Proficiency ("LEP") individuals and individuals with disabilities at no expense to these individuals and/or their representatives and shall meet the standards set forth in the applicable civil rights laws and guidance. Effective Communication may be achieved by providing interpretation and translation services and other forms of auxiliary aids or services, including, Braille and large print and shall be based on the needs of the individual and/or the individual's representative. Written materials specific to HCFA's programs' members shall be prior approved in writing by HCFA prior to the materials being sent to these individuals.
  - (9) Written materials provided pursuant to this Contract shall include a number individuals can call free of charge for language assistance services. This information shall be considered a vital document and shall be available at a minimum in the English and Spanish languages.
  - (10) In addition, written materials shall include information and a toll free number for individuals with disabilities to use in order to request assistance with accessing services or other program benefits that these individuals are entitled to under the applicable federal and state civil rights laws including, but not limited to, Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act of 1990. This information shall be considered a vital document and shall be available at a minimum in the English and Spanish languages.
  - (11) Within ninety (90) calendar days of notification from HCFA, all vital Contractor documents related to this Contract shall be translated and available to each Limited English Proficiency ("LEP") group identified by HCFA in accordance with the applicable standards set forth below:
    - (i) If a LEP group constitutes five percent (5%) or 1,000, whichever is less, of the population targeted under this Contract, vital documents shall be translated into that LEP language. Translation of other documents, if needed, can be provided orally; or
    - (ii) If there are fewer than fifty (50) individuals in a language group that is part the population targeted under this Contract that reaches the five percent (5%) trigger in (a), the Contractor shall inform those individuals that it does not provide written translation of vital documents but provides written notice in that group's primary language of the right to receive competent oral interpretation of those written materials, free of cost.
    - (iii) At a minimum, all vital Contractor documents shall be translated and available in Spanish.
  - (12) In accordance with the requirements set forth in 42 U.S.C. § 300kk, the Contractor must develop and maintain the ability to collect and report data on race, ethnicity, sex, primary language, and disability status for the population targeted under this Contract and the parents or legal guardians of minors or legally incapacitated individuals targeted under this Contract. In collecting this data the Contractor shall use the Office of Management and Budget (OMB) standards, at a minimum, for race and ethnicity measures. Data collection standards for Race, Ethnicity, Sex, Primary Language, and Disability Status are available from the Office of Minority Health and on its website located at: <http://www.minorityhealth.hhs.gov/templates/content.aspx?ID=9227&lvi=2&lviID=208>.
- b) The Contractor shall submit the following nondiscrimination compliance deliverables to HCFA as follows:

Annually, HCFA shall provide the Contractor with a Nondiscrimination Compliance Questionnaire. The Contractor shall answer the questions contained in the Compliance Questionnaire and submit the completed Questionnaire to HCFA within ninety (90) days of the end of the calendar year with any requested documentation, which shall include, the Contractor's Assurance of Nondiscrimination. The signature date of the Contractor's Nondiscrimination Compliance Questionnaire shall be the same as the signature date of the Contractor's Assurance of



Nondiscrimination. The Nondiscrimination Compliance Questionnaire deliverables shall be in a format specified by HCFA.

As part of the requested documentation for the Nondiscrimination Compliance Questionnaire, the Contractor shall submit copies of its nondiscrimination policies and procedures that demonstrate nondiscrimination in the provision of its services, programs, or activities provided under this Contract. These policies shall include topics, such as, the provision of language assistance services for LEP individuals and those requiring effective communication assistance in alternative formats, and providing assistance to individuals with disabilities. Any nondiscrimination policies and procedures that are specific to HCFA program members shall be prior approved in writing by HCFA.

Also as part of the requested documentation for the Nondiscrimination Compliance Questionnaire the Contractor shall include reports that capture data for all language assistance services used and provided by the Contractor under this Contract. One report shall contain the names of the Contractor's language assistance service providers, the languages that interpretation and translation services are available in, the auxiliary aids or services that were provided and that are available, the hours the language assistance services are available, and the numbers individuals call to access language assistance services. A separate report shall list all requests for language assistance services, including the requestor's name and identification number, the requested service, the date of the request, the date the service was provided, and the name of the service provider.

- c) Discrimination Complaint Investigations. All discrimination complaints against the Contractor and its employees and its subcontractors that are considered to be recipients of federal financial assistance under this contract shall be resolved according to the provisions of this Section and the below subsections:
  - (1) Discrimination Complaints against the Contractor and/or Contractor's Employees. When complaints concerning alleged acts of discrimination committed by the Contractor and/or its employees related to the provision of and/or access to one of HCFA's programs are reported to the Contractor, the Contractor's NCC shall send such complaints within two (2) business days of receipt to HCFA. HCFA shall investigate and resolve all alleged acts of discrimination committed by the Contractor and/or its employees. The Contractor shall cooperate with HCFA during the investigation and resolution of such complaints. HCFA reserves the right to request that the Contractor's NCC assist with conducting the initial investigations and to suggest resolutions of alleged discrimination complaints. If HCFA requests that the Contractor's NCC assist HCFA with conducting the initial investigation, the Contractor's NCC within five (5) business days from the date of the request shall start the initial investigation. The Contractor's NCC shall provide HCFA with all requested information, including but not limited to, the identity of the party filing the complaint; the complainant's relationship to the Contractor; the circumstances of the complaint; date complaint filed; and the Contractor's suggested resolution. HCFA shall review the Contractor's initial investigations and determine the appropriate resolutions for the complaints as set forth in subsection c below. During the complaint investigation, the Contractor shall have the opportunity to provide HCFA with any information that is relevant to the complaint investigation. Any documentation or materials related to such investigation shall be considered confidential and not subject to disclosure to any third party, unless disclosure is otherwise required by law.
  - (2) Discrimination Complaints against the Contractor's Subcontractors that are recipients of federal financial assistance under this Contract. Should complaints concerning alleged acts of discrimination committed by the Contractor's subcontractors related to the provision of and/or access to one of HCFA's programs be reported to the Contractor, the Contractor's nondiscrimination compliance officer shall inform HCFA of such complaints within two (2) business days from the date Contractor learns of such complaints. If HCFA requests that the Contractor's nondiscrimination compliance officer assist HCFA with conducting the initial investigation, the Contractor's nondiscrimination compliance officer within five (5) business days from the date of the request shall start the initial investigation. Once an initial investigation has been completed, the Contractor's nondiscrimination compliance officer shall report his/her



determinations to HCFA. At a minimum, the Contractor's nondiscrimination compliance officer's report shall include the identity of the party filing the complaint; the complainant's relationship to the Contractor; the circumstances of the complaint; date complaint filed; and the Contractor's suggested resolution. HCFA shall review the Contractor's initial investigations and determine the appropriate resolutions for the complaints as set forth in subsection (3) below. HCFA reserves the right to investigate and resolve all complaints concerning alleged acts of discrimination committed by the Contractor's subcontractors that are recipients of federal financial assistance under this Contract. The Contractor's Providers and Subcontractors that are recipients of federal financial assistance under this Contract shall cooperate with HCFA and the Contractor during discrimination investigations and resolutions.

- (3) **Corrective Action Plans to Resolve Discrimination Complaints.** If a discrimination complaint against the Contractor or its employees or one of its subcontractors who are recipients of federal financial assistance under this contract, is determined by HCFA to be valid, HCFA shall, at its option, either (i) provide the Contractor with a corrective action plan to resolve the complaint, or (ii) request that the Contractor submit a proposed corrective action plan to HCFA for review and approval that specifies what actions the Contractor proposes to take to resolve the discrimination complaint. Upon provision of the corrective action plan to Contractor by HCFA, or approval of the Contractor's proposed corrective action plan by HCFA, the Contractor shall implement the approved corrective action plan to resolve the discrimination complaint. HCFA, in its sole discretion, shall determine when a satisfactory discrimination complaint resolution has been reached and shall notify Contractor of the approved resolution. A discrimination complaint resolution corrective action plan may consist of approved nondiscrimination training on relevant discrimination topics. Prior to use, the nondiscrimination training material shall be reviewed and approved by HCFA. Time periods for the implementation of the corrective action plan nondiscrimination training shall be designated by HCFA.
- d) **Electronic and Information Technology Accessibility Requirements.** Contractor agrees to comply with the electronic and information technology accessibility requirements under the federal civil rights laws including Section 504 and Section 508 of the Rehabilitation Act of 1973 ("Section 508") and the Americans with Disabilities Act. To comply with the accessibility requirements for Web content and non-Web electronic documents and software, the Contractor shall use W3C's Web Content Accessibility Guidelines ("WCAG") 2.0 AA (For the W3C's guidelines see: <http://www.w3.org/TR/WCAG20/>) (Two core linked resources are Understanding WCAG 2.0 <http://www.w3.org/TR/UNDERSTANDING-WCAG20/> and Techniques for WCAG 2.0 <http://www.w3.org/TR/WCAG20-TECHS/>).

Should the Contractor have a designated staff member responsible for Contractor's electronic and information technology accessibility compliance, the name and contact information for this individual shall be provided to HCFA within ten (10) days of the implementation of this Contract and within ten (10) days of this position being reassigned to another staff member.

Prior to the start of this Contract and on an annual basis thereafter, the Contractor's staff that is designated to work on HCFA's electronic and information technology projects shall receive training on electronic and information technology accessibility requirements. The Contractor shall be able to show documented proof that this training was provided. In addition, Contractor shall provide a copy of its electronic and information technology accessibility training to HCFA upon request.

Contractor agrees to perform regularly scheduled (i.e., automatic) scans and manual testing for WCAG 2.0 AA compliance for all user content and applications in order to meet the standards for compliance. The Contractor must ensure that any system additions, updates, changes or modifications comply with WCAG 2.0 AA. Commercial Off-the-shelf ("COTS") products may be used to verify aspects of WCAG 2.0 AA compliance.

Additionally, the Contractor agrees to comply with Title VI of the Civil Rights Act of 1964. In order to achieve Title VI compliance the Contractor should add a system function that allows users to



translate the content into a language other than English. This requirement may be satisfied by the provision of a link to Google translate or other machine translate tool.

Should the system or a component of the system fail to comply with the accessibility standards, the Contractor shall develop and submit to HCFA for approval a noncompliance report that identifies the areas of noncompliance, a plan to bring the system or component into compliance, an alternative/work around that provides users with the equivalent access to the content, and a timeframe for achieving that compliance. HCFA shall review the noncompliance report to determine whether or not it is acceptable and should be implemented. Once the noncompliance report is approved by HCFA the Contractor may implement the compliance plan. HCFA, in its sole discretion, shall determine when a satisfactory compliance plan resolution has been reached and shall notify the Contractor of the approved resolution. If Contractor is unable to obtain content that conforms to WCAG 2.0 AA, it shall demonstrate through its reporting to HCFA that obtaining or providing accessible content would fundamentally alter the nature of its goods and services or would result in an undue burden.

IN WITNESS WHEREOF,

MAXIMUS HEALTH SERVICES, INC.

9/3/15

CONTRACTOR SIGNATURE

DATE

Adam Pocarville, Vice President

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION  
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION:

9/3/2015

LARRY B. MARTIN, COMMISSIONER

DATE



ATTACHMENT A

Scope of Services Terms and Definitions

Term	Definition
After Hours	Any time period beyond the Processing Center Operational Hours specified in Section A.2.d.
Business Days	Traditional workdays, including Monday, Tuesday, Wednesday, Thursday, and Friday. State Holidays are excluded.
Calendar Days	All seven days of the week.
CHIP	The Children's Health Insurance Program (CHIP) authorized by Title XXI of the Social Security Act.
CoverKids	Tennessee's brand for the stand-alone portion of the CHIP program.
Days	Unless otherwise specified, refers to calendar days.
Deliverable	A document, manual, or report (in hard copy, electronic format or specific medium as required) that the Contractor submits to the State to fulfill requirements of this Contract.
Enrollee	See "Member"
Federally-Facilitated Marketplace (FFM)	The online insurance marketplace or exchange currently operated by the U.S. Department of Health & Human Services (also known as <a href="http://healthcare.gov">healthcare.gov</a> ).
Federal Poverty Level (FPL)	The annually-updated tables of minimally sufficient income by household level as produced by the U.S. Department of Health & Human Services and published in the <i>Federal Register</i> .
FTI	Federal Tax Information regulated by the Internal Revenue Service.
HCFA	The Division of Health Care Finance and Administration, which encompasses the Bureau of TennCare, CoverKids, and other programs.
Holidays	Days on which official holidays and commemorations as defined in Tennessee Code Annotated (T.C.A.) § 15-1-101 <i>et seq.</i> , are observed.
HIPAA	Health Insurance Portability and Accountability Act of 1996 (HIPAA) addresses the security and privacy of protected health information as well as requirements regarding electronic transaction standards.
HITECH	Health Information Technology for Economic and Clinical Health Act of 2009. Established enhanced privacy and security protections, including the notification of breach incidents and OCR enforcement of security risk assessments.
Individually Identifiable Health Information	Information that is a subset of health information, including demographic information collected from an individual, and: (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (3) That identifies the individual; or (4) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.



Term	Definition
Individuals with Limited English Proficiency	Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.
Information Technology	A combination of computing hardware and software that is used in: (a) the capture, storage, manipulation, movement, control, display, interchange and/or transmission of information, i.e. structured data (which may include digitized audio and video) and documents; and/or (b) the processing of such information for the purposes of enabling and/or facilitating a business process or related transaction.
InterChange (iC)	The State's Medicaid Management Information System (MMIS).
MAGI	Modified Adjusted Gross Income as defined at 42 CFR § 435.4 and further described at § 435.603 <i>et seq.</i>
MAGI-in-the-Cloud	A web-based eligibility rules engine that can be used to adjudicate eligibility for Medicaid and CHIP categories using the MAGI income methodology. More information is available at <a href="https://www.medicaideligibilityapi.org/#!/application">https://www.medicaideligibilityapi.org/#!/application</a> .
Medicare Savings Program (MSP)	Enrollees in the Qualified Medicare Beneficiary (QMB), Special Low-Income Beneficiary (SLMB), or Qualified Individual (QI) programs that TennCare administers for individuals who are also enrolled in Medicare.
Member	An existing enrollee in the TennCare program and/or the Medicare Savings Program.
Member Services	The business unit within HCFA responsible for eligibility determinations and redeterminations, eligibility appeals, and medical appeals.
Onsite	Physically located at the site described in Section A.2.b.
Personally Identifiable Information (PII)	Personally Identifiable Information means any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, Social Security Number, date and place of birth, mother's maiden name, biometric records, including any other personal information which can be linked to an individual.
Protected Health Information (PHI)	<p>(1) Means individually identifiable health information:</p> <p>that is:</p> <ul style="list-style-type: none"> <li>(i) Transmitted by electronic media;</li> <li>(ii) Maintained in electronic media; or</li> <li>(iii) Transmitted or maintained in any other form or medium.</li> </ul> <p>(2) Protected health information excludes individually identifiable health information in:</p> <ul style="list-style-type: none"> <li>(i) Education records covered by the Family Educational Rights and Privacy Act, as amended, <u>20 U.S.C. 1232g</u>;</li> <li>(ii) Records described at <u>20 U.S.C. 1232g(a)(4)(B)(iv)</u>; and</li> <li>(iii) Employment records held by a covered entity in its role as employer.</li> </ul>



Term	Definition
Remote Access	Any access to an organization information system by a user (or an information system) communicating through an external, non-organization-controlled network (e.g., the Internet). Examples of remote access methods include dial-up, broadband, and wireless.
Redetermination	An individual-level MAGI approval, CoverKids approval, MAGI denials/termination with no non-MAGI involvement, or non-MAGI referral as described in Section A.3.c.ix but not including terminations described in A.3.f. The state's administrative rules at 1200-13-13 describes this as "...the process by which the State evaluates the ongoing eligibility status of TennCare Medicaid and TennCare Standard enrollees. This is a periodic process that is conducted at specified intervals or when an enrollee's circumstances change. The process is conducted in accordance with TennCare's, or its designee's, policies and procedures."
Social Security or SSA	The federal Social Security Administration
Span of Control	Information Technology and telecommunications capabilities that the Contractor itself operates or for which it is otherwise legally responsible according to the terms and conditions of this Contract. The span of control also includes Systems and telecommunications capabilities outsourced by the Contractor.
State Fiscal Year (SFY)	The twelve (12) month period that runs from July 1 through June 30.
System Unavailability	As measured within the Contractor's information technology Span of Control, when a system user does not get the complete, correct full-screen response to an input command within three (3) minutes after depressing the "Enter" or other function key.
Systematic Alien Verification for Entitlements (SAVE)	A system maintained by the U.S. Citizenship and Immigration Services (USCIS) within the U.S. Department of Homeland Security (DHS) to determine the immigration status of benefit applicants so only those entitled to benefits receive them. More information is available at <a href="http://www.uscis.gov/save">http://www.uscis.gov/save</a> .
Telecommunications Relay Service (TRS)	Telephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a text telephone or other non-voice terminal device and an individual who does not use such a device, speech-to-speech services, video relay services and non-English relay services. TRS supersedes the terms "dual party relay system," "message relay services," and "TDD Relay."
TennCare	Tennessee's Medicaid program operated by the Bureau of TennCare, Department of Finance and Administration, as a 1115 Demonstration Waiver program (No. 11-W-00151/4). Additional information is available at <a href="http://www.tn.gov/tenncare/index.shtml">http://www.tn.gov/tenncare/index.shtml</a> .
TennCare Standard	Two TennCare eligibility categories (Standard Uninsured and Standard Medically Eligible) authorized by the State's 1115 demonstration waiver. Additional information is available at



	<a href="http://www.tn.gov/tennicare/index.shtml">http://www.tn.gov/tennicare/index.shtml</a> .
Tennessee Relay Service (TNRS)	A program of the Tennessee Regulatory Authority (TRA) that provides free, statewide assisted telephone service to those with speech, hearing, and visual impairments. More information is available at <a href="http://www.tn.gov/tra/consumerfiles/relaycenter.shtml">http://www.tn.gov/tra/consumerfiles/relaycenter.shtml</a> .
TNHC	Tennessee Health Connection, which is the public name for TennCare's Member Services Eligibility Service Center.
USPS	United States Postal Service
Validation	The review of information, data, and procedures to determine the extent to which they are accurate, reliable, free from bias and in accord with standards for data collection and analysis.
Week	The traditional seven-day week, Sunday through Saturday.
Workforce Members	Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such covered entity or business associate, whether or not they are paid by the covered entity or business associate.



### Liquidated Damages

A general liquidated damage of up to One Thousand Dollars (\$1,000.00) per calendar day/occurrence, as applicable, may be assessed at the sole discretion of the State for any violation of a Contract provision that is not specifically listed in the following table.

HCFA may elect to apply the following liquidated damages remedies in the event the Contractor fails to perform its obligations under this Contract in a proper and/or timely manner. Upon determination by HCFA that the Contractor has failed to meet any of the requirements of this Contract in a proper and/or timely manner, HCFA will notify the Contractor in writing of the deficiency and of the potential liquidated damages to be assessed. Liquidated damages shall be assessed for any part of each week during which the deficiency occurs or remains uncorrected, unless the amount of liquidated damages is otherwise designated as "per occurrence" or "per incident" in the following table. Should the deficiency remain uncorrected for more than thirty (30) days from the date of the original notification of the deficiency by HCFA, HCFA may impose an additional liquidated damage of Five Hundred Dollars (\$500) per day from the date of the original notification to Contractor until said deficiency is resolved.

All liquidated damages remedies set forth in the following table may, at HCFA's election, be retroactive to the date of the initial occurrence of the failure to comply with the terms of the Contract as set forth in the notice of deficiency from HCFA and may continue until such time as the HCFA Deputy Commissioner determines the deficiency has been cured.

If liquidated damages are assessed, HCFA shall reduce the Contractor's payment for administrative services in the following month's invoice by the amount of damages. In the event that damages due exceed the amount HCFA is to pay to Contractor in a given payment cycle, HCFA shall invoice Contractor for the amount exceeding the amount payable to Contractor, and such excess amount shall be paid by Contractor within thirty (30) calendar days of the invoice date. In situations where the Contractor wishes to dispute any liquidated damages assessed by HCFA, the Contractor must submit a written notice of dispute, including the reasons for disputing the liquidated damages, within thirty (30) days of receipt of the notice from HCFA containing the total amount of damages assessed against the Contractor. If the Contractor fails to timely dispute a liquidated damages assessment as set forth herein, such failure shall constitute a bar to the Contractor seeking to have the assessment amount overturned in a forum or court of competent jurisdiction.

Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
1.	Readiness Review	Meet Readiness Review requirements defined in Section A.16.		A maximum of ten thousand dollars (\$10,000) per week or pro-rated for a part of a week for failing to meet the Readiness Review requirements.



Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
2.	On time submissions	Provide Start-Up deliverables as described in Sections A.14 and A.15 by the dates specified in Section A.21.		A maximum of one thousand dollars (\$1000.00) for each day on and after the Contractor fails to submit a start-up deliverable that in the State's judgment substantially complies with the requirements described in Sections A.14 and A.15.
3.	On time deployment	Provide Processing Center operations consistent with the requirements defined in Sections A.3 effective on the Processing Center implementation date specified in Section A.21.		A maximum of one thousand dollars (\$1000.00) for each separate component of the Processing Center operations that is not operating correctly for each day or portion of a day on and after the Processing Center implementation date that the Contractor fails to provide Processing Center operations consistent with the requirements defined in Sections A.2, A.3 and A.4
4.	Facilities	Office space, telephones and equipment consistent with the requirements defined in Section A.2.c are in place and functioning throughout the Contract period.		For all occurrences not utilizing the Contractor's Business Continuity/Disaster Recovery Plan, a maximum of five thousand dollars (\$5,000) per occurrence for each business day during the Contract period in which these facilities are not in place and functioning.



Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
5.	Hours of operation	Accessibility via phone, mail, and fax to Processing Center support within the operating hours requirements defined in Section A.2.d.		A maximum of one thousand dollars (\$1,000.00) for each 15 minute increment where the Contractor's Processing Center is not performing their work within operating hours defined in Section A.2.d.
6.	Staffing	<p>All key personnel and Processing Center staff defined in Section A.6. shall be in place by dates specified in the Contract and key personnel vacancies must be filled within thirty (30) days from the date the key personnel left his/her position.</p> <p>Contractor shall provide a corporate staff resource to temporarily fill any key personnel vacancy within three (3) business days of the occurrence of the vacancy as required in Section A.6.g.</p>		<p>A maximum of one thousand dollars (\$1,000.00) per day for each business day that key personnel (or their temporary corporate staff replacements) and Processing Center staff are not in place by dates specified in the Contract or for each business day past the thirty (30) days vacant period as described in Section A.6.g.</p> <p>In addition, a maximum of twenty-five thousand dollars (\$25,000) per occurrence if the Contractor replaces any Key Personnel named in the Proposal between the Contract Start Date and 90 days following the Processing Center implementation date described in Section A.21. However, the State shall not impose this liquidated damage if the Contractor removes a Key Personnel staff member at the request of the State for good cause.</p>
7.	Initial Mailing	The Contractor's		A maximum of five



Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
		Processing Center MRs mail one hundred percent (100%) of initial mailings described in Section A.3.a. to each member on the monthly list provided by the State within fifteen (15) days of receiving said list from the State as required by Section A.2.h.i.		hundred dollars (\$500) for each instance (each occurrence involving an individual member) in which the Contractor did not mail the initial mailing within the prescribed timeframe; provided, however, total liquidated damages under this section shall not exceed one hundred thousand dollars (\$100,000) per month.
8.	Processing Time	The Contractor's Processing Center shall process 100% of redetermination forms within the timeframe described in A.2.h.ii.		A maximum of one thousand dollars (\$1,000.00) for each instance (each occurrence involving an individual member) in which the Contractor does not process the returned form within the prescribed timeframe provided, however, total liquidated damages under this section shall not exceed one hundred thousand dollars (\$100,000) per month.
9.	Transmission Time	The Contractor's Processing Center shall transmit reports to the State in the timeframes referenced in and required by Section A.2.h.iii. Unless otherwise specified in this Contract or in writing by the State, the Contractor shall submit (i) daily reports by 8:00am CT on the following business day; (ii) weekly reports by 8:00am CT on the		A maximum of five hundred dollars (\$500) for each instance (each individual report) that the Contractor submits outside of the prescribed timeframe; provided, however, total liquidated damages under this section shall not exceed twenty thousand dollars (\$20,000) per month.



Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
		second business day following the associated week; (iii) monthly reports by 8:00am CT on the third business day following the associated month.		
10.	Unsuccessful fax rate (fax line)	Maintain a daily successful fax rate of ninety (90) percent or less as specified in Section A.2.h.iv.	The unsuccessful fax rate shall be calculated using the total number of all fax calls (including abandoned calls and blocked calls) received during the business hours as the denominator and the total number of failed fax calls during the same period used as the numerator.	A maximum of one thousand dollars (\$1,000.00) for each percentage point below ninety percent (90%) each day , however, total liquidated damages under this section shall not exceed five thousand dollars (\$5,000) per day.
11.	Mail and fax documentation	Document in the CRM per Section A.7.i. each mail and faxed document, excluding duplicate faxes, as measured by inbound mail and fax volume in DMS compared to the documents uploaded in CRM.		A maximum of one hundred dollars (\$100.00) for each instance where a mailed or faxed document has not been documented in the CRM.
12.	Contract Management Portal	The CMP must be accessible to the State and the Contractor during operating hours listed in Section A.2.d. and must contain all documents specified in Section A.7.g.		A maximum of five hundred dollars (\$500.00) for each business day that contains an occurrence(s) of unavailability of the CMP.  A maximum of five



Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
				hundred dollars (\$500.00) for each business day in which documents specified in Section A.7.g are not present in the CMP.
13.	Customer Relationship Management	The CRM shall meet all requirements listed in Section A.7.i.		A maximum of one thousand dollars (\$1000.00) for each business day for each requirement in Section A.7.i that is not met.
14.	Document Management	The DMS shall meet all requirements listed in Section A.7.k.		A maximum of one thousand dollars (\$1000.00) for each business day for each requirement in Section A.7.k that is not met.
15.	Document Management	The Contractor shall (as required by Section A.7.k.iii. and iv.) ensure that any scanned and uploaded file(s) for a member only includes information about that member or related individuals and not materials related to a separate case		A maximum of five hundred dollars (\$500.00) for each occurrence in which the Contractor does not comply with this requirement.
16.	Document Management	The Contractor shall (as required by Section A.7.k.i, iii, and iv) upload files to the associated member's record within the required timeframe.		A maximum of one hundred dollars (\$100.00) for each occurrence in which the Contractor does not comply with this requirement; provided, however, total liquidated damages under this section shall not exceed twenty-five thousand dollars (\$25,000) for occurrences involving documents received on the same day.
17.	Content Management System	The CMS shall meet all requirements listed in Section A.7.j.		A maximum of five hundred dollars (\$500.00) for each business day for each



Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
				requirement in Section A.7.j of the Contract that is not met.
18.	Status System	The Contractor shall meet all requirements listed in Section A.7.i.		A maximum of five thousand dollars (\$5,000.00) for each business day that contains an occurrence(s) of unavailability of the Status System.
19.	Reports	The Contractor shall accurately produce and deliver all reports specified in Section A.11 according to the date and frequency indicated.		<p>A maximum of one hundred dollars (\$100.00) for each day following the date that a reporting error is discovered in which the corrected report is not delivered.</p> <p>A maximum of five hundred dollars (\$500.00) for each day for each report the Contractor fails to deliver by the frequency specified by the State in accordance with Section A.11.</p> <p>A maximum of five hundred dollars (\$500.00) for each day for each ORR the Contractor fails to deliver as specified in Section A.11..</p>
20.	Reports and Notifications	The Contractor shall provide timely and complete notice as required by A.13.		<p>A maximum of fifty thousand dollars (\$50,000) for each failure of the Contractor to notify the State or provide the written documentation and Corrective Action Plan as required by Section A.13.</p> <p>However, a maximum of \$1,000 per day of reporting delay for each separate occurrence shall apply</p>



Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
				for those events described in Section A.13.b.
21.	Business Continuity and Disaster Recovery	The Contractor's BC-DR plan shall be developed and executed as described in Section A.12.		A maximum of five thousand dollars (\$5,000) for each finding for each business day the Contractor fails to implement its business continuity and disaster recovery plan in compliance with Section A.12 of the Contract
22.	HIPAA/HITECH, Privacy/Security	Failure to comply with HIPAA and HITECH Rules resulting in an unauthorized disclosure of PHI as described in Section E and Business Associate Agreement.		Up to fifty thousand dollars (\$50,000.00) per incident.
23.	HIPAA/HITECH, Privacy/Security	Failure to have adequate Privacy and Security Safeguards and Policies as described in Section Business Association Agreement.		Up to twenty-five thousand dollars (\$25,000.00) or Five hundred dollars (\$500.00) per recipient per occurrence, AND If the State deems credit monitoring and/or identity theft safeguards are needed to protect those State recipients whose PHI was placed at risk by CONTRACTOR's failure to comply with the terms of this Agreement, the CONTRACTOR shall be liable for all costs associated with the provision of such safeguard services.
24.	HIPAA/HITECH, Privacy/Security	Failure to timely report violations in		Five hundred dollars (\$500.00) per day that



Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
		use and Disclosure of PHI as described in Section E.		the reporting was not conducted according to time requirements.
25.	HIPAA/HITECH, Privacy/Security	Failure to timely report Privacy/Security incidents as described in Section E.		Five hundred dollars (\$500.00) per day that the reporting was not conducted according to time requirements.
26.	HIPAA/HITECH, Privacy/Security	Failure to seek express written approval from the State, including the execution of the appropriate agreements to effectuate transfer and exchange of State recipient PHI or State confidential information including, but not limited to, a data use agreement, trading partner agreement, business associate agreement or qualified protective order prior to the use or disclosure of PHI to a third party for any purpose other than the purpose of this Agreement. (See ancillary Business Associate Agreement executed between the parties) as described in Section E .		Five hundred dollars (\$500.00) per recipient per occurrence.
27.	HIPAA/HITECH, Privacy/Security	Failure by the Contractor to prevent the use or disclosure of State recipient data or State confidential data in any form via any medium with any third party beyond the boundaries and jurisdiction of the United States (See		One thousand dollars (\$1,000.00) per recipient per occurrence.



Item	Topic	Performance Standard	Measurement	Liquidated Damage Amount
		ancillary Business Associate Agreement executed between the parties) as described in Section E.		
28.	Medicaid/CHIP Safeguards	Knowing and willful disclosure of PII in violation of Section E.		One thousand dollars (\$1,000.00) per person or entity, per use or disclosure.



ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Maximus Health Services, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	260307682

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

PRINTED NAME AND TITLE OF SIGNATORY

9/3/15

DATE OF ATTESTATION