STATE OF TENNESSEE
Department of Finance and Administration
Division of Health Care Finance and Administration

REQUEST FOR PROPOSALS # 31865-00410
AMENDMENT # 2
CARE COORDINATION TOOL

DATE: October 16, 2015
RFP # 31865-00410 IS AMENDED AS FOLLOWS:

1. **This RFP Schedule of Events updates and confirms scheduled RFP dates.** Any event, time, or date containing revised or new text is highlighted.

EVENT	TIME (central time zone)	DATE (all dates are state business days)	CONFIRMED/ UPDATED
1. RFP Issued		September 28, 2015	**CONFIRMED**
2. Disability Accommodation Request Deadline	2:00 p.m.	October 1, 2015	**CONFIRMED**
3. Pre-response Conference	9:00 a.m.	October 5, 2015	**CONFIRMED**
4. Notice of Intent to Respond Deadline	2:00 p.m.	October 6, 2015	**CONFIRMED**
5. Written "Questions & Comments" Deadline	11:00 a.m.	October 9, 2015	**CONFIRMED**
6. State Response to Written "Questions & Comments"		October 16, 2015	**CONFIRMED**
7. Response Deadline	2:00 p.m.	November 4, 2015	**CONFIRMED**
8. State Completion of Technical Response Evaluations		November 18, 2015	**CONFIRMED**
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	November 19, 2015	**CONFIRMED**
10. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection	2:00 p.m.	November 20, 2015	**CONFIRMED**
11. End of Open File Period		December 1, 2015	**CONFIRMED**
12. State sends contract to Contractor for signature		December 2, 2015	**CONFIRMED**
13. Contractor Signature Deadline		December 7, 2015	**CONFIRMED**
14. Contract Start Date		January 4, 2016	**CONFIRMED**

2. State responses to questions and comments in the table below amend and clarify this RFP.

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

	QUESTION / COMMENT	STATE RESPONSE
1	RFP Attachment 6.2 – Section A Item Reference A.7 states, "*If the respondent cannot attest in the affirmative to each of the following requirements regarding capabilities, it will result in a "Fail" and the respondent will be determined to be "disqualified*"." If the Respondent has not successfully worked with another state on a statewide installation of its solution [A.7 (b)], will this be automatic disqualification from the RFP process? Just to clarify, A smaller tech company with less than 15 signed customer agreements and that has not rolled out a state wide deployment would not qualify for this RFP process, correct?	It means that any respondent that does not have 15 customers with 500,000 members would not qualify to bid on this procurement. This is a mandatory requirement and the respondent will be determined to be non-responsive if they cannot attest to each of the items in Section A.7. There are many vendors who could propose a software solution, but we only will consider vendors who have already accomplished all of the items stipulated in A.7.
2	RFP Attachment 6.2 – Section A Item Reference A.7 states, "*If the respondent cannot attest in the affirmative to each of the following requirements regarding capabilities, it will result in a "Fail" and the respondent will be determined to be "disqualified*"." If the Respondent has not successfully worked with another state on a statewide installation of its solution [A.7 (b)], will this be automatic disqualification from the RFP process?	Please refer to State's response to question #1.
3	Page 19 RFP Attachment 6.2, Section A Mandatory Requirement A.7 RFP Mandatory Requirement A.7 states, "Does the respondent have at least fifteen (15) customers with 500,000 members, each utilizing its solution:" Please clarify the statement. Does this mean <u>each</u> of the 15 customers having 500,000 members? – OR – Does the statement mean 15 customers with a cumulative total of 500,000 members?	Yes, it means that each of the 15 customers need to have 500,000 members. Please refer to State's response to question #1.
4	Page 55 - *Pro Forma* Section A.42 Page 48 - *Pro Forma* Section A.28 Page 56 - *Pro Forma* Section C.3 Section A.42 states, "In the Expansion and Use Phase as defined in Section A.35, the	The TennCare program has 1.4 million members, and the CoverKids program has 70 thousand members. We expect that these will be the members who will be loaded into the system during the expansion and use period. Over time, we hope

	QUESTION / COMMENT	STATE RESPONSE
	Contractor shall be reimbursed at a per member per month (PMPM) rate specified in section C.3.b. For a member to be counted in the PMPM number submitted by the Contractor to the State for payment, the member must be an eligible recipient loaded in the Solution, and be attributed to a provider who is an active user of the Solution. To be considered an active user of the Solution, the provider must meet all of the following conditions: a. has been approved by the State for access to the Solution; b. has a user log in; c. has received training on the Solution, and d. has not been removed or requested to be removed from the Solution. Section C.3 states that the contractor will be compensated based on Statewide Expansion and Use Per Member Per Month (PMPM) (A.42) Section A.28 states that the contractor must meet or exceed customer defined SLAs including a solution that shall support, over time and at a peak, a minimum of five (5) million members/patients. When calculating the PMPM cost shall bidders base the number of members in the system on the minimum of 5 million members?	to include more commercial members, which is why we require the capability to handle a minimum of 5 million members. The number of providers and other specifics in the expansion and use phase will depend upon user uptake of the system. When preparing the Cost Proposals, the respondent is only submitting a per member/per month active user rate and the actual volume of use will determine the maximum liability for the statewide expansion and use phase. Please refer to Item #3, Item #4 and Item #5 of this amendment.
5	Page 56 - *Pro Forma* Section C.3 Payment Methodology C.3 Payment Methodology states that the contractor will 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. The table requests a Statewide Expansion and Use Per Member Per Month (PMPM) (A.42) dollar amount. How many *active members* does the state anticipate during the statewide expansion and use phase? To be considered an active user of the Solution, the provider must meet all of the following conditions: a. has been approved by the State for access to the Solution; b. has a user log in; c. has received training on the Solution, and d. has not been removed or requested to be	Active members are different than active users, refer to C.3.b. Please refer to state's response to question #4.

	QUESTION / COMMENT	STATE RESPONSE
	removed from the Solution.	
6	The RFP references the ability to incorporate third party risk scores. Can the State identify which third party may be providing these risk scores?	Third party risk score providers have not been identified at this time.
7	What is the initial size of the population meant to be served by this solution? Is the initial implementation specific to the Medicaid population?	Please refer to State's response to question #4.
8	Where will the care managers come from that will leverage this system? Will they be employed by MCO's or in partnership with local health systems?	It will depend on the practice if the care manager working is employed by the MCO or practice. Many of the care managers will be employed by the practice.
9	Has the State already implemented ADT interfaces with the health systems and their respective electronic medical record systems or will this be an obligation of the vendor chosen by this RFP?	The state is in the process of implementing ADT interfaces with the health systems. Creating ADT interfaces with the health systems is not a part of the scope of services of this RFP.
10	Will the State please specify your projections for member numbers by each project phase?	Please refer to State's response to question #4.
11	RFP Attachment 6.6, *Pro Forma* Section A.36.d specifies the initial scope for the pilot phase: – 10 practices – 30 facilities – 30,000 patients In addition to those statistics please provide the following in order for us to properly complete the Pilot Phase pricing: • Number of providers? PCP vs Specialist? • Number of unique EMR instances by vendor? • Number of lives by payer type? • Number of Care Managers? Beyond the initial Pilot Phase what is the anticipated desire state at scale look like answering the following questions: • Estimated # of providers? PCP vs Specialist? • Number of practices? • Number of unique EMR instances by EMR vendor? • Number of lives by payer type? • Number of Care Managers? What level of patient engagement is desired	All of the 10 practices in the pilot will be PCPs or behavioral health providers. All of the members in the pilot phase will be TennCare and CoverKids members. Further breakdown is not available. The pilot sites are still being selected and further information is not available. The number of providers and other specifics in the expansion and use phase will depend upon user uptake of the system. It is anticipated each practice will have at least one care team mangers, though some practices may share a care team manager. Please refer to question #8 for the desired level of patient engagement in the PCMH

	QUESTION / COMMENT	STATE RESPONSE
	for the PCMH? Ex. Outreach to resolve Gaps in Care	
12	A review of the Pricing sheets and instructions requires clarification. There seems to be some overlap. For example, the Expansion Phase will in all likelihood involve some development. Will the State please confirm that this is the case and that associated costs will be reflected as part of the cost of the Expansion Phase?	Yes, development costs associated with the expansion phase should be a part of the expansion phase pricing.
13	Will the State please provide details concerning the level of patient engagement desired for the PCMH? Ex. Outreach to resolve Gaps in Care	The state PCMH and Health Home designs, including specifics of activities, are currently under development. We anticipate designing an active program to significantly improve the quality of care received by patients and reduce avoidable acute medical care through significant patient engagement by the care team, including outreach to patients and resolving gaps in care.
14	The RFP indicates that the solution will connect to HIE vendors. • Is there a statewide platform currently in places? • If so, please detail what data sets currently being collected and as well as the source of that data (inpatient vs. ambulatory).	No, but we are currently planning a statewide network. There are two regional HIE's currently in Tennessee. Primarily inpatient data – demographics, labs, radiology, pharmacy transcriptions
15	The RFP mentions MCOs (Managed Care Organizations). • Is there one MCO or are there many MCOs? • Do these MCOs provide services? Please provide further details.	There are five MCOs, each having a statewide network. Of the five MCOs, TennCare select is specific to high risk populations and BCBST is for CoverKids. MCOs provide medical and behavioral health services to the eligible populations.
16	Does TennCare currently have a data warehouse in place? If so, please detail the data it is receiving (i.e. claims, inpatient, ambulatory, ADT, etc.)	Yes. All claims data, no clinical to date.
17	Is the State currently accepting claims data? If so, how many data feeds? What is the frequency of the data feed (s)?	Yes, we get claims data from our Managed Care Organizations. Four primary feeds Daily
18	Will the State please provide additional details on the number and types (Medicare, Medicaid, Commercial, etc.) of members for whom they are currently receiving data as well	This question is unclear and incomplete so it cannot be answered.

	QUESTION / COMMENT	STATE RESPONSE
	as the ……	
19	Page 53 - *Pro Forma* Section A.36.d Item A.36 specifies the initial scope for the Pilot phase specifies 10 practices, 30 facilities, and 30,000 patients. In addition to those statistics, will the State please provide the following in order for us to properly complete the Pilot Phase pricing: 1. Number of providers? PCP vs Specialist? 2. Number of unique EMR instances by vendor? 3. Number of lives by payer type? 4. Number of Care Managers? Beyond the initial Pilot Phase what is the anticipated desire state at scale look like answering the following questions: 1. Estimated # of providers? PCP vs Specialist? 2. Number of practices? 3. Number of unique EMR instances by EMR vendor? 4. Number of lives by payer type? 5. Number of Care Managers? 6. What level of patient engagement is desired for the PCMH? Ex. Outreach to resolve Gaps in Care	Please refer to State's response to question #11.
20	Page 52 - *Pro Forma* Section A.35 Requirements listed in A.2 through A.24 appear to reflect functional and technical requirements for both PCMH and Health Homes. Will the State please clarify the intent of items reflected in the Table included in A.35? Testing and Pilot Phase items 1-10 will apply to both PCMH and Health Homes functionality/solution components. The approach to items 1 through 10 will significantly impact project schedule and related costs. a. Is it the State's intent that all items 1-10 listed for the Testing and Pilot Phase be performed on Health Home functionality prior to the Expansion and Use Phase or, should items 1 through 10 be performed on Health Home functionality as part of the Expansion and Use Phase? b. Will the State please confirm that Health	a. Items 1-10 shall be performed for health home functionality during the pilot phase. b. Confirmed c. Confirmed

	QUESTION / COMMENT	STATE RESPONSE
	Home specialists or dedicated staff will be available to complete testing of Health Home related functionality? c. Is it the State's intent to pilot Health Homes during this phase with a delayed implementation of Health Home functionality until the Expansion and Use Phase?	
21	Page 53 - *Pro Forma* Sections A.37.e; A.37.f; A.37.g The referenced sections seem to indicate that the output of the pilot phase is to include and Expansion Plan. The updated Project Plan will include any additional changes needed for the larger rollout and the plan for addressing these changes. Question: Will the State please confirm that any/all changes resulting from Pilot review will be allowed as part of the Cost Proposal or, will required changes be considered and treated as change orders?	Cost proposals must take into account needed changes discovered during the pilot in order to meet the requirements of the scope of services.
22	Page 8 – RFP Section 3.3.7 *A Respondent must <u>not</u> submit a response as a prime contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same contractor as part of their responses (provided that the subcontractor does not also submit a response as a prime contractor).* We would appreciate the State's clarification of this item. If a Responder's organizational structure consists of multiple lines of business, for example services and software, and one line of business wishes to submit a response as a prime contractor and other lines of business wish to align with other Systems Integrators as a subcontractor, will the State find approach acceptable?	No, that would not be acceptable.
23	For pricing purposes – what is assumed total number of provider organizations (hospitals, physician practices, clinics), and the assumed total number of unique TennCare Beneficiaries that will be managed using the Care Coordinator tool over the course of the contract?	Please refer to State's response to question #11

	QUESTION / COMMENT	STATE RESPONSE
24	Will references from subcontractors be acceptable in completing and submitting the required reference questionnaires?	No. The references should be for entities that the respondent has done work for, not from someone who has worked with you or for you.
25	What is the maximum number of references that the state will accept (we are assuming 5 references – 3 for completed projects and 2 for in service projects as stated on page 22 in section B:17)	Five is maximum.
26	Is there a limit on the total number of pages of the RFP response including technical attachments?	Page limits are not stipulated in the RFP, however, respondents are encouraged to stick with the specific questions and not submit additional non solicited information not relative to the technical response.
27	Can you provide a definition of "RIS systems" as referenced on page 24 section C.1.c?	Radiology Information System
28	Can you provide a definition of "auto registries" as referenced on page 24 section C.1.e?	Automatic registries
29	If a healthcare provider wants to use the Care Coordinator Tool to manage non-Tenncare patients, is the provider to contract with the vendor separately for this expanded use of the Care Coordinator Tool, or will the State negotiate a fee with the vendor for this expanded use of the Care Coordinator Tool as part of the state contract with the vendor?	No, the State will not negotiate a fee. The contractor is expected to contract with Tennessee commercial and Medicare Advantage health insurers separately for the expanded use of the Care Coordination Tool. Please refer to Item #5, Item #6, Item #7, and #8 of this amendment.
30	For providers that want to use the Care Coordinator Tool to manage non-Tenncare patients, is the vendor to determine the fee for this expanded use later or does the vendor need to propose a fee for this expanded use as part of the RFP response?	Please refer to State's response to question #29..
31	Our counsel has identified items in the standard terms and conditions that they would like to discuss and clarify. How are contract exceptions handled under this procurement and how will exceptions be considered in the state's scoring of proposals?	Changes to standard terms and conditions will not be considered once the contract is awarded. Any questions/comments regarding terms and conditions will be considered and responded to as part of this question/response format In order to be a successful bidder on this proposal, the respondent must agree to the language in the RFP and resulting contract, and in so doing submit signed Attachment 6.1, Statement of Certifications and Assurances as part of Mandatory requirements.
32	Will this care coordination tool be processing claims adjudication?	No.
33	Given that this system will be managing lives	All claims are sent to the state's MMIS system from

	QUESTION / COMMENT	STATE RESPONSE
	of Medicaid participants – will Medicaid claims be sent to the State MMIS System, or to this Care Coordination tool and then the tool interfaced to the State's MMIS system?	the MCO organizations. The State is still contemplating whether claims should be delivered to the care coordination tool from the MMIS or the MCOs directly.
34	In general the concept of Acceptance is ok provided it follows Contractor's Plexus Methodology for implementation contained in a mutually agreed upon Statement of Work. The term 'acceptance' will be defined to mean the State's confirmed written sign-off and approval of specified key deliverables as stated in the Statement of Work.	The State is not agreeing to a blanket approval to follow one respondent's methodology for implementation over another. The pro forma contract is the agreed upon statement of work.
35	Page 49 - *Pro Forma* Section A.28 Proposed Revision: g. Breach notification will be in accordance with a mutually signed BAA	The BAA that is expected to be signed will be in accordance with RFP Attachment 6.7.
36	Page 57 - *Pro Forma* Section A.44 Proposed Revision: All references to Liquidated damages (and any other penalties) shall be struck from the agreement. Comment: With regard to liquidated damages Contractor takes exception to Liquidated Damages in general, because we believe a tightly integrated acceptance/test procedure and payment milestone schedule keeps both parties focused on a positive outcome and eliminates the need for one sided penalties. All decisions made with regard to this project/agreement shall be made amongst both parties and mutually agreed upon (not one-sided agreements).	Denied. Liquidated Damages and all references to Liquidated damages remain in the RFP and pro forma contract.
37	Page 62 - *Pro Forma* Section D.5 Termination for Convenience Proposed Revision: Section shall be struck Comment: Contractor takes exception to this provision as pricing and terms have been made in accordance with an agreed upon fixed term.	Denied.
38	Page 64 - *Pro Forma* Section D.18	Denied.

	QUESTION / COMMENT	STATE RESPONSE
	Limitation of Contractor's Liability Proposed Revision: THE CUMULATIVE LIABILITY OF CONTRACTOR TO LICENSEE FOR ANY ACTUAL OR ALLEGED DAMAGES ARISING OUT OF, BASED ON OR RELATING TO THIS AGREEMENT, WHETHER BASED UPON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR ANY OTHER LEGAL THEORY, WILL NOT EXCEED THE AMOUNT OF LICENSE FEES PAID TO CONTRACTOR UNDER THIS AGREEMENT. Comment: Contractor's liability shall be limited to the amount of license fees paid to Contractor noting the exceptions in Tenn Code Ann. S12-3-701.	
39	Page 64 - *Pro Forma* Section D.19 Hold Harmless Proposed Revision: 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~~ willful misconduct 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.~~ Comment: Each party shall pay their own attorney costs.	Denied. Standard Language.
40	Pages 65 & 76 - *Pro Forma* Sections D.20 – HIPAA Compliance and E.18 – Information Holders Proposed Revision: (d) This section shall be struck and replaced with the following: "Subject to any limitation of liability in the license or services agreement between Business Associate and Covered	Revision denied.

QUESTION / COMMENT	STATE RESPONSE
Entity, Business Associate will indemnify, defend and hold harmless Covered Entity and its respective employees, directors, officers, subcontractors, agents and affiliates from and against all claims, actions, damages, losses, liabilities, fines, penalties, costs or expenses, including reasonable attorneys' fees (Damages) suffered by Covered Entity arising from any acts or omissions in connection with this Agreement, by Business Associate or by its employees, directors, officers, subcontractors, or agents. The referenced limitation of liability will not apply to and Contractor will fully indemnify Covered Entity for: i. Covered Entity's actual out of pocket costs of notice, mitigation or remediation of any privacy breach caused by any act or omission of Business Associate. ii. Fines or penalties that are assessed against Covered Entity by a state or federal regulatory agency for an act or omission of Business Associate or by its employees, directors, officers, subcontractors, or agents on a theory of agency or vicarious liability. iii. Damages resulting from any negligent or wilful acts or omissions in connection with this Agreement, by Business Associate or by its employees, directors, officers, subcontractors, or agents"	
41 Page 68 - *Pro Forma* Sections D.26 – State and Federal Compliance and E.16 Proposed Revision: This section shall be altered to reflect the following: "Contractor will comply with all Federal, State of Tennessee, and local laws applicable to the general operation of its business. In addition, Contractor will ensure that its software is compliant with Federal laws or regulations that govern the form and maintenance of health records. Contractor further warrants that the Licensed Programs are and will be capable of meeting State of Tennessee regulations applicable to the form and maintenance of health records and health related information. Any specific State of Tennessee requirement	Revision denied. The Contractor is responsible for keeping up to date with all applicable laws, rules, and regulations, etc., as they apply to this contract and govern their business. We require the contractor to comply with all applicable laws in performance of this contract. We will not limit the applicability of the law, etc., nor will we be responsible for updating the contractor on the laws and will not agree to amend the contract every time a change in laws, etc., occur.

QUESTION / COMMENT	STATE RESPONSE
including, for example state-specific data collection, billing or reporting formats that Licensee requires must be set forth in the Statement of Work. Future changes to State of Tennessee requirements will be addressed by an amendment of this Agreement."	
42 Page 69 - *Pro Forma* Section D.31 Incorporation of Additional Documents Proposed Revision: 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 Contractor's response seeking this Contract. e. the State solicitation, as may be amended, requesting responses in competition for this Contract; ~~e~~f. any technical specifications provided to proposers during the procurement process to award this Contract; and, f. ~~the Contractor's response seeking this Contract.~~ Comment: The order of precedence should be in the chronology of the most recent document to the oldest document. Contractor can only agree to what it proposed in its response (and not necessarily everything that is being sought after in the State solicitation).	Denied. The language in Section D.31 remains as written.
43 Page 69 - *Pro Forma* Section E.3 State Ownership Proposed Revision: All documents, records, data, memoranda, and other materials provided to Contractor by State remain the property of State and State	Denied. E.3 applies to training materials and any other deliverable. Per E.4 the ownership of software remains with the contractor.

	QUESTION / COMMENT	STATE RESPONSE
	will retain ownership rights to any pre-existing processes or methodologies ("State Know How") that may be implemented in software work flows by Contractor. Title to any modifications or enhancements of Contractor's software or third party software will belong to Contractor (or the owner of third party software), and will be licensed to State under the terms of this Agreement. Comment: Licensed software is proprietary and therefore ownership rights are retained by Contractor.	
44	Page 70 - *Pro Forma* Section E.4.b.(2) Ownership Proposed Revision: This section shall be deleted in its entirety.	Denied.
45	Page 71 - *Pro Forma* Section E.10 Liquidated Damages Proposed Revision: This section shall be deleted in its entirety. Comment: See comment above	Please refer to State's response to question #36.
46	Page 72 - *Pro Forma* Section E.11 Partial Takeover Proposed Revision: This section shall be deleted in its entirety. Comment: See comment above about termination without cause.	Denied.
47	Page 75 - *Pro Forma* Section E.17 Business Associate Proposed Revision: Section (t) shall be deleted in its entirety. Comment: For purposes of this Agreement "Security Incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings",	The BAA remains as written. The respondent's comment is true, but this is contemplated in the definitions and contract language

	QUESTION / COMMENT	STATE RESPONSE
	or unsuccessful attempts to penetrate computer networks or servers maintained by Contractor. Contractor shall have no obligation to provide reporting based on unsuccessful security incidents.	
48	Page 81 - *Pro Forma* Section E.27 Nondiscrimination Compliance Requirements Numbers 8 through 11. More definition of this section is required. Translation service fees, availability, and timeline to be discussed during contract negotiations.	For any translations, language services, or other items such as large print materials they can negotiate with companies that provide these services. E.27 (8)-(11) is about providing information (written and electronic) in a manner that is understandable to the reader which includes providers and members. This means information is written in plain language and provided in accessible formats, written translations, oral interpretations, large print, etc... Section (9) is about including language assistance taglines on written materials. Section (10) is about including disability assistance taglines on written materials. Section (11) is the current standards that are used to determine the LEP languages that written translations of vital documents should be available in.
49	Page 90 - *Pro Forma* Attachment B Liquidated Damages Proposed Revision: This section shall be deleted in its entirety. Comment: See comment above	Please refer to State's response to question # 36.
50	Page 101 – BAA Section 3.4 TN Consumer Notice of Security Breach Proposed Revision: Tennessee Consumer Notice of System Breach. Business Associate understands that the Covered Entity is an "Information Holder" (as may be Business Associate) under the terms of Tenn. Code Ann. § 47-18-2107, and that in the event of a breach of the Business Associate's security system as defined by that statute and Definition 1.1 of this agreement, the Business Associate shall indemnify and hold the Covered Entity harmless for expenses and/or damages related to the breach that are a result of Business Associate's sole gross negligence or willful misconduct. However whether in the absent of negligence or not, ~~S~~such obligation	Modification denied. This is a limitation of the BAA liability that we cannot accept.

	QUESTION / COMMENT	STATE RESPONSE
	shall include, but is not limited to, the mailed notification to any Tennessee resident whose personal information is reasonably believed to have been acquired by an unauthorized individual. In the event that the Business Associate discovers circumstances requiring notification of more than one thousand (1,000) persons at one time, the person shall also notify, without unreasonable delay, all consumer reporting agencies and credit bureaus that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1681a, of the timing, distribution and content of the notices. Substitute notice, as defined by Tenn. Code Ann. § 47-18-2107(e)(2) and (3), shall not be permitted except as approved in writing in advance by the Covered Entity. The parties agree that PHI includes data elements in addition to those included by "personal information" under Tenn. Code Ann. § 47-18-2107, and agree that Business Associate's responsibilities under this paragraph shall include all PHI.	
51	Page 101 – BAA Section 3.5 Reporting of Security Incidents For purposes of this Agreement "Security Incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by Contractor. Contractor shall have no obligation to provide reporting based on unsuccessful security incidents.	The respondent's comment is accurate, however, this is contemplated in the definitions and contract language.
52	Additional Terms to be included: 1. **<u>LICENSED PROGRAMS</u>** a) Contractor hereby grants Licensee: i) a non-exclusive, perpetual (subject only to termination under Section 11) non-transferable license to use the Licensed Programs in object code form only for Licensee's internal business purposes and not to process the data of any other entity; ii) to support the number of Licensee Databases and the number of named users of the Contractor Programs set forth in Schedule [unless the license is an Enterprise type License];	Denied.

QUESTION / COMMENT	STATE RESPONSE
iii) on the number of servers, operating system and for access by the maximum number of simultaneous users or other such restrictions of the Third Party Products as set forth in Schedule ; The foregoing license grant may be exercised by Licensee and its employees and independent contractors (provided that such independent contractors undertake in writing to be bound by all applicable restrictions in this Agreement) (collectively, "Licensee Personnel") on Licensee's equipment for Licensee's internal business purposes provided they are added as named users for the Licensed Programs. b) Except as expressly stated in this Agreement, no other rights, express, implied or otherwise are granted to Licensee. c) Nothing in this Agreement will be deemed to convey any title or ownership interest in the Licensed Programs to Licensee. Licensee will not sell, disclose, lease, sublease, lend or otherwise make the Licensed Programs available to anyone who does not need access to the Licensed Programs in order for Licensee use the Licensed Programs to accomplish their intended purpose. d) Licensee agrees to reproduce any copyright notices and/or other proprietary legends, regardless of form, contained in, affixed to, or appearing on the Licensed Programs. e) Licensee will not disassemble or reverse engineer any of the Licensed Programs nor attempt to access or modify the source code version of the Licensed Programs and will not make any derivations, adaptations, or translations of the Licensed Programs in whole or in part, nor use the Licensed Programs to develop functionally similar computer software or to otherwise compete with Contractor. 2. **WARRANTIES** a) Contractor warrants that the Licensed Programs will substantially conform in all material respects with their Specifications. Contractor will correct any Problems or Defects in accordance with its Support Services program as then in effect.	

QUESTION / COMMENT	STATE RESPONSE
b) Contractor further represents and warrants that it has the right to grant the licenses granted to Licensee hereunder and that to the best of Contractor's knowledge the Licensed Programs do not infringe upon or violate the United States patent rights of any third party and do not infringe upon or violate the copyright, or trade secret right of any third party. c) If any modifications, additions or alterations of any kind or nature are made to the Licensed Programs without authorization by Contractor or anyone acting with the consent of or under the direction of Contractor, all warranties will immediately terminate and Contractor will have no further warranty obligation to Licensee. 3. **LIMITATION OF WARRANTY.** THE FOREGOING WARRANTIES ARE EXCLUSIVE OF ANY OTHER WARRANTIES AND CONDITIONS EXPRESS OR IMPLIED, WHETHER IN RELATION TO THE LICENSED PROGRAMS, HARDWARE OR THE PROVISION OF ANY SERVICES INCLUDING, BUT NOT LIMITED TO, THOSE CONCERNING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR ARISING BY TRADE USAGE OR COURSE OF DEALING. LICENSEE'S EXCLUSIVE REMEDY IN THE EVENT OF A BREACH OF THE SECTION 2(a) WARRANTY AND CONTRACTOR'S SOLE OBLIGATION IS TO MODIFY THE SOFTWARE TO ELIMINATE THE PROBLEM OR DEFECT. LICENSEE'S EXCLUSIVE REMEDY IN THE EVENT OF A BREACH OF THE SECTION 2(b) WARRANTY IS SET FORTH IN SECTION 5. 4. **LIMITATION OF LIABILITY** a) **LIMITATION ON SPECIFIED DAMAGES** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES (INCLUDING, BUT	

QUESTION / COMMENT	STATE RESPONSE
NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, DAMAGES RELATED TO DELAYS, LOSS OF DATA, INTERRUPTION OF SERVICE OR LOSS OF BUSINESS OR PROFITS OR REVENUE), EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. EXCEPT AS SET FORTH IN SECTION 5, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY THIRD PARTY CLAIM. b) **LIMITATION ON CUMULATIVE LIABILITY**. EXCEPT AS SET FORTH IN SECTION 5, THE CUMULATIVE LIABILITY OF CONTRACTOR TO LICENSEE FOR ANY ACTUAL OR ALLEGED DAMAGES ARISING OUT OF, BASED ON OR RELATING TO THIS AGREEMENT, WHETHER BASED UPON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR ANY OTHER LEGAL THEORY, WILL NOT EXCEED THE AMOUNT OF LICENSE FEES PAID TO CONTRACTOR UNDER THIS AGREEMENT. 5. **INDEMNIFICATION** a) In the event of any claim by a third party against Licensee (the "Claim"), alleging that the use of the Licensed Programs infringes upon any intellectual property rights of such third party, Licensee will promptly notify Contractor and Contractor will defend such Claim, in Licensee's name but at Contractor's expense, and will indemnify Licensee against any liability paid by Licensee, including but not limited to attorneys' fees and disbursements, arising out of such Claim. In the event such an infringement is found and Contractor cannot either procure the right to continued use of the Licensed Programs, or replace or modify the Licensed Programs with a non-infringing program, then Contractor may terminate the license of the Licensed Programs, and will refund to Licensee the amount of the license fee paid by Licensee, reduced by one sixtieth for each full month from the date of first use of the Licensed Programs, until the date of termination. b) Contractor will not have any liability	

QUESTION / COMMENT	STATE RESPONSE
under Section 5(a), , to the extent that the Claim is based upon (i) the use of the Licensed Programs in combination with other products or services not made or furnished by Contractor, provided that the Licensed Programs alone are not the cause of such Claim; or (ii) the modification of the Licensed Programs or any portion thereof by anyone other than Contractor, or an authorized agent of Contractor provided that the Licensed Programs in unmodified form are not the cause of such Claim. 6. **CONFIDENTIALITY** a) Each party agrees that by reason of their engagement hereunder, they will acquire confidential information and trade secrets concerning the operations of the other party and their business methods and operations. b) Each party (including its employees and agents) will use the same standard of care, but in no event less than reasonable care, that it uses to protect its own confidential information to protect any confidential information of the other party that is disclosed during negotiation or performance of this Agreement including any aspect of the business or affairs of the other party and their information and the parties' performance under this Agreement. c) Contractor recognizes and acknowledges the sensitive and confidential nature of information it may obtain with regard to Subscriber's clients and their treatment, and agrees that information with respect to Subscriber's clients and their treatment will be kept in strict confidence in perpetuity by Contractor. Contractor agrees to comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d ("HIPAA") and any current and future regulations promulgated there under including without limitation the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 (the "Federal Privacy Regulations"), the federal security standards contained in 45 C.F.R. Part 142 (the "Federal Security Regulations"), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162, all collectively referred to herein as "HIPAA Requirements". Contractor agrees not to use	

QUESTION / COMMENT	STATE RESPONSE
or further disclose any Protected Health Information (as defined in 45 C.F.R. Section 164.501) or Individually Identifiable Health Information (as defined in 42 U.S.C. Section 1320d), other than as permitted by HIPAA Requirements and the terms of this Agreement. Contractor will make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the Federal Privacy Regulations. d) Subscriber will take adequate steps and security precautions to prevent unauthorized disclosure of information which is proprietary to Contractor and/or the owner of the Third Party Programs. Including but not limited to: (i) instructing its employees having access to such information not to copy or duplicate the same or any part thereof and to withhold disclosure or access or reference thereto from unauthorized third parties; (ii) effecting sufficient security measures including, at the request of Contractor, requiring non-disclosure agreements with its employees, to safeguard such information from theft or from access by unauthorized parties; (iii) Maintaining proper control of passwords and security procedures to prevent unauthorized access to the Subscriber Database . 7. **NON- SOLICITATION** During the term of this Agreement and for a period of one (1) year following its termination, neither party will directly or indirectly solicit for employment or as a consultant, an employee or consultant of the other party, or any person who was an employee or consultant of the other party at any time during the six (6) month period immediately prior to the date such employee or consultant is solicited, hired or retained. 8. **FORCE MAJEURE** Neither party will be responsible for delays or failures in performance resulting from acts or events beyond its reasonable control, including but not limited to, acts of nature, governmental actions, fire, labor difficulties or shortages, civil disturbances, transportation problems, interruptions of power supply or communications or natural	

QUESTION / COMMENT	STATE RESPONSE
disasters, provided such party takes reasonable efforts to minimize the effect of such acts or events. **ORDER OF PRECEDENCE**. The Request for Proposal and Contractor's Response will be incorporated by reference into the final agreement between the parties (collectively, the Contract Documents). In the event of any conflict or inconsistency between the terms and conditions of the Contract Documents, the conflict or inconsistency shall be resolved according to the following order of precedence, from the document with the greatest control to the least: (1) the written terms and condition of the final agreement that is mutually executed by the parties; (2) the terms of the Request for Proposal that are accepted by Contractor's written response; and (3) any other Contract Documents identified above.	

3. RFP Section 6.6, Section C.3 is deleted in its entirety and replaced with the following:

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 provision of goods or services as set forth in Section A.

b. The Contractor shall be compensated based upon the following payment methodology:

Goods or Services Description	**Amount** (per compensable increment)
Completion of Project Management Plan (A.35)	$ _____
Provision of Standard Operating Procedures (A.34)	$ _____
Completion of Development and Implementation Plan (A.36)	$ _____
Pass ADT Test (A.30)	$ _____
Pass Data Management Test (A.31)	$ _____
	$ _____

Pass Production Load Test (A.32)	
Pass Functionality Test (A.33)	$ _____
Expansion Plan Submitted (A.37)	$ _____
Statewide Expansion and Use Per Member Per Month (PMPM) (A.42)	$ _____ /per member per month Active User Rate

4. Delete RFP Attachment 6.3, Cost Proposal and Scoring Guide, in its entirety and replace with the following:

RFP ATTACHMENT 6.3.

COST PROPOSAL & SCORING GUIDE

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for goods or services defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

NOTICE: The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Respondent.

Notwithstanding the cost items herein, pursuant to the second paragraph of the *Pro Forma* Contract section C.1. (refer to RFP Attachment 6.6.), "The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the Respondent.

RESPONDENT SIGNATURE:	
PRINTED NAME & TITLE:	
DATE:	
RESPONDENT LEGAL ENTITY NAME:	

Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Completion of Project Management Plan (A.35)	$ _____	1	
Provision of Standard Operating Procedures (A.34)	$ _____	1	
Completion of Development and Implementation Plan (A.36)	$ _____	1	
Pass ADT Test (A.30)	$ _____	1	
Pass Data Management Test (A.31)	$ _____	1	
Pass Production Load Test (A.32)	$ _____	1	
Pass Functionality Test (A.33)	$ _____	1	
Expansion Plan Submitted (A.37)	$ _____	1	
Statewide Expansion and Use (A.42)	**$_____/per member per month active user rate**	10,000	
EVALUATION COST AMOUNT (sum of evaluation costs above)**:** The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.			
lowest evaluation cost amount from all proposals / **evaluation cost amount being evaluated**	**x 30 (maximum section score)**	**= SCORE:**	
State Use – Solicitation Coordinator Signature, Printed Name & Date:			

5. RFP Section 1.1, Statement of Procurement Purpose, is deleted in its entirety and replaced with the following:

1.1. **Statement of Procurement Purpose**

The Contractor shall, in consultation with the State and TennCare Managed Care Organizations (MCOs), provide and implement an Off the Shelf Solution (Solution) with customizations that allows health care providers the ability to coordinate patients as outlined in this scope of work across multiple payers, plan types including Medicaid, Medicare, and Commercial plans. The

primary use of this tool in the first phase is to enhance transitions of care, and potential future expansion to leverage this tool to enhance care coordination and management across the State's Medicaid enterprise. During the contract period between the State and the respondent, the respondent's rate(s) for Tennessee commercial and Medicare Advantage health insurers shall not exceed the per member per month active user rates for the expansion and use phase proposed in RFP Attachment 6.3, Cost Proposal and Scoring Guide.

Upon contract signature, the winning respondent will be required to sign RFP Attachment 6.7, HIPAA
Business Associate Agreement.

Relevant background information considered useful to respondents can be located in RFP Attachment 6.8.

6. Delete RFP Attachment 6.6, Section A. 42 in its entirety and replaced with the following:

A.42. In the Expansion and Use Phase as defined in Section A.35, the Contractor shall be reimbursed at a per member per month (PMPM) active user rate specified in section C.3.b. For a member to be counted in the PMPM number submitted by the Contractor to the State for payment, the member must be an eligible recipient loaded in the Solution, and be attributed to a provider who is an active user of the Solution. To be considered an active user of the Solution, the provider must meet all of the following conditions:

a. has been approved by the State for access to the Solution;
b. has a user log in;
c. has received training on the Solution, and
d. has not been removed or requested to be removed from the Solution.

7. RFP Attachment 6.6, Section A. 43 is added as new Section A.43 and remaining sections are renumbered.

A.43. During the Contract term, the Contractor shall not agree to rates for Tennessee commercial and Medicare Advantage health insurers that exceed the per member per month active user rate for the State as set forth in Section C.3.b without prior written approval from the State.

8. RFP Attachment 6.2, Section A, is deleted in its entirety and replaced with the following:

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION A: MANDATORY REQUIREMENTS. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review the response to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the response and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFP requirements.

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	**Item Ref.**	**Section A— Mandatory Requirement Items**	**Pass/Fail**
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., *et. seq.*).	
		The Technical Response must NOT contain cost or pricing information of any type.	
		The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a sub-contractor) (refer to RFP Section 3.3.).	
	A.1.	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (*e.g.*, employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing.	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	**Item Ref.**	**Section A— Mandatory Requirement Items**	**Pass/Fail**
		Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.5.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit rating for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.)	
	A.6.	Provide written attestation that the Respondent does 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 Act.	
	A.7.	Provide written attestation regarding respondent's capability to provide the following solution current installations. If the respondent cannot attest in the affirmative to each of the following requirements regarding capabilities, it will result in a "Fail" and the respondent will be determined to be "disqualified". a. Does the respondent have at least fifteen (15) customers with 500,000 members, each utilizing its solution: b. Has the respondent successfully worked with another state on a statewide installation of its solution? c. Has the respondent successfully implemented its solution in a multiple payer system? d. Is the respondent able to process ADT transactions in near real time (at least every half hour)? e. Does respondent's solution have the capability to intake 3rd-party patient attribution? f. Does respondent's solution have the capability to interface with Payer portals? g. Does respondent's solution offer Care Team workload balancing and performance reporting so that a Care Team Manager could track team and individual performance? h. Does respondent's solution offer a fully federated, role-based security model? i. Is respondent's ecosystem/product multi-tenant?	
	A.8.	Per RFP Section 1.1, and RFP Attachment 6.6, Section A.2, the respondent shall offer the respondent's solution to Tennessee commercial and Medicare Advantage insurers for members in Tennessee.	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	**Item Ref.**	**Section A— Mandatory Requirement Items**	**Pass/Fail**
		Provide written attestation stating that during the contract term between the State and the respondent, the respondent's rate(s) for Tennessee commercial and Medicare Advantage health insurers shall not exceed the per member per month active user rates for the expansion and use phase proposed in RFP Attachment 6.3, Cost Proposal and Scoring Guide.	
State Use – Solicitation Coordinator Signature, Printed Name & Date:			

9. RFP Attachment 6.6, Attachment C, is amended by deleting and reinserting the following definitions:

Care Team – the team of providers and other staff involved in the care and coordination of patients.

Care Team Worker – an individual who works on a care team.

10. <u>RFP Amendment Effective Date</u>. The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.

STATE OF TENNESSEE
Department of Finance and Administration
Division of Health Care Finance and Administration

REQUEST FOR PROPOSALS # 31865-00410
AMENDMENT # 1
CARE COORDINATION TOOL

DATE: October 7, 2015
RFP # 31865-00410 IS AMENDED AS FOLLOWS:

1. **This RFP Schedule of Events updates and confirms scheduled RFP dates.** Any event, time, or date containing revised or new text is highlighted.

EVENT	TIME (central time zone)	DATE (all dates are state business days)	CONFIRMED/ UPDATED
1. RFP Issued		September 28, 2015	
2. Disability Accommodation Request Deadline	2:00 p.m.	October 1, 2015	**CONFIRMED**
3. Pre-response Conference	9:00 a.m.	October 5, 2015	**CONFIRMED**
4. Notice of Intent to Respond Deadline	2:00 p.m.	October 6, 2015	**CONFIRMED**
5. Written "Questions & Comments" Deadline	11:00 a.m.	October 9, 2015	**UPDATED**
6. State Response to Written "Questions & Comments"		October 16, 2015	**CONFIRMED**
7. Response Deadline	2:00 p.m.	November 4, 2015	**CONFIRMED**
8. State Completion of Technical Response Evaluations		November 18, 2015	**CONFIRMED**
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	November 19, 2015	**CONFIRMED**
10. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection	2:00 p.m.	November 20, 2015	**CONFIRMED**
11. End of Open File Period		December 1, 2015	**CONFIRMED**
12. State sends contract to Contractor for signature		December 2, 2015	**CONFIRMED**
13. Contractor Signature Deadline		December 7, 2015	**CONFIRMED**
14. Contract Start Date		January 4, 2016	**CONFIRMED**

2. **RFP Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.

STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION

REQUEST FOR PROPOSALS
FOR
CARE COORDINATOR TOOL
RFP # 31865-00410

RFP CONTENTS

SECTIONS:

1. **INTRODUCTION**
2. **RFP SCHEDULE OF EVENTS**
3. **RESPONSE REQUIREMENTS**
4. **GENERAL CONTRACTING INFORMATION & REQUIREMENTS**
5. **EVALUATION & CONTRACT AWARD**

ATTACHMENTS:

- **6.1. Response Statement of Certifications & Assurances**
- **6.2. Technical Response & Evaluation Guide**
- **6.3. Cost Proposal & Scoring Guide**
- **6.4. Reference Questionnaire**
- **6.5. Score Summary Matrix**
- **6.6. *Pro Forma* Contract**
- **6.7. HIPAA Business Associate Agreement**
- **6.8. Background Information**

1. INTRODUCTION

The State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration (HCFA, hereinafter referred to as the "State," or "HCFA," has issued this Request for Proposals (RFP) to define minimum contract requirements; solicit responses; detail response requirements; and, outline the State's process for evaluating responses and selecting a contractor to provide the needed goods or services.

Through this RFP, the State seeks to procure necessary goods or services at the most favorable, competitive prices and to give ALL qualified businesses, including those that are owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises, an opportunity to do business with the state as contractors, subcontractors or suppliers.

1.1. Statement of Procurement Purpose

The Contractor shall, in consultation with the State and TennCare Managed Care Organizations (MCOs), provide and implement an Off the Shelf Solution (Solution) with customizations that allows health care providers the ability to coordinate patients as outlined in this scope of work across multiple payers, plan types including Medicaid, Medicare, and Commercial plans. The primary use of this tool in the first phase is to enhance transitions of care, and potential future expansion to leverage this tool to enhance care coordination and management across the State's Medicaid enterprise.

Upon contract signature, the winning respondent will be required to sign RFP Attachment 6.7, HIPAA Business Associate Agreement.

Relevant background information considered useful to respondents can be located in RFP Attachment 6.8.

1.2. Scope of Service, Contract Period, & Required Terms and Conditions

The RFP Attachment 6.6., *Pro Forma* Contract details the State's requirements:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *pro forma* contract substantially represents the contract document that the successful Respondent <u>must</u> sign.

1.3. Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a Contract pursuant to this RFP 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, Tennessee state constitutional, or statutory law. The Contractor pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.4. RFP Communications

1.4.1. The State has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

RFP #31865-00410

1.4.2. **Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.**

1.4.2.1. Prospective Respondents must direct communications concerning this RFP to the following person designated as the Solicitation Coordinator:

Alma Chilton, Director of Contracts
Department of Finance and Administration
Division of Health Care Finance and Administration
310 Great Circle Road
Nashville, TN 37243
(615) 507-6384 (phone)
(615) 253-5414 (fax)
Alma.chilton@tn.gov

1.4.2.2. Notwithstanding the foregoing, Prospective Respondents may alternatively contact:

a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, Tennessee service-disabled veteran owned, and small businesses as well as general, public information relating to this RFP (visit www.tn.gov/businessopp/ for contact information); and

b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Talley A. Olson
Department of Finance and Administration
Division of Health Care Finance and Administration
310 Great Circle Road
Nashville, TN 37243
(615) 507-6841 (Phone)
talley.a.olson@tn.gov

1.4.3. Only the State's official, written responses and communications with Respondents are binding with regard to this RFP. Oral communications between a State official and one or more Respondents are unofficial and non-binding.

1.4.4. Potential Respondents must ensure that the State receives all written questions and comments, including questions and requests for clarification, no later than the Written Questions &Comments Deadline detailed in the RFP Section 2, Schedule of Events.

1.4.5. Respondents must assume the risk of the method of dispatching any communication or response to the State. The State assumes no responsibility for delays or delivery failures resulting from the Respondent's method of dispatch. Actual or digital "postmarking" of a communication or response to the State by a specified deadline is not a substitute for the State's actual receipt of a communication or response.

1.4.6. The State will convey all official responses and communications related to this RFP to the prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to RFP Section 1.8).

1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State. For internet posting, please refer to the following website: http://tn.gov/generalserv/cpo/sourcing_sub/rfp.shtml.

1.4.8. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.

1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make reasonable efforts to ensure the accuracy of such data or information, however it is the Respondent's obligation to independently verify any data or information provided by the State. The State expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

1.5. Assistance to Respondents With a Handicap or Disability

Prospective Respondents with a handicap or disability may receive accommodation relating to the communication of this RFP and participating in the RFP process. Prospective Respondents may contact the Solicitation Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.6. Respondent Required Review & Waiver of Objections

1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").

1.6.2. Any prospective Respondent having questions and comments concerning this RFP must provide them in writing to the State no later than the Written Questions &Comments Deadline detailed in the RFP Section 2, Schedule of Events.

1.6.3. Protests based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Questions & Comments Deadline.

1.7. Pre-Response Conference

A Pre-response Conference will be held at the time and date detailed in the RFP Section 2, Schedule of Events. Pre-response Conference attendance is not mandatory, and prospective Respondents may be limited to a maximum number of attendees depending upon overall attendance and space limitations.

The conference will be held at:

Bureau of TennCare
310 Great Circle Road
Nashville, TN 37243

The purpose of the conference is to discuss the RFP scope of goods or services. The State will entertain questions, however prospective Respondents must understand that the State's oral response to any question at the Pre-response Conference shall be unofficial and non-binding. Prospective Respondents must submit all questions, comments, or other concerns regarding the RFP in writing prior to the Written

Questions &Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The State will send the official response to these questions and comments to prospective Respondents from whom the State has received a Notice of Intent to respond as indicated in RFP Section 1.8 and on the date detailed in the RFP Section 2, Schedule of Events.

1.8. **Notice of Intent to Respond**

Before the Notice of Intent to Respond Deadline detailed in the RFP Section 2, Schedule of Events, prospective Respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate)
- a contact person's name and title
- the contact person's mailing address, telephone number, facsimile number, and e-mail address

A Notice of Intent to Respond creates no obligation and is not a prerequisite for submitting a response, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.

1.9. **Response Deadline**

A Respondent must ensure that the State receives a response no later than the response Deadline time and date detailed in the RFP Section 2, Schedule of Events. A response must respond, as required, to this RFP (including its attachments) as may be amended. The State will not accept late responses, and a Respondent's failure to submit a response before the deadline will result in disqualification of the response. It is the responsibility of the Respondent to ascertain any additional security requirements with respect to packaging and delivery to the State of Tennessee. Respondents should be mindful of any potential delays due to security screening procedures, weather, or other filing delays whether foreseeable or unforeseeable.

2. RFP SCHEDULE OF EVENTS

2.1. The following RFP Schedule of Events represents the State's best estimate for this RFP.

EVENT	TIME (central time zone)	DATE (all dates are state business days)
1. RFP Issued		September 28, 2015
2. Disability Accommodation Request Deadline	2:00 p.m.	October 1, 2015
3. Pre-response Conference	9:00 a.m.	October 5, 2015
4. Notice of Intent to Respond Deadline	2:00 p.m.	October 6, 2015
5. Written "Questions & Comments" Deadline	11:00 p.m.	October 9, 2015
6. State Response to Written "Questions & Comments"		October 16, 2015
7. Response Deadline	2:00 p.m.	November 4, 2015
8. State Completion of Technical Response Evaluations		November 18, 2015
9. State Opening & Scoring of Cost Proposals	2:00 p.m.	November 19, 2015
10. State Notice of Intent to Award Released and RFP Files Opened for Public Inspection	2:00 p.m.	November 20, 2015
11. End of Open File Period		December 1, 2015
12. State sends contract to Contractor for signature		December 2, 2015
13. Contractor Signature Deadline		December 7, 2015
14. Contract Start Date		January 4, 2016

2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to section 1.8).

3. RESPONSE REQUIREMENTS

3.1. Response Form

A response to this RFP must consist of two parts, a Technical Response and a Cost Proposal.

3.1.1. **Technical Response**. RFP Attachment 6.2., Technical Response & Evaluation Guide provides the specific requirements for submitting a response. This guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

NOTICE: A technical response must not include any pricing or cost information. If any pricing or cost information amounts of any type (even pricing relating to other projects) is included in any part of the technical response, the state may deem the response to be non-responsive and reject it.

3.1.1.1. A Respondent must use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.

3.1.1.2. A response should be economically prepared, with emphasis on completeness and clarity. A response, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversize exhibits are permissible) and use a 12 point font for text. All response pages must be numbered.

3.1.1.3. All information and documentation included in a Technical Response should respond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.

3.1.1.4. The State may determine a response to be non-responsive and reject it if:

a. the Respondent fails to organize and properly reference the Technical Response as required by this RFP and the RFP Attachment 6.2., Technical Response & Evaluation Guide; or

b. the Technical Response document does not appropriately respond to, address, or meet all of the requirements and response items detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide.

3.1.2. **Cost Proposal**. A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

NOTICE: If a Respondent fails to submit a cost proposal exactly as required, the State may deem the response to be non-responsive and reject it.

3.1.2.1. A Respondent must only record the proposed cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.

3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period, including any renewals or extensions.

3.1.2.3. A Respondent must sign and date the Cost Proposal.

3.1.2.4. A Respondent must submit the Cost Proposal to the State in a sealed package separate from the Technical Response (as detailed in RFP Sections 3.2.3., *et seq.*).

3.2. Response Delivery

3.2.1. A Respondent must ensure that both the original Technical Response and Cost Proposal documents meet all form and content requirements, including all required signatures, as detailed within this RFP.

3.2.2. A Respondent must submit original Technical Response and Cost Proposal documents and copies as specified below.

3.2.2.1. One (1) original Technical Response paper document labeled:

"RFP #31865-00410 TECHNICAL RESPONSE ORIGINAL"

and five (5) digital copies of the Technical Response each in the form of one (1) digital document in "PDF" format properly recorded on its own otherwise blank, standard CD-R recordable disc or USB flash drive labeled:

"RFP #31865-00410 TECHNICAL RESPONSE COPY"

The digital copies should not include copies of sealed customer references, however any other discrepancy between the paper Technical Response document and any digital copies may result in the State rejecting the proposal as non-responsive.

3.2.2.2. One (1) original Cost Proposal paper document labeled:

"RFP #31865-00410 COST PROPOSAL ORIGINAL"

and one (1) copy in the form of a digital document in "PDF/XLS" format properly recorded on separate, blank, standard CD-R recordable disc or USB flash drive labeled:

"RFP #31865-00410 COST PROPOSAL COPY"

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.

3.2.3. A Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

3.2.3.1. The Technical Response original document and digital copies must be placed in a sealed package that is clearly labeled:

"DO NOT OPEN…RFP #31865-00410 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]"

3.2.3.2. The Cost Proposal original document and digital copy must be placed in a separate, sealed package that is clearly labeled:

"DO NOT OPEN…RFP #31865-00410 COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]"

3.2.3.3. The separately, sealed Technical Response and Cost Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

"RFP #31865-00410 SEALED TECHNICAL RESPONSE& SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]"

3.2.4. A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events at the following address:

Alma Chilton, Director of Contracts
Department of Finance and Administration
Division of Health Care Finance and Administration
310 Great Circle Road
Nashville, TN 37243

3.3. **Response & Respondent Prohibitions**

3.3.1. A response must not include alternate contract terms and conditions. If a response contains such terms and conditions, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.

3.3.2. A response must not restrict the rights of the State or otherwise qualify either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal. If a response restricts the rights of the State or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.

3.3.3. A response must not propose alternative goods or services (*i.e.*, offer services different from those requested and required by this RFP) unless expressly requested in this RFP. The State may consider a response of alternative goods or services to be non-responsive and reject it.

3.3.4. A Cost Proposal must be prepared and arrived at independently and must not involve any collusion between Respondents. The State will reject any Cost Proposal that involves collusion, consultation, communication, or agreement between Respondents. Regardless of the time of detection, the State will consider any such actions to be grounds for response rejection or contract termination.

3.3.5. A Respondent must not provide, for consideration in this RFP process or subsequent contract negotiations, any information that the Respondent knew or should have known was materially incorrect. If the State determines that a Respondent has provided such incorrect information, the State will deem the Response non-responsive and reject it.

3.3.6. A Respondent must not submit more than one Technical Response and one Cost Proposal in response to this RFP, except as expressly requested by the State in this RFP. If a Respondent submits more than one Technical Response or more than one Cost Proposal, the State will deem all of the responses non-responsive and reject them.

3.3.7. A Respondent must not submit a response as a prime contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same subcontractor as a part

of their responses (provided that the subcontractor does not also submit a response as a prime contractor).

3.3.8. The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this RFP:

3.3.8.1. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;

3.3.8.2. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and

3.3.8.3. A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been, a State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.

3.4. Response Errors & Revisions

A Respondent is responsible for any and all response errors or omissions. A Respondent will not be allowed to alter or revise response documents after the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

3.5. Response Withdrawal

A Respondent may withdraw a submitted response at any time before the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Respondent representative. After withdrawing a response, a Respondent may submit another response at any time before the Response Deadline. After the Response Deadline, a Respondent may only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the Respondent.

3.6. Additional Services

If a response offers goods or services in addition to those required by and described in this RFP, the State, at its sole discretion, may add such services to the contract awarded as a result of this RFP. Notwithstanding the foregoing, a Respondent must not propose any additional cost amounts or rates for additional goods or services. Regardless of any additional services offered in a response, the Respondent's Cost Proposal must only record the proposed cost as required in this RFP and must not record any other rates, amounts, or information.

NOTICE: If a Respondent fails to submit a Cost Proposal exactly as required, the State may deem the response non-responsive and reject it.

3.7. Response Preparation Costs

The State will <u>not</u> pay any costs associated with the preparation, submittal, or presentation of any response.

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential Respondents to meet the response deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section 1.8). A response must address the final RFP (including its attachments) as amended.

4.2. RFP Cancellation

The State reserves the right, at its sole discretion, to cancel the RFP or to cancel and reissue this RFP in accordance with applicable laws and regulations.

4.3. State Right of Rejection

4.3.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all responses.

4.3.2. The State may deem as non-responsive and reject any response that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, the State reserves the right to waive, at its sole discretion, minor variances from full compliance with this RFP. If the State waives variances in a response, such waiver shall not modify the RFP requirements or excuse the Respondent from full compliance, and the State may hold any resulting Contractor to strict compliance with this RFP.

4.4. Assignment & Subcontracting

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

4.4.2. If a Respondent intends to use subcontractors, the response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section B, General Qualifications &Experience Item B.14.).

4.4.3. Subcontractors identified within a response to this RFP will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.

4.4.4. After contract award, a Contractor may only substitute an approved subcontractor at the discretion of the State and with the State's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Respondent who is awarded a contract pursuant to this RFP will be the prime contractor and will be responsible for all work under the Contract.

4.5. Right to Refuse Personnel or Subcontractors

The State reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor or a subcontractor providing goods or services in the performance of a contract resulting from this RFP. The State will document in writing the reason(s) for any rejection of personnel.

4.6. Insurance

From time-to-time, the State may require the awarded Contractor to provide a Certificate of Insurance issued by an insurance company licensed or authorized to provide insurance in the State of Tennessee. Each Certificate of Insurance shall indicate current insurance coverages meeting minimum requirements as may be specified by this RFP. A failure to provide a current, Certificate of Insurance will be considered a material breach and grounds for contract termination.

4.7. Professional Licensure and Department of Revenue Registration

4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as a part of a response to this RFP, shall be properly licensed to render such opinions.

4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any Respondent to submit evidence of proper licensure.

4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the Respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. For purposes of this registration requirement, the Department of Revenue may be contacted at: TN.Revenue@tn.gov.

4.8. Disclosure of Response Contents

4.8.1. All materials submitted to the State in response to this RFP shall become the property of the State of Tennessee. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.

4.8.2. The State will hold all response information, including both technical and cost information, in confidence during the evaluation process. Notwithstanding the foregoing, a list of actual Respondents submitting timely responses may be available to the public, upon request, after technical responses are opened.

4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with *Tennessee Code Annotated*, Section 10-7-504(a)(7).

4.9. Contract Approval and Contract Payments

4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.

4.9.2. This RFP and its contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Respondent with the apparent best-evaluated response or any other Respondent. State obligations pursuant to a contract award shall commence only after the contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.

4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.

4.9.3.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract start date or after the Contract end date.

4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).

4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

4.10. **Contractor Performance**

The Contractor who is awarded a contract will be responsible for the delivery of all acceptable goods or the satisfactory completion of all services set out in this RFP (including attachments) as may be amended. All goods or services are subject to inspection and evaluation by the State. The State will employ all reasonable means to ensure that goods delivered or services rendered are in compliance with the Contract, and the Contractor must cooperate with such efforts.

4.11. **Contract Amendment**

After contract award, the State may request the Contractor to deliver additional goods or perform additional services within the general scope of the contract and this RFP, but beyond the specified scope of service, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional goods or services. The Contractor must respond to the State with a time schedule for delivering the additional goods or accomplishing the additional services based on the compensable units included in the Contractor's response to this RFP. If the State and the Contractor reach an agreement regarding the goods or services and associated compensation, such agreement must be effected by means of a contract amendment. Further, any such amendment requiring additional goods or services must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes, rules, policies and procedures of the State of Tennessee. The Contractor must not provide additional goods or render additional services until the State has issued a written contract amendment with all required approvals.

4.12. **Severability**

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the State and Respondents will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

4.13. **Next Ranked Respondent**

The State reserves the right to initiate negotiations with the next ranked Respondent should the State cease doing business with any Respondent selected via this RFP process.

5. EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

The State will consider qualifications, experience, technical approach, and cost in the evaluation of responses and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each response deemed by the State to be responsive.

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
General Qualifications & Experience (refer to RFP Attachment 6.2., Section B)	**30**
Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C)	**40**
Cost Proposal (refer to RFP Attachment 6.3.)	**30**

5.2. Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP not necessarily to the Respondent offering the lowest cost, but rather to the Respondent deemed by the State to be responsive and responsible who offers the best combination of attributes based upon the evaluation criteria. ("Responsive Respondent" is defined as a Respondent that has submitted a response that conforms in all material respects to the RFP. "Responsible Respondent" is defined as a Respondent that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Response Evaluation.** The Solicitation Coordinator and the Proposal Evaluation Team (consisting of three (3) or more State employees) will use the RFP Attachment 6.2., Technical Response & Evaluation Guide to manage the Technical Response Evaluation and maintain evaluation records.

5.2.1.1. The State reserves the right, at its sole discretion, to request Respondent clarification of a Technical Response or to conduct clarification discussions with any or all Respondents. Any such clarification or discussion will be limited to specific sections of the response identified by the State. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.

5.2.1.2. The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A— Mandatory Requirements. If the Solicitation Coordinator determines that a response failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the response and document the team's determination of whether:

a. the response adequately meets RFP requirements for further evaluation;

b. the State will request clarifications or corrections for consideration prior to further evaluation; or,

c. the State will determine the response to be non-responsive to the RFP and reject it.

5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Response (that is responsive to the RFP) against the evaluation criteria in this RFP,

and will score each in accordance with the RFP Attachment 6.2., Technical Response & Evaluation Guide.

5.2.1.4. For each response evaluated, the Solicitation Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Response & Evaluation Guide, and record each average as the response score for the respective Technical Response section.

5.2.1.5. Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Response Evaluation record and any other available information pertinent to whether or not each Respondent is responsive and responsible. If the Proposal Evaluation Team identifies any Respondent that does not to meet the responsive and responsible thresholds such that the team would not recommend the Respondent for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.

5.2.2. **Cost Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Cost Proposal of each Respondent deemed by the State to be responsive and responsible and calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

5.2.3. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores and the Cost Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.5., Score Summary Matrix).

5.2.4 **Clarifications and Negotiations.** The State reserves the right to award a contract on the basis of initial responses received, therefore, each response shall contain the Respondent's best terms and conditions from a technical and cost standpoint. The State reserves the right to conduct clarifications or negotiations with one or more Respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.

5.2.5 **Clarifications.** The State may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those issues identified during one or multiple clarification rounds. Each clarification sought by the State may be unique to an individual Respondent, provided that the process is conducted in a manner that supports fairness in response improvement.

5.2.6 **Negotiations.** The State may elect to negotiate with one or more Respondents by requesting revised responses, negotiating costs, or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds or no negotiations at all.

5.2.7 **Cost Negotiations.** All Respondents, selected for negotiation by the State, will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other goods or services level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual Respondent pricing. During target price negotiations, Respondents are not obligated to reduce their pricing to target prices, but no Respondent is allowed to increase prices.

5.2.8 If the State determines that it is unable to successfully negotiate a contract with the apparent best evaluated Respondent, the State reserves the right to bypass the apparent best evaluated Respondent and enter into contract negotiations with the next apparent best evaluated Respondent.

5.3. Contract Award Process

5.3.1 The Solicitation Coordinator will submit the Proposal Evaluation Team determinations and scores to the head of the procuring agency for consideration along with any other relevant information that might be available and pertinent to contract award.

5.3.2. The procuring agency head will determine the apparent best-evaluated Response. To effect a contract award to a Respondent other than the one receiving the highest evaluation process score, the head of the procuring agency must provide written justification and obtain the written approval of the Chief Procurement Officer and the Comptroller of the Treasury.

5.3.3. The State will issue a Notice of Intent to Award identifying the apparent best-evaluated response and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

NOTICE: The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the apparent best-evaluated Respondent or any other Respondent.

5.3.4. The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by the State pursuant to this RFP. The contract shall be substantially the same as the RFP Attachment 6.6., *Pro Forma* Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the Respondent fails to provide the signed contract by this deadline, the State may determine that the Respondent is non-responsive to this RFP and reject the response.

5.3.5. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited negotiation prior to contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State's best interests, PROVIDED THAT such revision of terms and conditions or performance requirements shall NOT materially affect the basis of response evaluations or negatively impact the competitive nature of the RFP and contractor selection process.

5.3.6. If the State determines that a response is non-responsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.

RFP ATTACHMENT 6.1.

RFP # 31865-00410 STATEMENT OF CERTIFICATIONS AND ASSURANCES

The Respondent must sign and complete the Statement of Certifications and Assurances below as required, and it must be included in the Technical Response (as required by RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A, Item A.1.).

The Respondent does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Respondent will comply with all of the provisions and requirements of the RFP.
2. The Respondent will provide all services as defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract for the total contract period.
3. The Respondent, except as otherwise provided in this RFP, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., *Pro Forma* Contract.
4. The Respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the contract.
5. The Respondent will comply with:
   (a) the laws of the State of Tennessee;
   (b) Title VI of the federal Civil Rights Act of 1964;
   (c) Title IX of the federal Education Amendments Act of 1972;
   (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
   (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
7. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount 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 Respondent in connection with this RFP or any resulting contract.
9. Both the Technical Response and the Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.

By signing this Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Respondent (if an individual) or the Respondent's company *President* or *Chief Executive Officer*, this document <u>must</u> attach evidence showing the individual's authority to bind the Respondent.

<u>DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE RESPONDENT</u>

SIGNATURE: _____

PRINTED NAME & TITLE: _____

DATE: _____

RESPONDENT LEGAL ENTITY NAME: _____

RESPONDENT FEDERAL EMPLOYER IDENTIFICATION NUMBER (or SSN): _____

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION A: MANDATORY REQUIREMENTS. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review the response to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the response and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFP requirements.

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	**Item Ref.**	**Section A— Mandatory Requirement Items**	**Pass/Fail**
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., *et. seq.*).	
		The Technical Response must NOT contain cost or pricing information of any type.	
		The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a sub-contractor) (refer to RFP Section 3.3.).	
	A.1.	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (*e.g.*, employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide a current bank reference indicating that the Respondent's business relationship with the financial institution is in positive standing. Such reference must be written in the form of a standard business letter, signed, and dated within the past three (3) months.	
	A.4.	Provide two current positive credit references from vendors with which the Respondent has done business written in the form of standard business letters, signed, and dated within the past three (3) months.	
	A.5.	Provide an official document or letter from an accredited credit bureau, verified and dated within the last three (3) months and indicating a satisfactory credit rating for the Respondent (NOTE: A credit bureau report	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	**Item Ref.**	**Section A— Mandatory Requirement Items**	**Pass/Fail**
		number without the full report is insufficient and will not be considered responsive.)	
	A.6.	Provide written attestation that the Respondent does 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 Act.	
	A.7.	Provide written attestation regarding respondent's capability to provide the following solution current installations. If the respondent cannot attest in the affirmative to each of the following requirements regarding capabilities, it will result in a "Fail" and the respondent will be determined to be "disqualified". a. Does the respondent have at least fifteen (15) customers with 500,000 members, each utilizing its solution: b. Has the respondent successfully worked with another state on a statewide installation of its solution? c. Has the respondent successfully implemented its solution in a multiple payer system? d. Is the respondent able to process ADT transactions in near real time (at least every half hour)? e. Does respondent's solution have the capability to intake 3rd-party patient attribution? f. Does respondent's solution have the capability to interface with Payer portals? g. Does respondent's solution offer Care Team workload balancing and performance reporting so that a Care Team Manager could track team and individual performance? h. Does respondent's solution offer a fully federated, role-based security model? i. Is respondent's ecosystem/product multi-tenant?	
State Use – Solicitation Coordinator Signature, Printed Name & Date:			

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION B: GENERAL QUALIFICATIONS & EXPERIENCE. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below. Proposal Evaluation Team members will independently evaluate and assign one score for all responses to Section B— General Qualifications & Experience Items.

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	**Item Ref.**	**Section B— General Qualifications & Experience Items**
	B.1.	Detail the name, e-mail address, mailing address, telephone number, and facsimile number of the person the State should contact regarding the response.
	B.2.	Describe the Respondent's form of business (*i.e.*, individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).
	B.3.	Detail the number of years the Respondent has been in business.
	B.4.	Briefly describe how long the Respondent has been providing the goods or services required by this RFP.
	B.5.	Describe the Respondent's number of employees, client base, and location of offices.
	B.6.	Provide a statement of whether there have been any mergers, acquisitions, or change of control of the Respondent within the last ten (10) years. If so, include an explanation providing relevant details.
	B.7.	Provide a statement of whether the Respondent or, to the Respondent's knowledge, any of the Respondent's employees, agents, independent contractors, or subcontractors, involved in the delivery of goods or performance of services on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled *nolo contendere* to any felony. If so, include an explanation providing relevant details.
	B.8.	Provide a statement of whether, in the last ten (10) years, the Respondent has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.
	B.9.	Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Respondent's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Respondent's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.
	B.10.	Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	**Item Ref.**	**Section B— General Qualifications & Experience Items**
		Respondent to submit proof of license for each person or entity that renders such opinions.
	B.11.	Provide a brief, descriptive statement detailing evidence of the Respondent's ability to deliver the goods or services sought under this RFP (*e.g.*, prior experience, training, certifications, resources, program and quality management systems, *etc*.).
	B.12.	Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to deliver the goods or services required by this RFP.
	B.13.	Provide a personnel roster listing the names of key people who the Respondent will assign to meet the Respondent's requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each of the people listed. The resumes must detail the individual's title, education, current position with the Respondent, and employment history.
	B.14.	Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFP, and if so, detail: (a) the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each; (b) a description of the scope and portions of the goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; <u>and</u> (c) a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFP.
	B.15.	Provide documentation of the Respondent's commitment to diversity as represented by the following: (a) <u>Business Strategy</u>. Provide a description of the Respondent's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises. Please also include a list of the Respondent's certifications as a diversity business, if applicable. (b) <u>Business Relationships</u>. Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, Tennessee service-disabled veterans and small business enterprises. Please include the following information: (i) contract description; (ii) contractor name and ownership characteristics (*i.e.*, ethnicity, gender, Tennessee service-disabled); (iii) contractor contact name and telephone number. (c) <u>Estimated Participation</u>. Provide an estimated level of participation by business enterprises owned by minorities, women, Tennessee service-disabled veterans, and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information: (i) a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be dedicated to business with subcontractors and supply contractors having such ownership characteristics only and **DO <u>NOT</u> INCLUDE DOLLAR AMOUNTS**); (ii) anticipated goods or services contract descriptions; (iii) names and ownership characteristics (i.e., ethnicity, gender, Tennessee service-disabled veterans) of anticipated subcontractors and supply contractors.

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	**Item Ref.**	**Section B— General Qualifications & Experience Items**
		NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9265 for more information. (d) Workforce. Provide the percentage of the Respondent's total current employees by ethnicity and gender. NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and subcontractors. Response evaluations will recognize the positive qualifications and experience of a Respondent that does business with enterprises owned by minorities, women, Tennessee service-disabled veterans and small business enterprises and who offer a diverse workforce.
	B.16.	Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts: (a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract; (b) the procuring State agency name; (c) a brief description of the contract's scope of services; (d) the contract period; and (e) the contract number. NOTES: ▪ Current or prior contracts with the State are not a prerequisite and are not required for the maximum evaluation score, and the existence of such contracts with the State will not automatically result in the addition or deduction of evaluation points. ▪ Each evaluator will generally consider the results of inquiries by the State regarding all contracts noted.
	B.17.	Provide customer references from individuals who are not current or former State employees for projects similar to the goods or services sought under this RFP and which represent: ▪ two (2) accounts Respondent currently services that are similar in size to the State; and ▪ three (3) completed projects. References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The standard reference questionnaire, which must be used and completed, is provided at RFP Attachment 6.4. References that are not completed as required may be deemed non-responsive and may not be considered. The Respondent will be solely responsible for obtaining fully completed reference questionnaires and including them in the sealed Technical Response. In order to obtain and submit the completed reference questionnaires follow the process below. (a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference. (b) Send a reference questionnaire and new, standard #10 envelope to each reference. (c) Instruct the reference to: (i) complete the reference questionnaire; (ii) sign and date the completed reference questionnaire; (iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	**Item Ref.**	**Section B— General Qualifications & Experience Items**
		(iv) sign his or her name in ink across the sealed portion of the envelope; and (v) return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required references in time to include them within the sealed Technical Response). (d) Do NOT open the sealed references upon receipt. (e) Enclose all sealed reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required. NOTES: ▪ The State will not accept late references or references submitted by any means other than that which is described above, and each reference questionnaire submitted must be completed as required. ▪ The State will not review more than the number of required references indicated above. ▪ While the State will base its reference check on the contents of the sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references. ▪ The State is under no obligation to clarify any reference information.
	B.18.	Provide a statement and any relevant details addressing whether the Respondent is any of the following: (a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency; (b) has within the past three (3) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence 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) is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; and (d) has within a three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.
	B.19.	Proposer shall describe how its background and experience will enable it to address the requirements of the applicable federal and state civil rights laws. Compliance with federal civil rights requirements applies to federally funded programs, services, or activities offered through electronic and information technology. Respondent should provide an example of its Section 508 or WCAG 2.0AA accessibility work on electronic and information technology projects, including creating accessibility project plans and providing staff training and creating accessibility governance plans.
SCORE *(for all Section B—Qualifications & Experience Items above)*: *(maximum possible score = 30)*		
State Use – Evaluator Identification:		

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Respondent must address all items (below) and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

0 = little value ***1 = poor*** ***2 = fair*** ***3 = satisfactory*** ***4 = good*** ***5 = excellent***

The Solicitation Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item's Raw Weighted Score for purposes of calculating the section score as indicated.

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	**Item Ref.**	**Section C— Technical Qualifications, Experience & Approach Items**	**Item Score**	**Evaluation Factor**	**Raw Weighted Score**
	C.1.	Provide a narrative that illustrates the Respondent's general approach and plans for accomplishing the work outlined in the Scope of work detailed in the Pro Forma Section A. The narrative should prominently feature the proposer's solutions functions and features. It should also include a timeline for testing, piloting, and implementing the solutions, and personnel needs to complete each stage. Outline your product's interfaces, functionalities, and features including but not limited to (All features and functions mentioned will be assumed to be in product provided to State): a. Itemize all HIE engine integration projects that are currently in production (vendor, product, version). (e.g., Intersystems, Orion, dbMotion, Axolytl) b. Itemize all currently supported LIS systems (vendor, product, version) c. Itemize all currently supported RIS systems (vendor, product, version) d. Overview of the user interfaces e. Overview of auto-registries f. Overview of risk score assignment g. Overview of CRM functionality (e.g., call tracking, campaign management) h. Overview of device support (e.g., iPad, smartphones)		**25**	
	C.2.	Please provide (redacted, as appropriate) samples of your project management (PMO), product development, and IT architecture documentation.		**5**	

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	**Item Ref.**	**Section C— Technical Qualifications, Experience & Approach Items**	**Item Score**	**Evaluation Factor**	**Raw Weighted Score**
		These should include at a minimum: a. Sample of PMO templates (e.g., change request, issue mgmt., status report) b. Sample of implementation testing plan (e.g., tests, frequency, results reporting). c. Overview of your disaster recovery (DR) model (e.g., environment failover, resolution SoP). How frequently do you test DR? Do you have 3rd party DR audit certification? d. Overview of your federated security management model (e.g., practices SMEs maintain intra-practice security access). Where have you experienced problems with this model? e. Overview of general refresh frequency for CareMgmt functionality (e.g., risk scoring & stratification, registry assignment, gaps engine execution, care plan generation)? What is the shortest refresh frequency that you can realistically support (e.g., Daily? Weekly?)? f. Overview of client breach notification SoP. Have you suffered any significant customer data breaches? If so, please overview breach causation and correction. g. Overview of standard downtime model (e.g., patches, releases, infrastructure upgrades). Have you ever had to back out a release? Do you typically have any other reasons for planned outages? Across the board, what has been your typical uptime metrics? h. Overview of cloud/installed system/data residency model. i. Overview of system architecture and technology road map. j. Overview of technology environment model (e.g., PROD, Test, Train, etc.). How many regions do your customers/your cloud typically setup? How is migration managed? k. Overview of comprehensive browser release support (e.g., IE version.patch, Firefox version, patch, etc.) l. Itemize all 3rd party COTS software that is			

RESPONDENT LEGAL ENTITY NAME:	

Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		bundled into your product (e.g., visualization tools, reporting, communications, DB) including vendor, product, version, and cost. m. Overview of support for data intake and integration for home clinical devices (e.g., insulin monitors) and data hubs (e.g., Apple HealthKit). n. Overview of database(s) supported (vendor, version, cost).			
	C.3.	Describe your experience working with other states and private insurance companies. a. Which states have you worked with? Describe projects goals, deliverables, and outcomes. b. Which insurance companies have you worked with? Describe projects goals, size, deliverables, and outcomes. c. Have you worked with a state Medicaid program? Describe projects goals, deliverables, size, and outcomes. d. Have you worked with public-private partnerships? Describe the size, deliverables, and outcomes. e. Have you ever been terminated from a contract by one of the key TN Medicaid payers: United Health Group, AmeriGroup, or Blue Cross Blue Shield of TN? f. Have you ever been terminated by any other significant TN payer? (e.g., Humana, Cigna)		**10**	
	C.4.	Overview your data ETL process, both claims, Rx, and clinical datasets. Please include representative ETL SoP documentation and an overview of tools you leverage for ETL. Competency must be proven with respect to data ingestion and usage.		**5**	
	C.5.	Provide an overview of your standard clinical transactions, nationally recognized measures, and care management protocols as follows: a. Provide a roster of national industry and standards bodies (e.g., CommonWell, HL7) you belong to or support. b. How do you maintain product compliance with national standards for standard clinical		**10**	

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	**Item Ref.**	**Section C— Technical Qualifications, Experience & Approach Items**	**Item Score**	**Evaluation Factor**	**Raw Weighted Score**
		transactions (e.g., ADT, CCD), nationally recognized measures (e.g., NCQA-HEDIS, CMS-STAR), and care management protocols (e.g., AHRQ-National Guideline Clearinghouse)? c. How frequently do you update your solution to reflect current standards? d. What ability does the solution have for users such as TennCare or a TennCare servicing MCO to enter new measures or standards?			
	C.6.	Overview your roadmap for real-time processing for standard clinical transactions (e.g., ADT arriving real-time from a facility ED), and downstream notification of appropriate Care Team personnel. Do you currently have any customers utilizing real-time ADTs? If so, what has their experience been (functionality, operations, cost-savings)?		**5**	
	C.7.	Describe a narrative for the following examples. a. A newly attributed member intakes with a high risk score into the diabetic registry. Overview your workflow through the assignment of various clinically-relevant activities including: i. Initial CareManager notification and PCP review, ii. Auto-generation, and CareTeam maintenance of a care plan, iii. The usage of various care plan tracking modalities (e.g., calendaring, alerts, patient TXT, etc.), iv. CareTeam performance analytics (e.g., patient throughput, cost reduction and quality improvement). b. Overview the mechanics of CareTeam maintenance of a care plan including: i. Activity closure for compliance, ii. Closure for clinical irrelevance (e.g., mammogram on mastectomy patient), iii. Activity re-prioritization and modification,		**15**	

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	**Item Ref.**	**Section C— Technical Qualifications, Experience & Approach Items**	**Item Score**	**Evaluation Factor**	**Raw Weighted Score**
		iv. Generation of EMR notification of activities to be performed. c. Overview the generation and execution of a patient campaign. For example, a flu vaccine program to outreach seniors and pediatric patients. Ensure you show: i. Patient correspondence including multi-lingual and multi-modal (paper, eComm, and IVR) capabilities, ii. Notes regarding execution of campaign activities, iii. Execution closure of activities, iv. Management of, and metrics against, campaign performance over time.			
	C.8.	Please describe how your solution allows for quality control and monitoring. a. Overview how a CareTeam manager would: i. Oversee and administer workload delegation amongst CareTeam members ii. Monitor CareTeam performance. b. Do you have a de-identified cross-customer dataset available for analytical/research/comparative performance purposes? c. Do you have any customers benchmarking their delivery systems performance to external entities? d. Explain the functionalities your product has for tracking user performance.		**5**	
	C.9.	Describe your roll out, customer service, and user support capabilities. a. Overview the process a site would go through if they had a user issue. b. What are your current user support volumes and staffing? If these are contracted, please list contractor name and term of contract. c. What modalities of support do you offer (chat, phone, email, etc.)? If these are contracted, please list contractor name and term of contract. d. What training do you provide users? How is this		**10**	

RESPONDENT LEGAL ENTITY NAME:	

Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
		training delivered? e. How are users informed of system and feature updates? f. Provide an overview of the roll out at a new site. g. Describe how you envision rolling out service to be statewide by 2017.			
	C.10.	Please outline your testing and security plan. a. Please describe your testing coordination b. Stress tests c. Testing environment d. Use of 3rd party testers e. What security protocols do you have in place? f. Describe how you test for breaches and your process and timeline for addressing breaches g. Illustrate a defect lifecycle		**10**	
The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.					

Total Raw Weighted Score / **Maximum Possible Raw Weighted Score** *(i.e., 5 x the sum of item weights above)*	**X 40** *(maximum possible score)*	**= SCORE:**	

State Use – Evaluator Identification:

State Use – Solicitation Coordinator Signature, Printed Name & Date:

COST PROPOSAL & SCORING GUIDE

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for goods or services defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

NOTICE: The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Respondent.

Notwithstanding the cost items herein, pursuant to the second paragraph of the *Pro Forma* Contract section C.1. (refer to RFP Attachment 6.6.), "The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract."

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the Respondent.

RESPONDENT SIGNATURE:	
PRINTED NAME & TITLE:	
DATE:	

RESPONDENT LEGAL ENTITY NAME:	

Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	**Evaluation Cost** (cost x factor)
Completion of Project Management Plan (A.35)	$ _____	1	
Provision of Standard Operating Procedures (A.34)	$ _____	1	
Completion of Development and Implementation Plan (A.36)	$ _____	1	
Pass ADT Test (A.30)	$ _____	1	
Pass Data Management Test (A.31)	$ _____	1	
Pass Production Load Test (A.32)	$ _____	1	
Pass Functionality Test (A.33)	$ _____	1	
Expansion Plan Submitted (A.37)	$ _____	1	

RFP ATTACHMENT 6.3. (continued)

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	**Proposed Cost**	**State Use Only**	
		Evaluation Factor	**Evaluation Cost** (cost x factor)
Statewide Expansion and Use (A.42)	**$** _____ **/ per member per month**	10,000	
EVALUATION COST AMOUNT (sum of evaluation costs above)**:** The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.			
lowest evaluation cost amount from all proposals / **evaluation cost amount being evaluated**	**x 30** **(maximum section score)**	**= SCORE:**	
State Use – Solicitation Coordinator Signature, Printed Name & Date:			

RFP ATTACHMENT 6.4.

REFERENCE QUESTIONNAIRE

The standard reference questionnaire provided on the following pages of this attachment MUST be completed by all individuals offering a reference for the Respondent.

The Respondent will be solely responsible for obtaining completed reference questionnaires as required (refer to RFP Attachment 6.2., Technical Response & Evaluation Guide, Section B, Item B.17.), and for enclosing the sealed reference envelopes within the Respondent's Technical Response.

RFP #31865-00410 REFERENCE QUESTIONNAIRE

REFERENCE SUBJECT: RESPONDENT NAME (completed by Respondent before reference is requested)

The "reference subject" specified above, intends to submit a response to the State of Tennessee in response to the Request for Proposals (RFP) indicated. As a part of such response, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire;
- seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
- sign in ink across the sealed portion of the envelope; and
- return the sealed envelope containing the completed questionnaire directly to the reference subject.

(1) What is the name of the individual, company, organization, or entity responding to this reference questionnaire?

(2) Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

(3) What goods or services does/did the reference subject provide to your company or organization?

(4) What is the level of your overall satisfaction with the reference subject as a vendor of the goods or services described above?

Please respond by circling the appropriate number on the scale below.

	1	2	3	4	5	
least satisfied						**most satisfied**

RFP #31865-00410 REFERENCE QUESTIONNAIRE — PAGE 2

If you circled 3 or less above, what could the reference subject have done to improve that rating?

(5) If the goods or services that the reference subject provided to your company or organization are completed, were the goods or services provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.

(6) If the reference subject is still providing goods or services to your company or organization, are these goods or services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.

(7) How satisfied are you with the reference subject's ability to perform based on your expectations and according to the contractual arrangements?

(8) In what areas of goods or service delivery does/did the reference subject excel?

(9) In what areas of goods or service delivery does/did the reference subject fall short?

(10) What is the level of your satisfaction with the reference subject's project management structures, processes, and personnel?

Please respond by circling the appropriate number on the scale below.

	1	2	3	4	5	
least satisfied						**most satisfied**

What, if any, comments do you have regarding the score selected above?

RFP #31865-00410 REFERENCE QUESTIONNAIRE — PAGE 3

(11) Considering the staff assigned by the reference subject to deliver the goods or services described in response to question 3 above, how satisfied are you with the technical abilities, professionalism, and interpersonal skills of the individuals assigned?

Please respond by circling the appropriate number on the scale below.

	1	2	3	4	5	
least satisfied						**most satisfied**

What, if any, comments do you have regarding the score selected above?

(12) Would you contract again with the reference subject for the same or similar goods or services?

Please respond by circling the appropriate number on the scale below.

	1	2	3	4	5	
least satisfied						**most satisfied**

What, if any, comments do you have regarding the score selected above?

REFERENCE SIGNATURE:
(by the individual completing this request for reference information)

_____
(must be the same as the signature across the envelope seal)

DATE: _____

RFP ATTACHMENT 6.5.

SCORE SUMMARY MATRIX

	RESPONDENT NAME		*RESPONDENT NAME*		*RESPONDENT NAME*	
GENERAL QUALIFICATIONS & EXPERIENCE **(maximum: 30)**						
EVALUATOR NAME						
EVALUATOR NAME						
REPEAT AS NECESSARY						
	AVERAGE:		**AVERAGE:**		**AVERAGE:**	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH **(maximum: 40)**						
EVALUATOR NAME						
EVALUATOR NAME						
REPEAT AS NECESSARY						
	AVERAGE:		**AVERAGE:**		**AVERAGE:**	
COST PROPOSAL **(maximum 30)**	**SCORE:**		**SCORE:**		**SCORE:**	
TOTAL RESPONSE EVALUATION SCORE: **(maximum: 100)**						

Solicitation Coordinator Signature, Printed Name & Date:

RFP #31865-00410 *PRO FORMA* CONTRACT

The *Pro Forma* Contract detailed in following pages of this exhibit contains some "blanks" (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF HEATLH CARE FINANCE AND ADMINISTRATION
CONTRACTOR NAME

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 Contractor Legal Entity Name, hereinafter referred to as the "Contractor," is to provide and implement an off the shelf care coordination tool, as defined in the "SCOPE OF SERVICES." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.
Contractor Place of Incorporation or Organization: Location
Contractor Edison Registration ID # Number

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract. Definitions and Acronyms relative to this contract are located in Attachment C.

A.2. The Contractor shall, in consultation with the State and TennCare Managed Care Organizations (MCOs), provide and implement an Off the Shelf Solution (Solution) with customizations that allows health care providers the ability to coordinate patients as outlined in this scope of work across multiple payers, plan types including Medicaid, Medicare, and Commercial plans. The primary use of this tool in the first phase is to enhance transitions of care, and potential future expansion to leverage this tool to enhance care coordination and management across the State's Medicaid enterprise. The Solution shall:

a. Receive ADT feed (Admission, Discharge, and Transfer data) from multiple sources, process the information, produce risk score, prioritize necessary actions, and produce Care Plans based on Clinical Standards;

b. Allow users to track completion of tasks attributed to the Care Plans and patient needs, and allow for scheduling of future tasks;

c. Utilize eCommunication to foster greater coordination across the Care Team; and

d. Support the work of both Patient-Centered Medical Home and Health Home care models.

A.3. The Contractor shall provide a Solution that obtains and utilizes information from multiple sources and systems. The Solution shall intake and utilize:

a. Standard ADT (Admission, Discharge, and Transfer) transactions;

b. CCD (Continuity of Care Document) transaction;

c. Transition-of-Care transactions;

d. Prescription(Rx) dataset from the TennCare Pharmacy Benefits Manager (PBM) contractor in standard format(s) such as RxNorm and NCPDP; and

e. Lab datasets from national/regional lab vendors in standard format(s) such as LOINC; Medical Claims.

A.4. The Contractor shall provide a Solution that interfaces with each of the following:

a. IBM Initiate Master Patient Index (MPI) engine;

b. IBM Initiate Master Provider Directory (MPD) engine;

c. Transaction Manager Clinical Knowledge Pack transaction engine;

d. Third party risk engine;

e. IVR systems for operationalizing PopHealth campaigns;

f. COTS (Commercial Off The Shelf) visualization tools (e.g., Qlik, Tableau) for analytics;

g. COTS ambulatory practice scheduling engines;

h. 2014 (and future updates) MU2-certified Ambulatory practice and facility EMRs;

i. Third party quality/care protocol engines (e.g., Milliman, InterQual);

j. Each MCO's CRM engine, including but not limited to:

(1) Clinical Care Advance (Care Compass);
(2) CSP FACETS;
(3) Advocate Resource Tool (ART); and
(4) Agent Workspace; and

k. Each MCO's UM/Auth engine, including but not limited to:

(1) UM Platform/EDI gateway;
(2) Facets;
(3) Macess;
(4) Member 360;
(5) Care Advance; and
(6) Auto-Auth.

A.5. The Contractor shall provide a Solution that supports Single Sign On with third party portals, including, but not limited to:

a. TennCare Navigation portal; and
b. MCOs' provider portals.

A.6. The Contractor shall provide a Solution that intakes, processes, and triages facility ADTs via HL7, and notifies appropriate Care Team members for follow-up action. The Solution shall:

a. Maintain connections with Navigation Portal and Transaction Manager;

b. Receive data feeds in near real-time from Transaction Manager Clinical Knowledge Pack transaction hub, acknowledge receipt of these feeds, and parse ADTs for use in the Solution;

c. Triage facility ADTs in near real-time, and notify appropriate Care Team members for follow-up action based upon PCP attribution and applicable Care Team assignments;

d. Determine ADT time-sensitivity, including, but not limited to, the following variables:

(1) Emergency department visits versus standard admissions;
(2) Facility re-admits;
(3) Discharges; and
(4) Transfers; and

e. Accept, process, and transmit the discharge summary of care information from hospitals.

A.7. The Contractor shall provide a Solution that intakes third party PCP (Primary Care Provider) attribution assignment from each MCO or participating commercial payer or centralized system. The Solution shall:

a. Interface with MCO attribution files;

b. Allow for updates to the attribution assignment based upon MCO-defined rules, and return acknowledgement to the sending MCO; and

c. Include a field that indicates which members are in a pay for performance program, and allow for capture and tracking of program attributes.

A.8. The Contractor shall provide a Solution that processes multiple patient case types, including behavioral health, medical, and social and supports patient care constructs, including but not limited to, PCMH and Health Home. The Solution shall:

a. Determine Care Plan escalation, moving up the priority of an action or patient in the task list, by both MCO and Care Manager defined rules that include, but are not limited to, the following escalation criteria as defined by HCFA:

(1) criticality;
(2) non-compliance;
(3) cost thresholds; and
(4) change of health circumstances; and

b. Provide a 360 degree patient view including:

(1) Claims datasets;
(2) Clinical datasets;
(3) Rx datasets; and
(4) Combined claims/clinical datasets.

A.9. The Contractor shall provide a Solution that allows:

a. Users to update patient demographics, consistent with security provisions;

b. Role-based patient release for access to sensitive information;

c. Identification and sending of patient information to a patient health delegate;

d. Multiple patient contact demographics, and identification of contact preferences, including, at a minimum, the following:

(1) Three (3) physical addresses;
(2) Three (3) email addresses;
(3) Three (3) telephone numbers;

(4) Health delegate election, identification, and contact information;
(5) Demographic information including age and ethnicity;
(6) Identification of patient communication preferences; and
(7) Emergency contact information; and

e. Multi-modal member/family searches, which shall include, but not be limited to:

(1) Name;
(2) Birthdate;
(3) Location;
(4) Demographic data: including age, ethnicity, gender; and
(5) Health situation, including but not limited to, health diagnosis, family members' health diagnosis, category of patient such as children with special health care needs.

A.10. The Contractor shall provide a Solution that maintains and tracks Clinical Standards. These Clinical Standards are the prescribed recommendation of care for a given condition from a nationally recognized organization, such as the American Academy Pediatrics, Centers for Disease Control and Prevention, and U.S. Preventive Taskforce. The Contractor shall ensure that:

a. The Clinical Standards are updated quarterly to reflect changes in Standards of Practice Recommendations;

b. The Clinical Standards are presented to the State for approval and approved by the State before being implemented or updated in the Solution;

c. The Solution allows for MCOs to adjust or amend these standards based upon specific plan policy and patient clinical situation;

d. The Clinical Standards are completely customizable based on the State's direction and shall be available in a plain language business rules format;

e. The Solution shall intake and utilize additional MCO-generated care management guidelines; and

f. The Solution allows users to look up standard administrative codes such as CPT and ICD-10

A.11. The Contractor shall provide a Solution that produces risk scores. The Solution shall:

a. Utilize the data sources set forth herein;

b. Perform risk stratification based upon utilized risk model;

c. Allow for intake of MCO supplied risk score for stratification purposes;

d. Normalize a supplied risk score across multiple MCOs and patient stratify against the normalized score;

e. Offer support for patient predictive modeling (e.g., likelihood to worsen health status, likelihood for disease states); and

f. Display patient risk scores and create prioritized workflows for key stakeholders on the care coordination team.

A.12. The Contractor shall provide a Solution that produces and processes gaps in care. The Solution shall:

a. Generate gaps in care based on the datasets in sections A.3 and A.4 and a clinical guidelines algorithm as described in section A.10;

b. List gaps in care for each attributed patient;

c. Display gaps in care information based upon analysis against above clinical standards;

d. Pull clinical information from prevalent electronic medical records to close gaps in care;

e. Allow PCPs and Care Team members to exclude and update;

f. Allow the PCP/Care Team to manually close gaps in care, with space for comments;

g. Send updated gaps in care information to the MCOs when records are updated by PCPs or Health Home providers;

h. Display gaps in care and create prioritized workflows for key stakeholders on the Care Team;

i. Display gaps in care generated both inside and outside the Solution; and

j. Allow for gap analytics to facilitate patient campaign management.

A.13. The Contractor shall provide a Solution that receives and displays prescription (Rx) data. The Solution shall have the ability to identify:

a. Potential gaps in medication adherence;

b. Opportunities for generic substitution;

c. Rx non-compliance situations;

d. Rx-Rx interaction candidates; and

e. Overuse, misuse, and fraudulent Rx usage situations.

A.14. The Contractor shall provide a Solution that assigns patients to both system-supplied and end user defined registries, sorting patient records into certain groups based on characteristics. The Contractor shall suggest registries and the formulas behind them. The Contractor's registries shall be customizable based on the State's decisions. The Solution shall:

a. Assign patients to both systems-supplied (agreed on by the State as referenced above) and end user defined registries;

b. Perform auto-registry assignment based on risk score, patient clinical condition, patient demographics, dataset, and other registry factors;

c. Modify auto-registry assignment based on patient-unique circumstances, new patient information, and the execution of clinical activities; and

d. Have disease-specific registries, segmented by the following:

(1) Provider;

(2) Geo-spatial, based on the address of the patient so patients in close proximity may be grouped together; and
(3) Attributes selected by Care Managers for variables already listed in the system such as medication compliance, co-occurring diseases, and co-morbid diseases.

A.15. The Contractor shall provide a Solution that produces and supports Patient Care Plans. The Solution shall:

a. Generate single-disease state patient care plans based upon a dataset;

b. Generate co-morbid care plans based upon a dataset;

c. Track execution of activities against the care plan;

d. Produce activity alerts against the care plan, presented at a patient, Care Manager workload, and calendar view;

e. Have care plan calendaring features, which allow for the scheduling of future activities based on patient needs and clinical standards, and clinical guidelines, allowing such events to be viewed in a calendar and summary schedule format;

f. Generate care plan tasks based upon Care Manager actions;

g. Provide a decision tree structure for the Care Manager to use so that he or she can decide on the best next action to take, ask the right questions, and determine the completion of the Care Plan;

h. Allow the Care Manager to eliminate proposed Care Plan activities;

i. Allow for specific content to support pediatric patients;

j. Allow for specific content to support geriatric patients;

k. Allow for the combining of family members into a "family record";

l. Allow the Care Manager to reassign provider attribution based upon pre-defined rules;

m. Allow manually altering prioritization of care management tasks;

n. Allow for the creation of behavioral health plans which shall be able to be seen both separately from, and integrated with, clinical health plans;

o. Produce Care Plans that are printable and able to be mailed; and

p. Maintain, execute and track activities against patient-specific care plans.

A.16. The Contractor shall provide a Solution that has steering/clinical approval functionality, allows for the submitting and tracking of prior authorizations. The Solution shall:

a. Allow for Care Manager generation of prior authorization requests against MCO-specific utilization management (UM) systems;

b. Accept Prior Authorization history from UM platform to the care coordination tool in 278 form;

c. Produce non-acute authorizations, such as 278, to UM system from the care coordination tool;

d. Interface with the MCOs' UM systems;

e. Produce automated authorization requests into those MCO UM systems based upon clinical situation and MCO UM rules; and

f. Track authorization approvals/denials.

A.17. The Contractor shall provide a Solution that can generate a formal discharge plan for members of the Care Team based on roles, and for the patient and/or health delegate, delivered to each in the recipient's preferred eCommunications method.

A.18. The Contractor shall provide a Solution that allows for the creation of Care Management Notes. The Solution shall:

a. Create, send, and track campaigns, including, but not limited to, education emails, and questionnaires or surveys to patients, health delegates, and other Care Team members;

b. Create patient-specific Care Management Notes;

c. Allow other system users to create and update Care Management Notes;

d. Transmit and receive secure attachments to Care Management Notes; and

e. Allow secure Intra-Care Team communication and discussion.

A.19. The Contractor shall provide a Solution that allows for eCommunications. The Solution shall:

a. Allow the Care Team to modify standard letter templates at point-of-generation;

b. Produce and transmit urgent messages for Care Manager/MD for ED ADT;

c. Execute patient campaigns, including but not limited to:

(1) Vaccines; and
(2) Generic Rx, Rx substitution, and Rx compliance; and

d. Allow the Care Team to create, send, and track campaigns; these include, but are not limited to, education emails, and questionnaires or surveys to patients, health delegates, and other Care Team members;

e. Auto-generate patient correspondence (i.e. scheduling letter, care plan) and deliver via eCommunication;

f. Allow for utilization of message center within MCO for provider portals;

g. Utilize the DIRECT protocol for intra-Care Team communications;

h. Allow for eFax capabilities, including bundling and store and forward;

I. Include real-time chat feature for usage with both patient and Care Team;

j. Include real-time telemedicine feature for usage with both patient and Care Team;

k. Auto-generate patient correspondence (e.g., scheduling letter, care plan) and deliver to print;

l. Generate TXT patient alert, examples include:

(1) Rx Reminders;
(2) Appointment reminders; and
(3) Care activity reminders; and

m. Intake patient TXT for activity execution (e.g., Yes/No/Done);

n. Intake patient TXT for data (e.g., BP 150/90);

o. Have multi-lingual correspondence engine that can overview languages available and roadmap for any incremental languages; and

p. Provide or interface to secure eMail capabilities for use with both patients and Care Team members.

A.20. The Contractor shall provide a Solution that conducts the following reporting capabilities:

a. User configurable reporting engine;

b. Standard measures reporting provided and maintained (e.g., HEDIS, STARS, NCQA);

c. Query engine (e.g., user ability to query against entire dataset using a COTS or bundled reporting engine);

d. User sortable reporting;

e. Ability to capture cost information for cost-savings reporting;

f. Leakage reporting;

g. Care Manager performance reporting (e.g., patients/hour);

h. Care Manager patient performance reporting (e.g., patient baseline vs. improvement);

i. Graphical display of data (e.g., workload performance charts with control limits); and

j. Management reporting on quality, utilization and cost.

A.21. The Contractor shall provide a Solution that allows for supervisory Care Team management. The solution shall allow Care Managers, assigned by the practice, to:

a. View Care Management workflow for the purposes of managing a Care Team, including but not limited to the following:

(1) Patient assignment load;
(2) Care Manager work queue management;
(3) Care Manager performance metrics;
(4) Security violations; and
(5) Exception reporting; and

b. Oversee the entire Care Team, including but not limited to the following:

(1) Workload; and
(2) Performance, based on MCO and TennCare quality metrics, and individually entered practice standards.

A.22. The Contractor shall provide a Solution that provides for comprehensive audits including but not limited to:

a. The ability to maintain audit trails;

b. Date and time stamped information about each user's access of the Solution, including data access;

c. Audit trail reporting capabilities;

d. Captures all touches and modifications to records in a user accessible audit file;

e. Retains audit file for seven (7) years, and be query-able by COTS reporting tools;

f. Near real-time audit breach alerting and reporting;

g. Can combine cases and audit logs for a single patient to correct for inadvertent duplication, changes in provider, and changing MCOs while maintaining the integrity of the patient longitudinal medical record, and.

h. Any or all of the above shall be made available to the State and State contracted MCOs upon request from the State

A.23. The Contractor shall provide a Solution that allows for, but is not limited to, the following roles:

a. PracticeSA - The individual at a given practice/facility responsible for administrating security (logins, roles, etc.), filing help desk requests, etc, and performing release/patch validation, to execute intra-practice activities such as manage user security, alter Care Manager workflow, and modifications to master tables;

b. SuperUser - The individual at a given practice/facility with in-depth product training, and responsible for administrating training for practice personnel;

c. Care Team Worker - The individual at a given practice/facility that uses the system day-to-day for care coordination, care management, and patient interaction;

d. Care Team Manager - Oversees a team of Care Team workers;

e. Primary Care Provider (PCP) - The physical health primary care professional to whom the patient is attributed by the MCO, and

f. Behavioral Health PCP (BH-PCP) - The mental health professional to whom the patient is attributed by the MCO.

A.24. The Contractor shall provide a Solution that includes a user interface with role-based access and security settings, including but not limited to:

a. Assignment of users to specific patients; and

b. Viewing of:

(1) List of gaps in care;

(2) ADT Alerts;
(3) Patient prioritization list; and
(4) Individual patient profile including but not limited to:

i. Care Plan;
ii. Risk Score; and
iii. ADTs.

A.25. The Contractor shall provide, throughout the term of the Contract, user support for State staff, MCO staff, primary care providers, specialists, hospitals, other care providers, and facilities, including current and additional staff. User support includes but is not limited to:

a. The development of training materials and modules for new users, and feature updates;

b. Assisting new user sites in how to use the Solution;

c. Providing new user training;

d. Providing trainings for new features and updates;

e. Producing and updating a Frequently Asked Question document with answers to common user questions;

f. Providing staff who will provide training;

g. Providing assistance with technical and user issues; and

h. Providing a help desk to answer user questions.

A.26. The Contractor shall provide, throughout the term of the Contract, ongoing system maintenance and updates, which shall be approved, in writing, by the State prior to any systems maintenance or updates being performed by the Contractor. This shall include but is not limited to:

a. Ensuring that the Solution intakes and utilizes standard clinical datasets, as outlined in the Scope of Services;

b. Ensuring that the Solution produces and receives secure communication;

c. Maintaining features functionality;

d. Providing a schedule of maintenance windows and any policy or procedures around those windows;

e. Providing the State with a plan and road map to adopt to future generation of standards such as ECQM, FHIR, and other standards previously list, and remain in compliance with updates to standards;

f. Ensuring that any security breaches are quickly remedied and reported to the State;

g. Ensuring that all patient data resides in the United States at all times; and

h. Complying with all State and MCO mandated security and privacy controls with respect to patient data.

A.27. The Contractor shall provide quarterly updates to the Solution. These updates shall include, but are not limited to:

a. Adjustments to system functions or procedures requested by the State;

b. Enhancement of existing features approved by the State; and

c. Updates necessary for the continued functioning of the Solution.

A.28. The Contractor shall meet or exceed customer defined Service Level Agreements (SLAs) maximum amount of time allowed for, including but limited to:

a. Performance/response SLA under two seconds;

b. Uptime SLA ninety-nine point nine percent (99.9%) time operational;

c. Patch maintenance not to exceed one (1) hour per week without seven (7) days prior notice and State approval;

d. Release maintenance not to exceed eight (8) hours per week without fourteen (14) days prior notice and State approval;

e. Help desk response and escalation not to exceed one (1) hour per incident, per escalation tier;

f. Disaster recovery response/reload not to exceed seventy-two (72) hours;

g. Breach notification not to exceed four (4) hours; and

h. Statistically or customer-supported proven Solution that shall support, over time, and at peak, a minimum of twenty thousand (20,000) concurrent users, two thousand (2,000) practices, and five (5) million members/patients.

A.29. The Contractor shall provide a Solution that contains the following technical attributes:

a. Allows for use of SME to configure master tables;

b. Allows for Care Manager workload balancing based upon configurable rules (e.g., number of patients, registry assignments);

c. Has all system documentation available and maintained electronically;

d. Utilizes user/SME configurable embedded dashboard technology;

e. Has a medical spell checker and nomenclature lookup function;

f. Conducts real-time database updating and interfacing;

g. Supports for queue-and-print functionality;

h. Supports standard interface technologies (e.g., web service, APIs);

i. Provides configuration tools catalog (e.g., wizards, editing tools, etc);

j. Supports multiple operating systems including Windows, Mac, Linux, and Android;

k. Supports multiple platforms including PC and Apple;

l. Supports multiple hardware types including but not limited to:

(1) Desktop/laptop;
(2) Tablet; and
(3) Smartphone;

m. Secures patient history to MCO attribution segment;

n. Employs a role-based security model;

o. Has standard, configurable password rules;

p. Supports data encryption both stationary and in-flight (e.g., https, SeMail); and

q. Has the ability to produce de-identified data set for quality control, and to inform decision making.

A.30. The Contractor shall complete an ADT transmission test to the State's satisfaction in its sole discretion, on or before February15, 2016.

a. The ADT Transmission test shall validate the end-to-end ADT integration loop, including the prioritized and accurate notification of delivery resources with patient attribution/referral ownership. For test purposes the Solution's master file componentry for patient, practice, facility will be used, with an assumption that Transaction Manager shall only forward validated and identified ADTs.

b. ADT transmission test shall include successful:

(1) Establishment of real-time ADT connectivity between a representative sample of the pilot catchment facilities and TennCare/Transaction Manager, and validation of the end-to-end transmittal integration;

(2) Development of ADT workflows and exception handling procedures within the pilot practices;

(3) Establishment of pilot-class ADT support infrastructure (call center, product issues, connectivity issues), with design of a production extensible model;

(4) MCO Medical Director segmentation of "urgent-and-emergent" ADT transaction set (versus production ADT);

(5) Validation of urgent-and-emergent ADT eCommunications to patient PCP, and other referral delivery resources (e.g., care coordinator, specialists);

(6) ADT resend test, in the event of a failed communications incident or erroneous transaction; and

(7) Validation of ADT reporting for MCOs, practices, and facilities.

A.31. The Contractor shall complete a Data Management Test to the State's satisfaction in its sole discretion, on or before March 1, 2016.

a. The Data Management Test is to validate the loading and ongoing maintenance of the Solution's dataset, including member master (within the Solution, not the TennCare MPI), medical and Rx claims, and all associated production activities that shall occur with the dataset. It shall mirror the production data management model.

b. The Data Management Test shall include:

(1) Successful initial load of the pilot dataset (member, provider, medical claims, Rx claims);

(2) Reload/update procedure for the above datasets, and exception handling workflows;

(3) Validation that all data maintenance works properly and securely. Examples include, but are not limited to:

i. Member MCO change;
ii. Member PCP attribution change;
iii. Demographic change;
iv. PCP business relationship change;
v. Replacement PCP;
vi. PCP coverage substitute;
vii. Clinical exclusion;
viii. Re-registry assignment; and
ix. Metrics and performance reporting re-computation.

A.32. The Contractor shall complete a Production Load Estimation Test to the State's satisfaction in its sole discretion, on or before March 15, 2016.

a. The Production Load Estimation Test is designed to get both a timing loop on, and to test out the ability of the Solution to handle the entire TennCare book of business.

b. The Production Load Estimation Test shall include membership, providers, medical and Rx claims for a minimum of five million (5,000,000) members, twenty thousand (20,000) Solution users across two thousand (2,000(practices, and two hundred (200) facilities. These tests will be predominately statistical in nature, but where viable, a load-inducing product such as HP LoadRunner shall be employed to assess response under stress.

c. The Production Load Estimation Test shall include successful (as determined by the State in its sole discretion):

(1) Load of a representative sample, and timing loop estimation for initial load of the whole production TennCare primary datasets; member, provider, medical claims, Rx claims;

(2) Statistical data validation of these loads within the Solution;

(3) Statistical validation of security model for full production load;

(4) Statistical validation of, and timing loop estimation for risk engine across whole population;

(5) Statistical validation of, and timing loop estimation for gaps engine across whole population;

(6) Validation of eCommunications engine across whole population based upon messaging forecast;

(7) Validation of full-load login density; and

(8) Desk walkthrough of production backup and restore procedures, and a recovery test.

A.33. The Contractor shall complete a Functionality Test Series to the State's satisfaction in its sole discretion, on or before May 16, 2016.

a. The Functionality Test Series is to validate the full spectrum of the Solution's functionality once the pilot data loads are complete and validated.

b. The Functionality Test Series shall include successful:

(1) Execution and validation of the risk scoring engine;
(2) Execution and validation of the risk stratification process;
(3) Execution and validation of the registry assignment process;
(4) Execution and validation of the gaps engine;
(5) Generation of care coordination plans and transactions consistent with incoming ADT transactions;
(6) Generation of care coordination plans and transactions consistent with gaps engine results; and
(7) Generation of standard performance metrics.
(8) Documentation of testing of security functions

A.34. The Contractor shall provide the State with up to date Standard Operating Procedures (SOPs) that document the specific set of steps that would be taken in case of a given situation. The Contractor shall provide SOPs for, but not limited to:

a. Breach;

b. Attempted breach;

c. System shutdown/reset;

d. Disaster Recovery (DR) model (e.g., environment failover, resolution SoP);

e. Federated security management model that shall include, at a minimum, fine grain security management at a practice

f. User-configurable, self-service SLA reporting;

g. Refresh frequency for Care Management (CM) functionality, including but not limited to:

(1) Risk scoring & stratification;
(2) Registry assignment;
(3) Gaps engine execution; and
(4) Care plan generation;

h. Client breach notification;

i. Standard downtime model (e.g., patches, releases, infrastructure upgrades);

j. Help desk capabilities and management; and

k. Disaster Recovery/Business Continuity plan and Disaster Recovery/Business Continuity testing plan and test drill results.

A.35. The Contractor shall create and maintain a Project Management Plan and detailed timeline for Coordinated Care Tool with dates for all activities to be performed by the Contractor, State staff, and other partners, in order to deliver all the deliverables identified in this Scope of Services and set forth below in the Timeline for Coordinated Care Tool Deliverables table are provided to the State by the deadlines specified therein. The Project Management Plan shall be approved byt he State prior to its implementation and any revision(s) thereof, and, as directed by the State, will build off of the Development and Implementation Plan, but will include more details, and will cover all areas of the Contract.

a. The Project Management Plan shall be submitted to the State for approval within thirty (30) days of the Effective Date. Deliverables 1 through 10 in the table below shall make up the testing and pilot phase, while Deliverables 11 through 13 continue shall make up the expansion and use phase of this Contract. It is anticipated that the Solution will first be applied to practices/facilities participating in the State's Patient Center Medical Home program, and then expanded to the State's Health Home Program.

b. The Project Management Plan shall include specific staffing plans and capacity broken down by the individual deliverables set forth below for each phase of the Contract. The Contractor shall maintain the Project Management Plan, and make adjustments approved by the State throughout the Contract term.

c. The Projected Due Dates set forth below shall be finalized upon approval by the State of the proposed Project Management Plan. The final Due Dates shall be communicated to the Contractor through a Control Memorandum, pursuant to Contract Section A.44 below.

Timeline for Coordinated Care Tool Deliverables		
	Testing and Pilot Phase	**Projected Due Date**
1.	Project Management Plan Due to State (A.35)	February 1, 2016
2.	Standards of Practice Due to State (A.34)	February 1, 2016
3.	Development and Implementation Plan Due to State (A.36)	February 15, 2016
4.	Pass ADT test (A.30)	February 15, 2016
5.	Pass Data Management Test (A.31)	March 1, 2016
6.	Pass Production Load Test (A.32)	March 15, 2016
7.	Full Functions Ready for Launch, Implementation at Pilot Sites Starts	April 4, 2016
8.	Pass Functionality Test (A.33)	May 16, 2016
9.	Pilot Complete	July 5, 2016
10.	Pilot Report and Expansion Plan Due (A.37)	July 15, 2016
	Expansion and Use Phase	**Projected Due Date**
11.	Start rollout of Solution to additional PCMH sites (A.35)	August 1, 2016

12.	Expand Solution to Health Home Sites (A.35)	October 1, 2016
13.	State-wide rollout of Solution	December 30, 2016

A.36. The Contractor shall deliver a Development and Implementation Plan to the State on or before February 15, 2016. The Plan shall include:

a. High-level Development and Implementation Plan including but not limited to:

(1) Detailed description of strategy for development, implementation and rollout;
(2) Timelines and project work plan;
(3) Number of practices/facilities in each phase;
(4) Contingencies;
(5) Testing methodology and documentation;
(6) Expected timeline for specified functionality; and
(7) Larger rollout schedule and strategy

b. PMO templates including but not limited to:

(1) Change request;
(2) Issue management;
(3) Status reporting; and
(4) Testing plan; and

c. Contractor Project Team organizational chart, roster and contact information.

d. Pilot Plan

(1) Plan testing the Solution with up to ten (10) practices designated by the State, pulling from up to thirty (30) facilities, with up to thirty thousand (30,000) attributed patients;

(2) Plan for capturing user satisfaction during Pilot

(3) Process for capturing feedback during the Pilot

(3) Measurements for success during Pilot.

A.37. Within fifteen (15) days of completion of the Testing and Pilot Phase, the Contractor shall give the State a report overviewing this phase, which shall include at a minimum:

a. Key successes and challenges

b. How successes and challenges will be addressed in the wider rollout;

c. Summary of Testing and Pilot Phase practices experience using the Solution;

d. Survey results of Testing and Pilot Phase Solution users;

e. Feedback from Testing and Pilot Phase practices, and how any issues will be addressed moving forward;

f. Any additional changes needed for the larger rollout, and how these will be addressed;

g. An Expansion Plan including updates to the Development and Implementation Plan (minus the Testing and Pilot Phase section) and/or Project Management Plan, as directed by the State;

h. The Contractor shall not expand the Solution following the Testing and Pilot Phase until the Expansion Plan and/or Project Management Plan is approved.

A.38. The Contractor shall provide a monthly written report to the designee at the State with updates on each of the following categories:

a. Development;

b. Implementation;

c. Rollout;

d. Successes and Challenges;

e. Any changes to anticipated timelines and project work plan;

f. Number of practices in each phase;

g. Contingencies;

h. Testing approach; and

i. Expected timeline for specified functionality.

j. An attachment listing:
(1) Users who have not logged in the last month

(2) Users who have not logged into the Solution in the last three (3) months

A.39. The Contractor shall participate in and get input on the Solution and the Solution's implementation, including gathering input and participation in meetings as follows:

a. Stakeholder Meetings held at the HCFA offices in Nashville or at the stakeholder's office, including the following:

(1) Payers - a Payer Coalition group meeting is held every two (2) weeks for two (2) hours unless otherwise directed by the State. In addition, all four (4) members of the Payer Coalition shall have one-on-one calls with the State every two (2) weeks for at least a half hour or one (1) hour, as directed by the State.

(2) Providers - Providers shall participated in monthly two (2)hour Provider Stakeholder group meetings, and in one-on-one discussions as requested by the State, and at least one (1) individual Provider Stakeholder meeting being held every two (2) weeks throughout the term of the Contract, with a substantially higher number of meetings during intensive periods of the Contract. This includes meeting with practices/facilities interested in adapting the Solution, meeting with pilot sites, and with practices/facilities who have already implemented the Solution.

(3) State Leadership - State staff from HCFA and State of Tennessee Benefits Administration will hold two (2) hour leadership meetings every other week to review the goals and strategies for Primary Care Transformation during the term of the Contract. In addition, Contractor shall attend weekly meetings with State staff, including the leads on PCMH and Health Homes. Attendance at weekly meetings with the State's information technology staff may also be requested.

b. Meetings with the Centers for Medicare and Medicaid Services (CMS) staff and contractors at the request of the State, e.g., Technical Assistance staff, state evaluator staff, and project officers.

c. Other meetings as requested.

A.40. The Contractor shall add and remove access of providers to the Solution as requested by the State. This shall include:

a. Providing user training to the Solution to new users;
b. Establishing new user accounts for providers as requested by the State;
c. Adding new providers attributed patients to the Solution;
c. Providing the State with information on providers who have not logged in to the Solution for the last month and last three (3) months;
d. Removing providers from the Solution when requested by the State;
e. Removing patients and former patients from the solution as requested by the State.

A.41. All functionality and information described above shall be provided to State designates including their staff and contractors, upon the State's request, including but not limited to:

a. MCOs and TennCare Select provider
b. Evaluator Contractors
c. Training Contractors
d. Other Contractors and
e. Other State or Federal Agencies designated by the State

A.42. In the Expansion and Use Phase as defined in Section A.35, the Contractor shall be reimbursed at a per member per month (PMPM) rate specified in section C.3.b. For a member to be counted in the PMPM number submitted by the Contractor to the State for payment, the member must be an eligible recipient loaded in the Solution, and be attributed to a provider who is an active user of the Solution. To be considered an active user of the Solution, the provider must meet all of the following conditions:

a. has been approved by the State for access to the Solution;
b. has a user log in;
c. has received training on the Solution, and
d. has not been removed or requested to be removed from the Solution.

A.43. 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.44. 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) (NCPD) – 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 NCPD 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. The 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 NCPD 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.45. Standards for Electronic Health Record Technology. The Grantor State Agency and the Grantee shall comply with all federal requirements related to 42 CFR 495, Standards for the Electronic Health Record Technology Incentive Program, Subpart D, such as, but not limited to 42 CFR 495.324, 495.346, 495.348, 495.354 and 495.360.

B. CONTRACT PERIOD:

B.1. This Contract shall be effective on January 4, 2016 ("Effective Date") and extend for a period of thirty-six (36) 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 satisfactory completion of the Term. The State reserves the right to execute up to two (2) 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 Written Dollar Amount ($Number) ("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 provision of goods or services as set forth in Section A.

b. The Contractor shall be compensated based upon the following payment methodology:

Goods or Services Description	**Amount** (per compensable increment)
Completion of Project Management Plan (A.35)	$ _____
Provision of Standard Operating Procedures (A.34)	$ _____
Completion of Development and Implementation Plan (A.36)	$ _____
Pass ADT Test (A.30)	$ _____
Pass Data Management Test (A.31)	$ _____
Pass Production Load Test (A.32)	$ _____
Pass Functionality Test (A.33)	$ _____
Expansion Plan Submitted (A.37)	$ _____
Statewide Expansion and Use Per Member Per Month (PMPM) (A.42)	$ _____ / per member per month

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. At the State's option, it may make payments to Contractor by automated clearing house ("ACH") or the State Purchasing Card ("P-Card").

a. The Contractor shall complete, sign, and present to the State:

(1) An "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

(2) An "Authorization to Receive Payments by Purchasing Card Form" provided by the State. By doing so, the Contractor agrees that payments to the Contractor under this Contract may be made using the State P-Card.

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:

Contractor Contact Name & Title
Contractor Name
Address
Email Address
Telephone # Number
FAX # Number

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.

D.6. 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.27 (Nondiscrimination Compliance Requirements) and this Section D.9 shall not be deemed to limit or abridge any requirement set forth in Section E.27.

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 A, 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. Insurance. Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified below. The COI shall be provided ten (10) business days prior to the Effective Date and again upon renewal or replacement of coverages required by this Contract. If insurance expires during the Term, the State must receive a new COI at least thirty (30) calendar days prior to the insurance's expiration date. If the Contractor loses insurance coverage, does not renew coverage, or for any reason becomes uninsured during the Term, the Contractor shall notify the State immediately.

The COI shall be on a form approved by the Tennessee Department of Commerce and Insurance ("TDCI") and signed by an authorized representative of the insurer. The COI shall list each insurer's national association of insurance commissioners (also known as NAIC) number or federal employer identification number and list the State of Tennessee, Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 in the certificate holder

section. At any time, the State may require the Contractor to provide a valid COI detailing coverage description; insurance company; policy number; exceptions; exclusions; policy effective date; policy expiration date; limits of liability; and the name and address of insured. The Contractor's failure to maintain or submit evidence of insurance coverage is considered a material breach of this Contract.

If the Contractor desires to self-insure, then a COI will not be required to prove coverage. In place of the COI, the Contractor must provide a certificate of self-insurance or a letter on the Contractor's letterhead detailing its coverage, liability policy amounts, and proof of funds to reasonably cover such expenses. Compliance with Tenn. Code Ann. § 50-6-405 and the rules of the TDCI is required for the Contractor to self-insure workers' compensation.
All insurance companies must be: (a) acceptable to the State; (b) authorized by the TDCI to transact business in the State of Tennessee; and (c) rated A- VII or better by A. M. Best. The Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that the subcontractors are included under the Contractor's policy.

The Contractor agrees to name the State as an additional insured on any insurance policies with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) ("Professional Liability") insurance. Also, all policies shall contain an endorsement for a waiver of subrogation in favor of the State.

The deductible and any premiums are the Contractor's sole responsibility. Any deductible over fifty thousand dollars ($50,000) must be approved by the State. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.
The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. 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 or its insurer, 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.

All coverage required shall be on a primary basis and noncontributory with any other insurance coverage or self-insurance carried by the State. The State reserves the right to amend or require additional endorsements, types of coverage, and higher or lower limits of coverage depending on the nature of the work. Purchases or contracts involving any hazardous activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, cyber-liability risks, environmental risks, special motorized equipment, or property may require customized insurance requirements (e.g. umbrella liability insurance) in addition to the general requirements listed below.

The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability Insurance

    1) The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

2) The Contractor shall maintain bodily injury/property damage with a combined single limit not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least two million dollars ($2,000,000).

b. Workers' Compensation and Employer Liability Insurance

1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:

i. Workers' compensation and employer liability insurance in the amounts required by appropriate state statutes; or

ii. In an amount not less than one million dollars ($1,000,000) including employer liability of one million dollars ($1,000,000) per accident for bodily injury by accident, one million dollars ($1,000,000) policy limit by disease, and one million dollars ($1,000,000) per employee for bodily injury by disease.

2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:

i. The Contractor employees fewer than five (5) employees;

ii. The Contractor is a sole proprietor;

iii. The Contractor is in the construction business or trades with no employees;

iv. The Contractor is in the coal mining industry with no employees;

v. The Contractor is a state or local government; or

vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

D.23. 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.24. 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.25. 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.26 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.26 shall not be deemed to limit or abridge any requirement set forth in Section E.16.

D.27. 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.28. 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.29. 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.30. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

D.31. 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”). 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. Contractor has carefully reviewed the

Liquidated Damages contained in Attachment B and agrees that these amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of a Liquidated Damages Event, and are a reasonable estimate of the damages that would occur from a Liquidated Damages Event. 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/execomp.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 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.

E.22. 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.

(10) 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.

(11) 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 Publication 1075, Exhibit 4, *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 Publication 1075, 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. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to RFP 31865-00410 (Attachment 6.2, Section B.15) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a quarterly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, and Tennessee service-disabled veterans. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the required form and substance.

E.27. 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&lvl=2&lvlID=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,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE **DATE**

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

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

LARRY B. MARTIN, COMMISSIONER **DATE**

ATTACHMENT A

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

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. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

ATTACHMENT B

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.

	PROGRAM ISSUES		**DAMAGE**
1.	Failure by the Contractor to meet the standards for privacy, security, and confidentiality of individual data as evidenced by a breach of the security per Section E. 2. and E.19		$1,000 per affected member per occurrence.
2.	Failure by the Contractor to execute the appropriate agreements to effectuate transfer and exchange of HCFA enrollee PHI or HCFA 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		$1,000 per affected member per occurrence.

	or disclosure of PHI to a third party. (See E.17. and Business Associate Agreement between the parties)		
3.	Failure by the Contractor to seek express written approval from HCFA prior to the use or disclosure of HCFA enrollee data or HCFA confidential information in any form via any medium with any third party beyond the boundaries and jurisdiction of the United States. (See E.13 and Business Associate Agreement between the parties)		$1,000 per affected member per occurrence.
4.	Failure by the Contractor to timely report violations in the access, use and disclosure of PHI or timely report a security incident or timely make a notification of breach or notification of suspected breach per Sections (See E.19 and Business Associate Agreement between the parties)		$1,000 per affected member per occurrence.

ATTACHMENT C

DEFINITIONS

Care Team- the team providers and other staff involved in the care of patient

Care Team Manager- an individual appointed as the manager of a care team.

Care Team Worker- an individual who works on a medical practices care team.

DIRECT Protocol- A type of encrypted messaging modality

Functionality Test Series- refers to the series of test run to prove functions perform to specifications.

Intra-Care Team – means something happening between members of a care team

Navigation Portal- Single point of authentication and authorization, and application navigation

PopHealth- refers to Population Health

PracticeSA- Practice level Security Administrator

RxNorm- A standardized form of prescription transactions

Standardized Clinical Transaction- Any nationally approved clinical data transmission standard

Transaction Manager- Infrastructure Software that collects and standardizes clinical transactions, processes them, and provides them for downstream usage

Transition-of-Care- is the transitioning of care of a patient between providers, or between a facility and provider

ACRONYMS

ADT- Admission Discharge and Transfer

API- application programming interface, is a set of routines, protocols, and tools for building software applications

ASO- Administrative Services Option

BH-PCP- Behavioral Health Primary care provider

CARF- Commission on Accreditation of Rehabilitation Facilities

CCD- Continuity of Care Document, an XML-based markup standard for patient medical document exchange

CM – Care Management

CMMI- Center for Medicare and Medicaid Innovation

CMS- Center for Medicare and Medicaid Services

COTS- Commercial off the Shelf Software

CPT – Current Procedural Terminology

CRM- Customer Relationship Management

ECQM- Electronic Clinical Quality Measures

ED ADT- Emergency Department Admission, Discharge, and Transfer

EDI- Electronic Data Interchange

EMR- electronic medical record

FHIR- Fast healthcare Interoperability Resources

HCFA- Health Care Finance

HEDIS- Healthcare Effectiveness Data and Information Set, a set of performance measures in the managed care industry, developed and maintained by the National Committee for Quality Assurance

HIE- Health Information Exchange

HL7- Health level 7- name of standards bodies

IVR- Inter-active Voice Response

LOINC- Logical Observation Identifiers Names and Codes (LOINC) is a database and universal standard for identifying medical laboratory observations

LTSS- Long Term Services and Support

MCO- Managed Care Organization

MPD- Master Provider Directory

MPI- Master Patient Index

MU- Meaningful Use

NCPDP- National Council for Prescription Drug Programs

NCQA- National Committee for Quality Assurance an accreditation body for PCMHs

PBM- Pharmacy Benefit Manager

PCMH- Patient Centered Medical Home

PCP- Primary Care Provider

PMPM- Per Member per Month

SCT- Standardized Clinical Transaction

SIM- State Innovation Model

SLA- Service Level Agreement

SOPs -Standards of Practice

SPMI- Severe and Persistent Mental Illness, as defined by the State

TAG – Technical Advisory Group

UM - Utilization Management

HEALTH CARE FINANCE AND ADMINISTRATION
HIPAA BUSINESS ASSOCIATE AGREEMENT
IN COMPLIANCE WITH PRIVACY AND SECURITY RULES

THIS HIPAA BUSINESS ASSOCIATE AGREEMENT ("Agreement") is between **The State of Tennessee, Department of Finance and Administration, Health Care Finance and Administration** ("HCFA" or "Covered Entity"), 310 Great Circle Road, Nashville, TN 37243 and _____ _____("Business Associate"), located at_____ _____, including all office locations and other business locations at which Business Associate data may be used or maintained. Covered Entity and Business Associate may be referred to herein individually as "Party" or collectively as "Parties."

BACKGROUND

The Parties acknowledge that they are subject to the Privacy and Security Rules (45 C.F.R. Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and as amended by the final rule modifying the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules under the Health Information Technology for Economic and Clinical Health Act (HITECH). If Business Associate provides services to Covered Entity pursuant to one or more contractual relationships, said Agreements are detailed below and hereinafter referred to as "Service Agreements."

LIST OF AGREEMENTS AFFECTED BY THIS HIPAA BUSINESS ASSOCIATE AGREEMENT:

_____ _____

_____ _____

In the course of performing services under a Service Agreement, Business Associate may come into contact with, use, or disclose Protected Health Information ("PHI"). Said Service Agreements are hereby incorporated by reference and shall be taken and considered as a part of this document the same as if fully set out herein.

In accordance with the federal privacy and security rules and regulations set forth at 45 C.F.R. Part 160 and Part 164, Subparts A, C, D and E, which require Covered Entity to have a written memorandum with each of its Business Associates, the Parties wish to establish satisfactory assurances that Business Associate will appropriately safeguard PHI that Business Associate may receive (if any) from or on behalf of Covered Entity, and, therefore, execute this Agreement.

1. DEFINITIONS

All capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms defined in 45 C.F.R. Parts 160 through 164 or other applicable law or regulation. A reference in this Agreement to a section in the Privacy or Security Rule means the section as in effect or as amended.

1.1 “Breach of the Security of the [Business Associate’s Information] System” shall mean the unauthorized acquisition, including, but not limited to, access to, use, disclosure, modification or destruction, of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of personal information maintained by or on behalf of the Covered Entity under the terms of Tenn. Code Ann. § 47-18-2107 and this Agreement. Good faith acquisition of personal information by an employee or agent of the Information Holder for the purposes of the Information Holder is not a Breach of the Security of the System; provided, that the personal information is not used or subject to further unauthorized disclosure.

1.2 “Commercial Use” means obtaining PHI with the intent to sell, transfer or use it for commercial, or personal gain, or malicious harm; sale to third party for consumption, resale, or processing for resale; application or conversion of data to make a profit or obtain a benefit contrary to the spirit of this Agreement, including but not limited to presentation of data or examples of data in a conference or meeting setting where the ultimate goal is to obtain or gain new business.

1.3 “Confidential Information” shall mean any non-public, confidential or proprietary information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, which is supplied by HCFA to the Business Associate under this Agreement. Any information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, relating to individuals enrolled in the HCFA program (“HCFA enrollees”), or relating to individuals who may be potentially enrolled in the HCFA program, which is provided to or obtained through the Business Associate’s performance under this Agreement, shall also be treated as “Confidential Information” to the extent that confidential status is afforded such information under state and federal laws or regulations. All confidential information shall not be subject to disclosure under the Tennessee Public Records Act.

1.4 “Electronic Signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

1.5 “Information Holder” means any person or business that conducts business in this state, or any agency of the state of Tennessee or any of its political subdivisions, that owns or licenses computerized data that includes personal information

1.6 “Marketing” shall have the meaning under 45 C.F.R. § 164.501 and the act or process of promoting, selling, leasing or licensing any HCFA information or data for profit without the express written permission of HCFA.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Privacy Rule)

2.1 Compliance with the Privacy Rule. Business Associate shall fully comply with the requirements under the Privacy Rule applicable to "business associates," as that term is defined in the Privacy Rule and not use or further disclose PHI other than as permitted or required by this Agreement, the Service Agreements, or as required by law. In case of any conflict between this Agreement and the Service Agreements, this Agreement shall govern.

2.2 HITECH Act Compliance. The Health Information Technology for Economic and Clinical Health Act (HITECH) was adopted as part of the American Recovery and Reinvestment Act of 2009. HITECH and its implementing regulations impose new requirements on Business Associates with respect to privacy, security, and Breach notification. Business Associate hereby acknowledges and agrees that to the extent it is functioning as a Business Associate of Covered

Entity, Business Associate shall comply with any applicable provisions of HITECH. Business Associate and the Covered Entity further agree that the provisions of HIPAA and HITECH that apply to business associates and that are required to be incorporated by reference in a business associate agreement have been incorporated into this Agreement between Business Associate and Covered Entity. Should any provision not be set forth specifically, it is as if set forth in this Agreement in its entirety and is effective as of the Applicable Effective Date, and as amended.

2.3 Business Management. Business Associate may use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of Business Associate. Business Associate may provide data aggregation services relating to the Health Care Operations of HCFA, or as required by law. Business Associate is expressly prohibited from using or disclosing PHI other than as permitted by this Agreement, any associated Service Agreements, or as otherwise permitted or required by law, and is prohibited from uses or disclosures of PHI that would not be permitted if done by the Covered Entity.

2.4 Privacy Safeguards and Policies. Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the Service Agreement(s), this Agreement or as required by law. This includes the implementation of Administrative, Physical, and Technical Safeguards to reasonably and appropriately protect the Covered Entity's PHI against any reasonably anticipated threats or hazards, utilizing the technology commercially available to the Business Associate (See also Section 3.2). The Business Associate shall maintain appropriate documentation of its compliance with the Privacy Rule, including, but not limited to, its policies, procedures, records of training and sanctions of members of its Workforce.

2.5 Business Associate Contracts. Business Associate shall require any agent, including a Subcontractor, to whom it provides PHI received from, maintained, created or received by Business Associate on behalf of Covered Entity, or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI or other confidential HCFA information, to agree, by written agreement with Business Associate, to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information except for the provision at section 4.6, which shall only apply to the Business Associate notwithstanding the requirements in this section 2.5.

2.6 Mitigation of Harmful Effect of Violations. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

2.7 Reporting of Violations in Use and Disclosure of PHI. Business Associate shall require its employees, agents, and Subcontractors to promptly report to Business Associate immediately upon becoming aware of any use or disclosure of PHI in violation of this Agreement and to report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement. The Business Associate shall report such violation to Covered Entity immediately upon becoming aware, and in no case later than 48 hours after discovery.

2.8 Breach of Unsecured Protected Health Information. As required by the Breach Notification Rule, Business Associate shall, and shall require its Subcontractor(s) to, maintain systems to monitor and detect a Breach of Unsecured PHI, whether in paper or electronic form.

2.8.1 Business Associate shall provide to Covered Entity notice of a Breach of Unsecured PHI immediately upon becoming aware of the Breach, and in no case later than 48 hours after discovery.

2.8.2 HCFA shall make the final determination whether the Breach requires notification to affected individuals and whether the notification shall be made by Covered Entity or Business Associate.

2.9 Access of Individual to PHI and other Requests to Business Associate. If Business Associate receives PHI from Covered Entity in a Designated Record Set, Business Associate agrees to provide access to PHI in a Designated Record Set to Covered Entity in order to meet its requirements under 45 C.F.R. § 164.524. If Business Associate receives a request from an Individual for a copy of the Individual's PHI, and the PHI is in the sole possession of the Business Associate, Business Associate will provide the requested copies to the Individual in a timely manner. If Business Associate receives a request for PHI not in its possession and in the possession of the Covered Entity, or receives a request to exercise other Individual rights as set forth in the Privacy Rule, Business Associate shall promptly forward the request to Covered Entity. Business Associate shall then assist Covered Entity as necessary in responding to the request in a timely manner. If a Business Associate provides copies of PHI to the Individual, it may charge a reasonable fee for the copies as the regulations shall permit.

2.10 Requests to Covered Entity for Access to PHI. The Covered Entity shall forward to the Business Associate in a timely manner any Individual's request for access to or a copy (in any form they choose, provided the PHI is readily producible in that format) of their PHI that shall require Business Associate's participation, after which the Business Associate shall provide access to or deliver such information as follows:

(a) The Parties understand that if either Party receives a request for access to or copies of PHI from an Individual which the Party may complete with only its own onsite information, the time for such response shall be thirty (30) days, with notification to the Covered Entity upon completion.
(b) If Covered Entity does not have the requested PHI onsite and directs Business Associate to provide access to or a copy of his/her PHI directly to the Individual, or Individual's designee, the Business Associate shall have sixty (60) days from the date of the Individual's request to provide access to PHI or deliver a copy of such information to the Individual. The Business Associate shall notify the Covered Entity when it completes the response.
(c) If the Covered Entity receives a request and requires information from the Business Associate in addition to the Covered Entity's onsite information to fulfill the request, the Business Associate shall have thirty (30) days from date of Covered Entity's notice to provide access or deliver such information to the Covered Entity so that the Covered Entity may timely respond to the Individual within the sixty (60) day requirement of 45 C.F.R. § 164.524.
(d) If the Party designated above as responding to the Individual's request is unable to complete the response to the request in the time provided, that Party shall provide the Individual, or Individual's designee, with a written statement of the reasons for the delay and the date by which the Party will complete its action on the request. The Party may extend the response time once for no more than thirty (30) additional days.
(e) Business Associates permitted to send an Individual or Individual's designee unencrypted emails including Electronic PHI if the Individual requests it, provided the

Business Associate has advised the Individual of the risk and the Individual still prefers to receive the message by unencrypted email.

(f) Business Associate shall develop forms that are designed to collect the necessary written, signed designation that is required in order to permit Individuals to designate recipients of PHI.

2.11 Individuals' Request to Amend PHI. If Business Associate receives PHI from Covered Entity in a Designated Record Set, Business Associate agrees to make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526, regarding an Individual's request to amend PHI. The Business Associate shall make the amendment promptly in the time and manner designated by Covered Entity, but shall have thirty (30) days' notice from Covered Entity to complete the amendment to the Individual's PHI and to notify the Covered Entity upon completion.

2.12 Recording of Designated Disclosures of PHI. Business Associate shall document any and all disclosures of PHI by Business Associate or its agents, including information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

2.13 Accounting for Disclosures of PHI. The Business Associate agrees to provide to Covered Entity or to an Individual, or Individual's designee, in time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. The Covered Entity shall forward the Individual's request requiring the participation of the Business Associate to the Business Associate in a timely manner, after which the Business Associate shall provide such information as follows:

(a) If Covered Entity directs Business Associate to provide an accounting of disclosures of the Individual's PHI directly to the Individual, the Business Associate shall have sixty (60) days from the date of the Individual's request to provide access to or deliver such information to the Individual or Individual's designee. The Covered Entity shall provide notice to the Business Associate in time to allow the Business Associate a minimum of thirty (30) days to timely complete the Individual's request.

(b) If the Covered Entity elects to provide the accounting to the Individual, the Business Associate shall have thirty (30) days from date of Covered Entity's notice of request to provide information for the Accounting to the Covered Entity so that the Covered Entity may timely respond to the Individual within the sixty (60) day period.

(c) If either of the Parties is unable to complete the response to the request in the times provided above, that Party shall notify the Individual with a written statement of the reasons for the delay and the date by which the Party will complete its action on the request. The Parties may extend the response time once for no more than thirty (30) additional days.

(d) The accounting of disclosures shall include at least the following information:

(1) date of the disclosure;
(2) name of the third party to whom the PHI was disclosed,
(3) if known, the address of the third party;
(4) brief description of the disclosed information; and
(5) brief explanation of the purpose and basis for such disclosure.

(e) The Parties shall provide one (1) accounting in any twelve (12) months to the Individual without charge. The Parties may charge a reasonable, cost-based fee, for each subsequent request for an accounting by the same Individual if he/she is

provided notice and the opportunity to modify his/her request. Such charges shall not exceed any applicable State statutes or rules.

2.14 Minimum Necessary. Business Associate shall to use reasonable efforts to limit any use, disclosure, or request for use or disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the Privacy Rule.

2.14.1 Business Associate represents to Covered Entity that all its uses and disclosures of, or requests for, PHI shall be the minimum necessary in accordance with the Privacy Rule requirements.

2.14.2 Covered Entity may, pursuant to the Privacy Rule, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate.

2.14.3 Business Associate shall adequately and properly maintain all PHI received from, or created or received on behalf of, Covered Entity.

2.15 Privacy Compliance Review upon Request. Business Associate agrees to make its internal practices, books and records, including policies, procedures, and PHI, relating to the use and disclosure of PHI received from, created by or received by Business Associate on behalf of Covered Entity available to the Covered Entity or to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the requester, for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule.

2.16 Cooperation in Privacy Compliance. Business Associate agrees to fully cooperate in good faith and to assist Covered Entity in complying with the requirements of the Privacy Rule.

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Security Rule)

3.1 Compliance with Security Rule. Business Associate shall fully comply with the requirements under the Security Rule applicable to "Business Associates," as that term is defined in the Security Rule. In case of any conflict between this Agreement and Service Agreements, this Agreement shall govern.

3.2 Security Safeguards and Policies. Business Associate shall implement Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity as required by the Security Rule. This includes specifically, but is not limited to, the utilization of technology commercially available at the time to the Business Associate to protect the Covered Entity's PHI against any reasonably anticipated threats or hazards. The Business Associate understands that it has an affirmative duty to perform a regular review or assessment of security risks, conduct active risk management and supply best efforts to assure that only authorized persons and devices access its computing systems and information storage, and that only authorized transactions are allowed. The Business Associate will maintain appropriate documentation of its compliance with the Security Rule.

3.3 Security Provisions in Business Associate Contracts. Business Associate shall ensure that

any agent to whom it provides Electronic PHI received from, maintained, or created for Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI supplied by Covered Entity, shall execute a bilateral contract (or the appropriate equivalent if the agent is a government entity) with Business Associate, incorporating the same restrictions and conditions in this Agreement with Business Associate regarding PHI except for the provision in Section 4.6.

3.4 Tennessee Consumer Notice of System Breach. Business Associate understands that the Covered Entity is an "Information Holder" (as may be Business Associate) under the terms of Tenn. Code Ann. § 47-18-2107, and that in the event of a breach of the Business Associate's security system as defined by that statute and Definition 1.1 of this agreement, the Business Associate shall indemnify and hold the Covered Entity harmless for expenses and/or damages related to the breach. Such obligation shall include, but is not limited to, the mailed notification to any Tennessee resident whose personal information is reasonably believed to have been acquired by an unauthorized individual. In the event that the Business Associate discovers circumstances requiring notification of more than one thousand (1,000) persons at one time, the person shall also notify, without unreasonable delay, all consumer reporting agencies and credit bureaus that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1681a, of the timing, distribution and content of the notices. Substitute notice, as defined by Tenn. Code Ann. § 47-18-2107(e)(2) and (3), shall not be permitted except as approved in writing in advance by the Covered Entity. The parties agree that PHI includes data elements in addition to those included by "personal information" under Tenn. Code Ann. § 47-18-2107, and agree that Business Associate's responsibilities under this paragraph shall include all PHI.

3.5 Reporting of Security Incidents. The Business Associate shall track all Security Incidents as defined by HIPAA and shall periodically report such Security Incidents in summary fashion as may be requested by the Covered Entity, but not less than annually within sixty (60) days of the anniversary of this Agreement. The Covered Entity shall not consider as Security Incidents, for the purpose of reporting, external activities (port enumeration, etc.) typically associated with the "footprinting" of a computing environment as long as such activities have only identified but not compromised the logical network perimeter, including but not limited to externally facing firewalls and web servers. The Business Associate shall reasonably use its own vulnerability assessment of damage potential and monitoring to define levels of Security Incidents and responses for Business Associate's operations. However, the Business Associate shall expediently notify the Covered Entity's Privacy Officer of any Security Incident, including any "breach of the security of the system" under Tenn Code Ann. § 47-18-2107, immediately upon becoming aware of any unauthorized acquisition including but not limited to use, disclosure, modification, or destruction of PHI by an employee or otherwise authorized user of its system of which it becomes aware.

3.5.1 Business Associate identifies the following key contact persons for all matters relating to this Agreement:

_____
_____
_____
_____
_____
_____

Business Associate shall notify Covered Entity of any change in these key contacts during the

term of this Agreement in writing within ten (10) business days.

3.6 Contact for Security Incident Notice. Notification for the purposes of Sections 2.9, 3.4 and 3.5 shall be in writing made by email/fax, certified mail or overnight parcel immediately upon becoming aware of the event, with supplemental notification by facsimile and/or telephone as soon as practicable, to:

Privacy Officer
HCFA
310 Great Circle Rd.
Nashville Tennessee 37243
Phone: (615) 507-6855 Facsimile: (615) 532-7322

3.7 Security Compliance Review upon Request. Business Associate shall make its internal practices, books, and records, including policies and procedures relating to the security of Electronic PHI received from, created by or received by Business Associate on behalf of Covered Entity, available to the Covered Entity or to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the requester, for purposes of determining Covered Entity's, Business Associate's compliance with the Security Rule.

3.8 Cooperation in Security Compliance. Business Associate shall fully cooperate in good faith to assist Covered Entity in complying with the requirements of the Security Rule.

3.9 Refraining from intimidation or retaliation. A Covered Entity or Business Associate may not threaten, intimidate, coerce, harass, discriminate against, or take any other retaliatory action against any Individual or other person for-- (a) Filing of a complaint under 45 C.F.R. § 160.306; (b) testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing; or (c) opposing any act or practice made unlawful, provided the Individual or person has a good faith belief that the practice opposed is unlawful, and the manner of opposition is reasonable and does not involve a disclosure of PHI in violation of HIPAA.

4. USES AND DISCLOSURES BY BUSINESS ASSOCIATE

4.1 Use and Disclosure of PHI for Operations on Behalf of Covered Entity. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform Treatment, Payment or Health Care Operations for, or on behalf of, Covered Entity as specified in Service Agreements, provided that such use or disclosure would not violate the Privacy and Security Rule, if done by Covered Entity.

4.2 Other Uses of PHI. Except as otherwise limited in this Agreement, Business Associate may use PHI within its Workforce as required for Business Associate's proper management and administration, not to include Marketing or Commercial Use, or to carry out the legal responsibilities of the Business Associate.

4.3 Third Party Disclosure Confidentiality. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or, if permitted by law, this Agreement, and the Service Agreement, provided that, if Business Associate discloses any PHI to a third party for such a purpose, Business Associate shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality, integrity, and availability of PHI and not to use

or further disclose such information except as required by law or for the purpose for which it was disclosed, and (b) notify Business Associate of any instances in which it becomes aware in which the confidentiality, integrity, and/or availability of the PHI is Breached immediately upon becoming aware.

4.4 Other Uses Strictly Limited. Nothing in this Agreement shall permit the Business Associate to share PHI with Business Associate's affiliates or contractors except for the purposes of the Service Agreement(s) between the Covered Entity and Business Associate(s) identified in the "LIST OF AGREEMENTS AFFECTED BY THIS HIPAA BUSINESS ASSOCIATE AGREEMENT" on page one (1) of this Agreement.

4.5 Covered Entity Authorization for Additional Uses. Any use of PHI or other confidential HCFA information by Business Associate, its Subcontractors, its affiliate or Contractor, other than those purposes of this Agreement, shall require express written authorization by the Covered Entity, and a Business Associate agreement or amendment as necessary.
Activities which are prohibited include, but not are not limited to, Marketing or the sharing for Commercial Use or any purpose construed by Covered Entity as Marketing or Commercial use of HCFA enrollee personal or financial information with affiliates, even if such sharing would be permitted by federal or state laws.

4.6 Prohibition of Offshore Disclosure. Nothing in this Agreement shall permit the Business Associate to share, use or disclose PHI in any form via any medium with any third party beyond the boundaries and jurisdiction of the United States without express written authorization from the Covered Entity.

4.7 Prohibition of Other Uses and Disclosures. Business Associate shall not use or disclose PHI that is Genetic Information for underwriting purposes. Moreover, the sale, marketing or the sharing for commercial use or any purpose construed by Covered Entity as the sale, marketing or commercial use of HCFA enrollee personal or financial information with affiliates, even if such sharing would be permitted by federal or state laws, is prohibited.

4.8 Data Use Agreement - Use and Disclosure of Limited Data Set. Business Associate may use and disclose a Limited Data Set that Business Associate creates for Research, public health activity, or Health Care Operations, provided that Business Associate complies with the obligations below. Business Associate may not make such use and disclosure of the Limited Data Set after any cancellation, termination, expiration, or other conclusion of this Agreement.

4.9 Limitation on Permitted Uses and Disclosures. Business Associate will limit the uses and disclosures it makes of the Limited Data Set to the following: Research, public health activity, or Health Care Operations, to the extent such activities are related to covered functions**,** including business planning and development such as conducting cost-management and planning-related analysis related to managing and operating Business Associates functions, formulary development and administration, development and improvement of methods of payment or coverage policies, customer service, including the provision of data analysis for policy holders, plan sponsors, or other customers, to the extent such activities are related to covered functions, provided that PHI is not disclosed and disclosure is not prohibited pursuant to any other provisions in this Agreement related to Marketing or Commercial use.

4.10 Business Associate shall enter into written agreements that are substantially similar to this Business Associate Agreements with any Subcontractor or agent which Business Associate provides access to Protected Health Information.

4.11 Business Associates shall implement and maintain information security policies that comply with the HIPAA Security Rule.

5. OBLIGATIONS OF COVERED ENTITY

5.1 Notice of Privacy Practices. Covered Entity shall provide Business Associate with the notice of Privacy Practices produced by Covered Entity in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.

5.2 Notice of Changes in Individual's Access or PHI. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses.

5.3 Notice of Restriction in Individual's Access or PHI. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use of PHI.

5.4 Reciprocity for Requests Received by Business Associate. The Parties agree that this Section (Section 5) is reciprocal to the extent Business Associate is notified or receives an inquiry from any Individual within Covered Entity's covered population.

6. TERM AND TERMINATION

6.1 Term. This Agreement shall be effective as of the date on which it has been signed by both parties and shall terminate when all PHI which has been provided, regardless of form, by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if the Parties agree that it is unfeasible to return or destroy PHI, subsection 6.3.5 below shall apply.

6.2 Termination for Cause. This Agreement authorizes and Business Associate acknowledges and agrees Covered Entity shall have the right to terminate this Agreement and Service Agreement in the event Business Associate fails to comply with, or violates a material provision of this Agreement and any provision of the Privacy and Security Rules.

6.2.1 Upon Covered Entity's knowledge of a Breach by Business Associate, Covered Entity shall either:

(a) Provide notice of breach and an opportunity for Business Associate to reasonably and promptly cure the breach or end the violation, and terminate this BAA if Business Associate does not cure the breach or end the violation within the reasonable time specified by Covered Entity; or

(b) Immediately terminate this BAA if Business Associate has breached a material term of this BAA and cure is not possible.

6.3 Effect of Termination. Upon termination of this Agreement for any reason, except as provided in subsections 6.3.2 and 6.3.5 below, Business Associate shall at its own expense either return and/or destroy all PHI and other confidential information received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision applies to all confidential information regardless of form, including but not limited to electronic or paper format. This provision shall also apply to PHI and other confidential information in the

possession of sub-contractors or agents of Business Associate.

6.3.1 The Business Associate shall consult with the Covered Entity as necessary to assure an appropriate means of return and/or destruction and shall notify the Covered Entity in writing when such destruction is complete. If information is to be returned, the Parties shall document when all information has been received by the Covered Entity.

6.3.2 This provision (Section 6.3 and its subsections) shall not prohibit the retention of a single separate, archived file of the PHI and other confidential HCFA information by the Business Associate if the method of such archiving reasonably protects the continued privacy and security of such information and the Business Associate obtains written approval at such time from the Covered Entity. Otherwise, neither the Business Associate nor its Subcontractors and agents shall retain copies of HCFA confidential information, including enrollee PHI, except as provided herein in subsection 6.3.5.

6.3.3 The Parties agree to anticipate the return and/or the destruction of PHI and other HCFA confidential information, and understand that removal of the confidential information from Business Associate's information system(s) and premises will be expected in almost all circumstances. The Business Associate shall notify the Covered Entity whether it intends to return and/or destroy the confidential with such additional detail as requested. In the event Business Associate determines that returning or destroying the PHI and other confidential information received by or created for the Covered Entity at the end or other termination of the Service Agreement is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction unfeasible.

6.3.4 Except for Business Associate Agreements in effect prior to April 21, 2005 when the Security Rule became effective, for the renewal or amendment of those same Agreements, or for other unavoidable circumstances, the Parties contemplate that PHI and other confidential information of the Covered Entity shall not be merged or aggregated with data from sources unrelated to that Agreement, or Business Associate's other business data, including for purposes of data backup and disaster recovery, until the parties identify the means of return or destruction of the HCFA data or other confidential information of the Covered Entity at the conclusion of the Service Agreement, or otherwise make an express alternate agreement consistent with the provisions of Section 6.3 and its subsections.

6.3.5 Upon written mutual agreement of the Parties that return or destruction of PHI is unfeasible and upon express agreement as to the means of continued protection of the data, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction unfeasible, for so long as Business Associate maintains such PHI.

7. MISCELLANEOUS

7.1 Regulatory Reference. A reference in this Agreement to a section in the Privacy and/or Security Rule means the section as in effect or as amended.

7.2 Amendment. The Parties agree to take such action to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act, Public Law 104-191. Business Associate and Covered Entity shall comply with any amendment to the Privacy and

Security Rules, the Health Insurance Portability and Accountability Act, Public Law 104-191, and related regulations upon the effective date of such amendment, regardless of whether this Agreement has been formally amended, including, but not limited to, changes required by the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

7.3 Survival. The respective rights and obligations of Business Associate under Confidentiality and Section6.3 of this Agreement shall survive the termination or expiration of this Agreement.

7.4 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and the Business Associate to comply with the Privacy and Security Rules.

7.5 Headings. Paragraph Headings used in this Agreement are for the convenience of the Parties and shall have no legal meaning in the interpretation of the Agreement.

7.6 Notices and Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by electronic mail, hand, by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below, or to such other party, facsimile number, or address as may be hereafter specified by written notice. (For purposes of this section, effective notice to "Respective Party" is not dependent on whether the person named below remains employed by such Party.) The Parties agree to use their best efforts to immediately notify the other Party of changes in address, telephone number, and fax numbers and to promptly supplement this Agreement as necessary with corrected information.

Notifications relative to Sections 2.7, 3.4 and 3.5 of this Agreement must be reported to the Privacy Officer pursuant to Section 3.6.

COVERED ENTITY:	BUSINESS ASSOCIATE:
Darin J. Gordon, Director	_____
Department of Finance and Adm.	_____
Health Care Finance & Admin.	_____
310 Great Circle Rd.	_____
Nashville, TN 37243	_____
Phone: (615) 507-6443	_____
Fax: (615) 253-5607	_____

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the date of hand delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the facsimile machine at the receiving location and receipt is verbally confirmed by the sender.

7.7 Transmission of PHI or Other Confidential Information. Regardless of the transmittal methods permitted above, Covered Entity and Business Associate agree that all deliverables set forth in this Agreement that are required to be in the form of data transfers shall be transmitted between Covered Entity and Business Associate via the data transfer method specified in advance by Covered Entity. This may include, but shall not be limited to, transfer through Covered Entity's SFTP system. Failure by the Business Associate to transmit such

deliverables in the manner specified by Covered Entity, may, at the option of the Covered Entity, result in liquidated damages as set forth in one (1) or more of the Service Agreements between Covered Entity and Business Associate listed above. All such deliverables shall be considered effectively submitted upon receipt or recipient confirmation as may be required.

7.8 Strict Compliance. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect, or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.

7.9 Severability. With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

7.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee except to the extent that Tennessee law has been pre-empted by HIPAA and HITECH and without giving effect to principles of conflicts of law. Jurisdiction shall be Davidson County, Nashville, Tennessee, for purposes of any litigation resulting from disagreements of the parties for purpose of this Agreement and the Service Agreement (s).

7.11 Compensation. There shall be no remuneration for performance under this Agreement except as specifically provided by, in, and through, existing administrative requirements of Tennessee State government and Services Agreement(s) referenced herein.

7.12 Validity of Execution. Unless otherwise agreed, the parties may conduct the execution of this Business Associate Agreement transaction by electronic means. The parties may agree that an electronic record of the Agreement containing an Electronic Signature is valid as an executed Agreement.

IN WITNESS WHEREOF, the Parties execute this Agreement to be valid and enforceable from the last date set out below:

HEALTH CARE FINANCE & ADMINISTRATION	**BUSINESS ASSOCIATE**
By: _____	By: _____
Darin Gordon, Director	_____
Date: _____	Date: _____
State of Tennessee, Dept. of Finance & Adm.	_____
310 Great Circle Road Nashville, TN 37243	_____
Phone: (615) 507-6443 Fax: (615) 253-5607	_____

BACKGROUND INFORMATION

The Tennessee Health Care Innovation Initiative

Through Governor Haslam's leadership, the State of Tennessee launched the Tennessee Health Care Innovation Initiative to transition its health care payment system to better reward patient-centered, high-value health care outcomes for all Tennesseans. The Initiative is led by the state Division of Health Care Finance and Administration (the division of state government that includes TennCare and CoverKids), and includes a broad group of stakeholders, including the Benefits Administration for state employees, the largest private insurers in Tennessee, and leading Tennessee health care providers. Tennessee is pursuing three complementary strategies in payment and delivery system reform:

- Primary Care Transformation: Tennessee will implement a multi-payer Patient Centered Medical Home model to reduce avoidable hospitalizations, increase coordinated care, and improve quality of care. The state will also implement Health Homes for TennCare members with severe and persistent mental illness. The Care Coordination Tool which is covered through this scope of work will support the work of these practices by providing an off the shelf solution with customization that will process Admission Discharge and Transfer (ADT) alerts, identify gaps in care, and allow for care coordination.

- Episodes of Care: Tennessee will implement 75 multi-payer episodes of care over the next five years to reward high-quality and efficient acute health care. Tennessee insurers have already implemented three episodes by sending actionable reports on cost and quality to over 500 providers in May 2014. The activities under the episodes of care strategy are not part of this scope of work.

- Quality- and Acuity-Based Payment for Long Term Services and Supports (LTSS): TennCare's payments will be adjusted for quality and acuity for LTSS services in nursing facilities and home and community based care, including for individuals with intellectual and developmental disabilities and people receiving respiratory care. The activities under the LTSS strategy are not part of this scope of work.

Tennessee is leveraging state purchasing power through the joint efforts of TennCare, CoverKids (Tennessee's Children's Health Insurance Program), and Benefits Administration, and working with a coalition of commercial insurance carriers. TennCare contractually requires its three managed care organizations (MCOs)—Amerigroup/Wellpoint, BlueCross BlueShield of Tennessee (BCBST), and UnitedHealthcare—to participate in payment and delivery system reform, including the TennCare*Select* administrative services only (ASO) network for children in state custody. In addition, in the most recent MCO request for proposals process, Tennessee solicited and received binding commitments from MCOs to have their commercial insurance and Medicare Advantage lines of business participate in the initiative. CoverKids includes payment and delivery system reform in its ASO contract with BCBST. Tennessee's Division of Benefits Administration, the largest self-insured employer plan in Tennessee, requires its two ASOs—BCBST and Cigna—to participate in payment and delivery system reform for members including employees, dependents, and retirees of the state, higher education, local education agencies, and local government.

The State of Tennessee has been awarded a State Innovation Model (SIM) Testing Grant from the Centers for Medicare and Medicaid Innovation (CMMI) to support the three initiative strategies.
Primary Care Transformation Goals:
The State has several goals for Primary Care Transformation. These include:

- Reduce non-emergency ED use
- Reduce preventable hospitalizations
- Reduce readmissions
- Increase adherence to preventative care
- Increase pharmacy adherence

- Reduce duplication
- Improve health and patient experience

Shared Care Coordination Tool:

Tennessee is working with stakeholders to build the framework for a state Health Information Exchange (HIE). Tennessee's approach is to begin with a state-wide shared solution for the most impactful health information exchange: real-time or daily batch Admitting/Discharge/Transfer (ADT) data collected from hospitals and Emergency Departments and sent to a care coordination interface for attributed PCPs. Over time additional functions and connectivity will be added to this shared solution to get to full HIE functionality. In early 2015, TennCare MCOs will generally only pay a patient's attributed PCP for primary care services and will provide ADT alerts to those attributed PCPs.

Commercial payers and Medicaid MCOs will participate and fund the multi-payer, multi-plan, shared solution. Medicaid MCOs are required by their contract with the State to have a provider that is uniquely responsible for each member's primary care and to send ADT information to those PCPs. The MCOs are committed to collaborating and leveraging the state's Medicaid Management Information System (MMIS) capabilities to create and maintain electronic data interfaces with all of Tennessee's hospitals. Commercial payers see the value of being able to participate in this shared approach. Providers will benefit from having a single system to use for information on members of their commercial, Medicaid, and CoverKids insurance plans. ADTs will be viewable through the Care Coordination Tool.

In addition to using the system for ADT information, MCOs have agreed to send their claims data to the shared solution to generate gaps in care analyses, patient risk scores, and patient prioritization functionality. The shared care coordination solution will be more useful to providers than simple ADT alerts, because it will direct care coordinators to their highest priority patients. The business rules for gaps in care, patient risk score, and patient prioritization will correspond to the quality measures and payment approaches of the multi-payer PCMH and the Health Homes programs. Appendix A provides a general workflow of the functions. Although the shared care coordination solution will be especially helpful to PCMH and Health Homes practices, all primary care practices will be able to benefit from the new information that is available to them.

The solution should adopt the best available standards. The Office of the National Coordinator for Health Information Technology (ONC) is currently working on guidelines for care plans to coordinate care across multiple specialties. ONC currently has guideline standards for the interoperability of system which can be found in the ONC's 2015 Interoperability Standards Advisory (http://www.healthit.gov/standards-advisory).

SIM funding will support a provider-facing portal that includes single sign-on capability and role-based access for providers to connect all SIM-related provider interfaces. When a provider logs in, the provider will be able to access the shared care coordination solution, in addition to other tools and reports (see Appendix B for TennCare Conceptual Solution).

The Care Coordination tool will enable providers to better coordinate their work and be aware of any of their attributed patients' hospital admissions. Overall, the Care Coordination tool is an off the shelf product that has been modified to have the following capabilities:

- Intake claims and other datasets, as available
- Perform risk analysis and stratification,
- Generate gaps-in-care,
- Assign to patients to both product-supplied and end user defined registries,
- Queue patients for CareTeam processing
- Maintain, execute and track activities against patient-specific care plans.
- Intake and triage facility ADTs in near real-time, and notify appropriate CareTeam members for follow-up action
- Manage a team of Care Manager's workflow, including patient assignment, workload management, campaign generation and management, and Care Manager performance monitoring and analysis

- Communicate across the CareTeam and patient in their preferred modality via various communications technologies; paper, TXT, eMail, IVR, Chat, etc.
- Support both the PCMH and Health Home care models
- Display gaps in care and create prioritized workflows for key stakeholders on the care coordination team. The Solution shall display gaps in care generated both inside and outside the Solution.
- Display patient risk scores and create prioritized workflows for key stakeholders on the care coordination team.
- Generate risk scores and display risk scores generated outside the Solution.
- Receive and display Rx data. The Solution should have the ability to identify potential gaps in medication adherence.
- Produce management reporting on quality, utilization and cost.
- Maintain security of the information the Solution obtains and produces.

The State will be responsible for implementing the ADT feeds for the shared care coordination solution as it will be based on the State's MMIS infrastructure the preliminary structure of which can be found in Appendix B. The Care Coordination tool will interface with the State System, and alert providers of ADTs for providers' Attributed patients.

The Care Coordination Tool will support the work of the PCMH and Health Homes programs, but will not be limited to those participants.

Timeline for PCMH and Health Homes	**Dates**
Complete Statewide Health Home Provider Readiness Assessment	4/1/2016
PCMH Begins for 12 Practices	7/1/2016
Launch Health Homes Program Statewide (2 Years Enhanced Prospective Payment Begins)	10/1/2016
PCMH for 12 practices, and 1 Grand Region Launches	7/1/2017
PCMH Launches Statewide	7/1/2018
Outcomes-based Payment Begins Health Homes	10/1/2018

Patient-Centered Medical Home in Tennessee

Tennessee will build on the existing PCMH efforts by providers and payers in Tennessee to create a robust PCMH program that features alignment across payers on critical elements. There are already 560 PCPs in Tennessee recognized by NCQA, and all of the major insurance companies in Tennessee have implemented a medical home program. However, the impact of the medical home programs in Tennessee is muted by the differences between them. Providers complain that it is impossible to participate in a PCMH program with more than one payer because of separate systems and divergent incentives. At the same time, many providers that could participate in PCMH programs based on all of their members find that their patient panel with any one payer is too small.

The initiative will lead a multi-payer PCMH approach for a greater impact. The major payers in Tennessee have agreed to adopt a multi-payer population-based approach and have signed a "Joint Statement of Intent for Population-Based Models," committing to have 80% of members across books of business cared for through a population-based model within five years. The State will lead by example by requiring the three TennCare MCOs to participate in a state-wide joint PCMH program and will incorporate

commercial payers starting with 12 practices in East and West Tennessee and building up to a state-wide aligned commercial and Medicaid PCMH program.

The State's current thinking around the design elements for multi-payer PCMH includes:

- **Patient population:** All members not eligible for the Health Home program.
- **Key quality metrics:** A key goal of the PCMH approach is to align the quality metrics that are used by each of the payers participating in the initiative. The strong preference of all stakeholders is to use quality metrics that are nationally recognized (such as National Quality Forum endorsed measures).
- **Attribution Model:** Starting in 2015, all MCOs will be required to ensure that all primary care services are delivered and coordinated by a single attributed provider. TennCare believes that this tight attribution approach will be of great advantage to the PCMH program. Commercial payers may or may not adopt the same attribution approach and the Consultant will need to take different approaches to attribution into account in the program design. The Care Coordination Tool will need to track attribution.
- **Efficiency:** The initiative believes that, when possible, rewards to providers should be significantly based on a cost and utilization measures such as total cost of care, avoidable emergency department use, and/or avoidable hospitalization.
- **Provider Requirements:** Stakeholders agree that the basis for requirements on primary care providers participating in the program should be NCQA's PCMH recognition program.
- **Reports to providers:** Reports to providers will highlight their achievement on quality and efficiency metrics, including total cost of care, and reward payments that providers have earned.
- **Actionable information to providers:** Providers will receive ADT alerts when their attributed patients go to Tennessee hospitals and emergency departments from a shared provider facing population management software solution. In addition this software will inform providers of their risk-stratified member panel, gaps in care reporting, and filled scripts reports.
- **Scale up:** The program will begin with 12 practices in East and West Tennessee by July 2016. The program will then expand to cover one grand region (East, West, or Middle Tennessee) by July 2017. By July 2018, the program will go state-wide and by 2020, our goal is to have over 65% of primary care providers in the state enrolled in a PCMH model. The Consultant's advice on engaging with providers with a relatively small number of patients will be important to reaching the State's goal.

Health Homes for People with SPMI in Tennessee

The State will work with providers to achieve integrated and value-based behavioral and primary care services for TennCare members with Severe and Persistent Mental Illness (SPMI). The state will leverage the enhanced federal match for Medicaid Health Homes to offer prospective payments for care coordination and case management for these providers for two years, coupled with SIM-supported training and capacity building, and quarterly cost and quality reporting. These two years will provide a bridge at the end of which providers will be ready to receive value-based payments tied to process and outcome measures of quality and utilization on both behavioral health and primary care.

A Health Home will be required to effectively coordinate behavioral and primary care services to Tennessee's SPMI population. The Care Coordination tool will have to allow for both types of users. As defined by CMS, a Health Home provides six specific services beyond the clinical services offered by a typical primary care provider including comprehensive care management, care coordination, health promotion, comprehensive transitional care, individual and family support services, and referral to community and support services.

The State's current thinking around design elements for Health Homes includes:

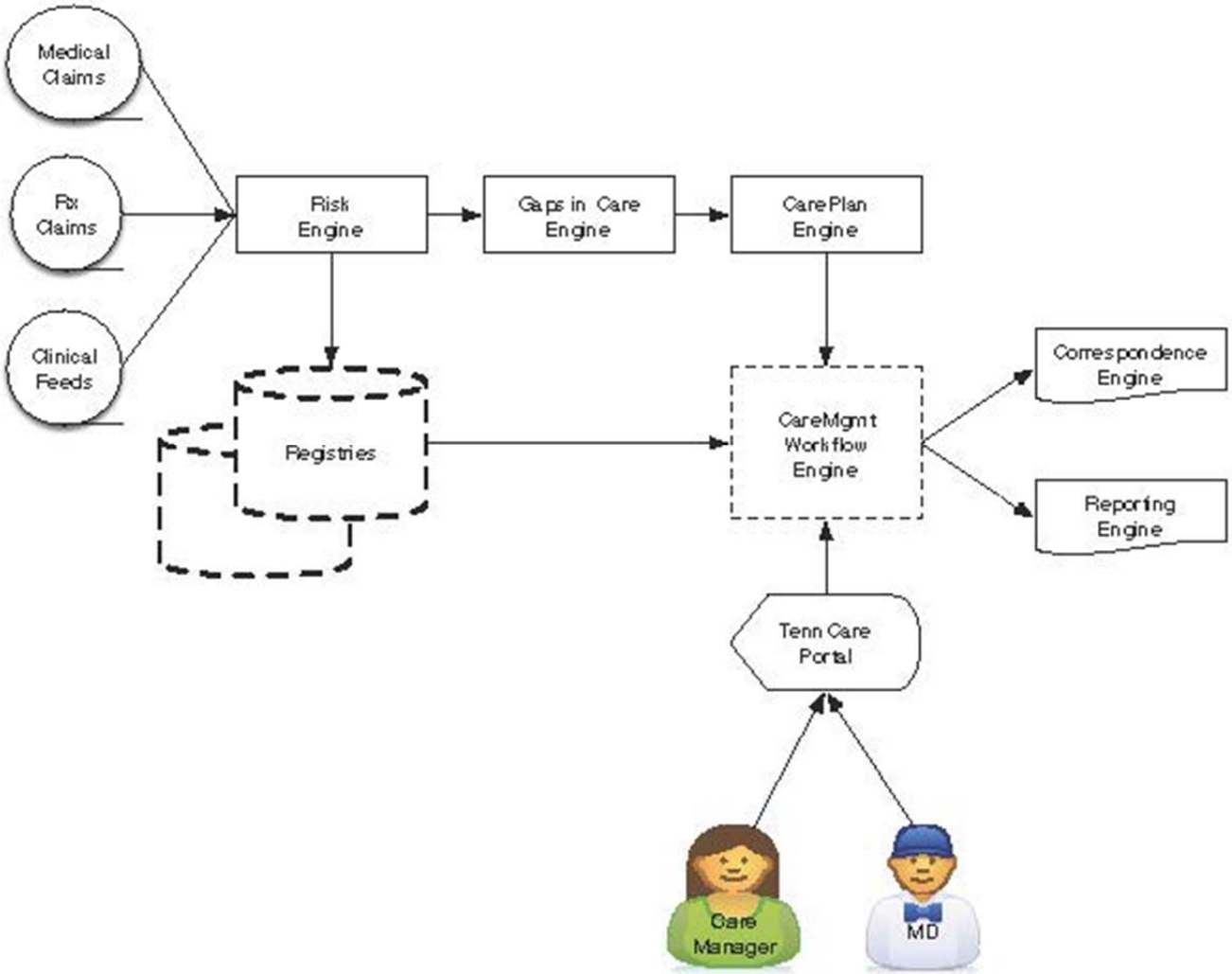
- **Patient population:** All TennCare members who have claims with diagnoses of schizophrenia, bipolar, personality disorder, and major depression (an estimated 55,000 members).
- **Key quality metrics:** TennCare will use all recommended CMS Health Home Core Quality measures including, adult BMI, ambulatory care sensitive condition admission, care transition- transition record submitted to the healthcare professional, follow-up after hospitalization for mental illness, all cause readmission, screening for clinical depression and follow-up plan, initiation and engagement of alcohol and other drug dependence treatment, controlling high blood pressure. In addition, the State

will likely adopt quality and outcome measures recommended by the Health Home TAG. Likely outcome measures include avoidable Emergency Department utilization and avoidable in-patient admission and readmission rates.

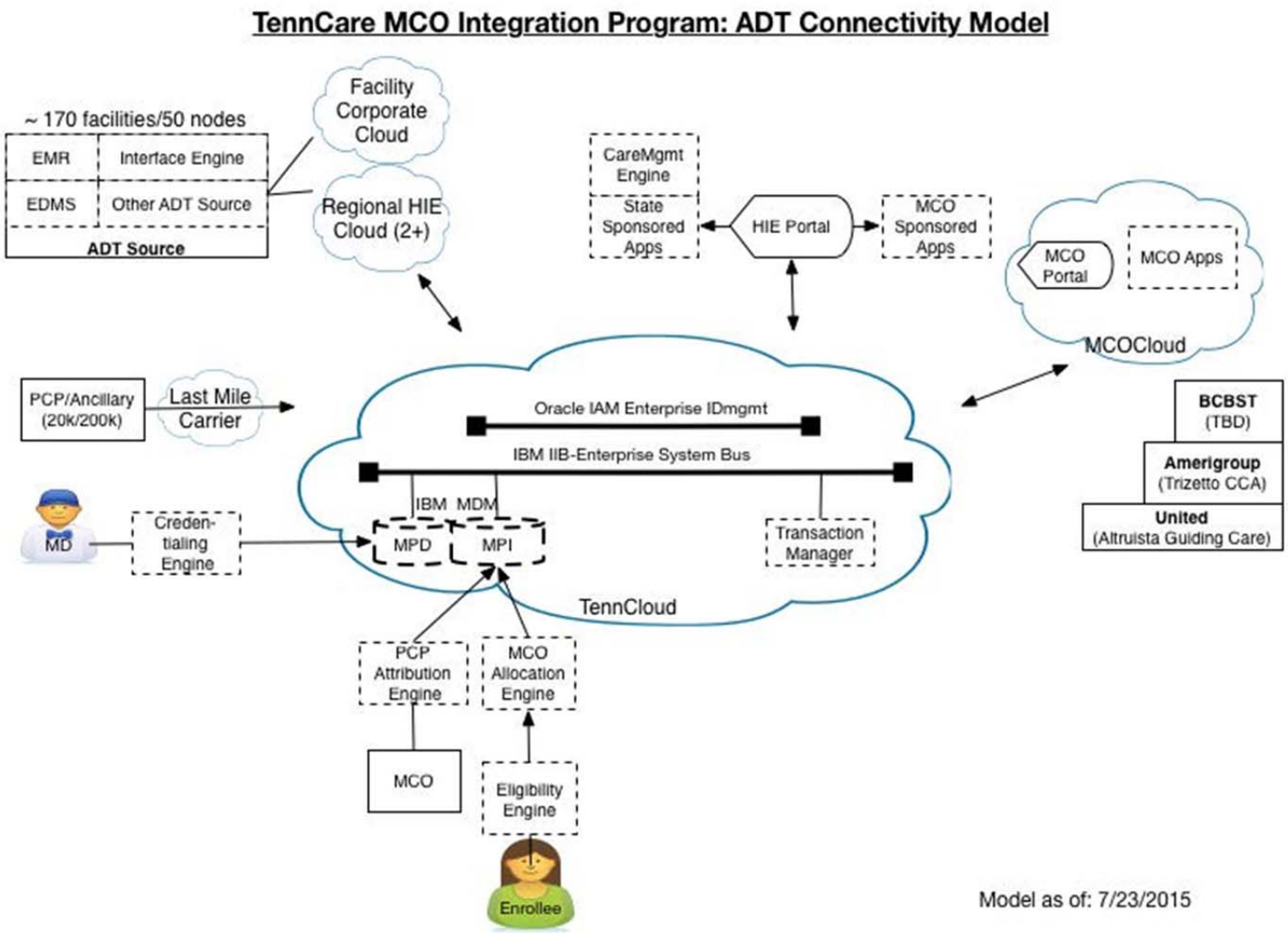
- **Efficiency:** The initiative believes that after the first two years of the Health Home program, rewards to providers should be significantly based on a cost and utilization measure such as total cost of care, avoidable emergency department use, and/or avoidable hospitalization.
- **Attribution Model:** Starting in 2015, all MCOs will be required to ensure that all primary care services are delivered and coordinated by a single attributed provider. There is some question as to how this system can be adapted for an SPMI member who may have a primary care provider and a behavioral health provider both of whom would benefit from being attributed providers.
- **Accreditation:** TennCare's expectation is that Health Homes will be working towards receiving NCQA Level One PCMH accreditation, NCQA patient-centered specialty practice recognition, Joint Commission PCMH accreditation, Joint Commission Behavioral Health Home certification, or CARF Behavioral Health Home as part of the provider's requirements for participating in the program.
- **Reports to providers:** Reports to providers will highlight their achievement on quality and efficiency metrics, including total cost of care, and reward payments that providers have earned.
- **Actionable information to providers:** Providers will receive ADT feeds, their risk-stratified member panel, gaps in care reporting, and filled scripts reports.
- **Scale up:** Because Health Homes are a state plan service and because Tennessee plans to launch state-wide, Health Homes must offer an adequate state-wide network of providers when the program launches.

APPENDIX A

TennCare MCO CM Integration Program: Representative Workflow



APPENDIX B


TennCare MCO Integration Program: ADT Connectivity Model
~ 170 facilities/50 nodes
EMR
Interface Engine
EDMS
Other ADT Source
ADT Source
Facility Corporate Cloud
Regional HIE Cloud (2+)
CareMgmt Engine
State Sponsored Apps
HIE Portal
MCO Sponsored Apps
MCO Portal
MCO Apps
MCOCloud
PCP/Ancillary (20k/200k)
Last Mile Carrier
Oracle IAM Enterprise IDmgmt
IBM IIB-Enterprise System Bus
IBM MDM
MPD
MPI
Transaction Manager
TennCloud
BCBST (TBD)
Amerigroup (Trizetto CCA)
United (Altruista Guiding Care)
MD
Creden-tialing Engine
PCP Attribution Engine
MCO Allocation Engine
MCO
Eligibility Engine
Enrollee
Model as of: 7/23/2015