FUNDING REVISION

CONTRACT

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

Begin Date	End Date	Agency Tracking #	Edison Record ID
April 1, 2011	December 31, 2017	31865-00068	25010

Contractor Legal Entity Name	Edison Vendor ID
Public Partnerships, LLC	0000005040

Goods or Services Caption (one line only)

FUNDING REVISION: $8,525.00 from FY2018 to FY2016

Contractor	CFDA #
☒ Contractor	93.778 Dept of Health & Human Services/Title XIX

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	$399,585.00	$399,585.00			$799,170.00
2012	$1,598,340.00	$1,598,340.00			$3,196,680.00
2013	$1,598,340.00	$1,598,340.00			$3,196,680.00
2014	$1,698,735.00	$1,698,735.00			$3,397,470.00
2015	$1,550,000.00	$1,550,000.00			$3,100,000.00
2016	$2,473,602.50	$2,473,602.50			$4,947,205.00
2017	$3,505,183.00	$3,505,183.00			$7,010,366.00
2018	$1,678,989.50	$1,678,989.50			$3,357,979.00
TOTAL:	**$14,502,775.00**	**$14,502,775.00**			**$29,005,550.00**

Contractor Ownership Characteristics:

☐ Minority Business Enterprise (MBE): African American, Asian American, Hispanic American, Native American

☐ Woman Business Enterprise (WBE)

☐ Tennessee Service Disabled Veteran Enterprise (SDVBE)

☐ Tennessee Small Business Enterprise (SBE): $10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.

☒ Other: Limited Liability Company

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

☒ Competitive Selection	RFP
☐ Other	

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Speed Chart (optional)	Account Code (optional)
TN00000236	70803000

FUNDING REVISION

CONTRACT

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

Begin Date	End Date	Agency Tracking #	Edison Record ID
April 1, 2011	December 31, 2017	31865-00068	25010

Contractor Legal Entity Name	Edison Vendor ID
Public Partnerships, LLC	0000005040

Goods or Services Caption (one line only)

FUNDING REVISION: $138,680.00 from FY2018 to FY2016

Contractor	CFDA #
☒ Contractor	93.778 Dept of Health & Human Services/Title XIX

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	$399,585.00	$399,585.00			$799,170.00
2012	$1,598,340.00	$1,598,340.00			$3,196,680.00
2013	$1,598,340.00	$1,598,340.00			$3,196,680.00
2014	$1,698,735.00	$1,698,735.00			$3,397,470.00
2015	$1,550,000.00	$1,550,000.00			$3,100,000.00
2016	$2,469,340.00	$2,469,340.00			$4,938,680.00
2017	$3,505,183.00	$3,505,183.00			$7,010,366.00
2018	$1,683,252.00	$1,683,252.00			$3,366,504.00
TOTAL:	**$14,502,775.00**	**$14,502,775.00**			**$29,005,550.00**

Contractor Ownership Characteristics:

☐ Minority Business Enterprise (MBE): African American, Asian American, Hispanic American, Native American

☐ Woman Business Enterprise (WBE)

☐ Tennessee Service Disabled Veteran Enterprise (SDVBE)

☐ Tennessee Small Business Enterprise (SBE): $10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.

☒ Other: Limited Liability Company

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

☒ Competitive Selection	RFP
☐ Other	

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Speed Chart (optional)	Account Code (optional)
TN00000236	70803000

CONTRACT AMENDMENT COVER SHEET

Agency Tracking #	Edison ID	Contract #	Amendment #
31865-00068	25010	FA1134502	05

Contractor Legal Entity Name	Edison Vendor ID
Public Partnerships, LLC	0000005040

Amendment Purpose & Effect(s)

Updates Scope and Increases Maximum Liability for the Addition of ECF Program Services

Amendment Changes Contract End Date: ☐ YES ☒ NO **End Date:** December 31, 2017

TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A): **$ 3,315,550.00**

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	$399,585.00	$399,585.00			$799,170.00
2012	$1,598,340.00	$1,598,340.00			$3,196,680.00
2013	$1,598,340.00	$1,598,340.00			$3,196,680.00
2014	$1,698,735.00	$1,698,735.00			$3,397,470.00
2015	$1,550,000.00	$1,550,000.00			$3,100,000.00
2016	$2,400.000.00	$2,400.000.00			$4,800,000.00
2017	$3,505,183.00	$3,505,183.00			$7,010,366.00
2018	$1,752,592.00	$1,752,592.00			$3,505,184.00
TOTAL:	**$14,502,775.00**	**$14,502,775.00**			**$29,005,550.00**

American Recovery and Reinvestment Act (ARRA) Funding: ☐ YES ☒ NO

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Speed Chart (optional)	Account Code (optional)
TN00000236	70803000

OCR USE

AMENDMENT #5
CONTRACT #25010
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
AND
PUBLIC PARTNERSHIPS, LLC

This Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare" and Public Partnerships, LLC, hereinafter referred to as the "Contractor" for the provision of Financial Administration and Supports Brokerage functions for consumer direction of eligible CHOICES Home and Community Based Services (HCBS) and eligible ECF CHOICES HCBS relevant to the TennCare CHOICES in Long-Term Services and Supports Program and the Employment and Community First CHOICES Program. For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. **All instances of "care coordinator" shall be replaced with "care coordinator or support coordinator, as applicable".**

2. **All instances of "CHOICES" and "eligible CHOICES HCBS" shall be replaced with "CHOICES or ECF CHOICES" and "eligible CHOICES HCBS or eligible ECF CHOICES HCBS, as applicable", respectively, with the exceptions of references to "companion care" and the definition of Self-Direction of Health Care Tasks in Attachment A, both of which exclusively apply to CHOICES.**

3. **All instances of "plan of care" shall be replaced with "plan of care or person-centered support plan, as applicable"**

4. **Contract Section A.15.k is deleted in its entirety and replaced with the following:**

   k. Ensure that new representatives sign all service agreements

5. **Contract Section A.15.n is deleted in its entirety and replaced with the following:**

   n. Input the member and/or representative's assignment of individual consumer directed workers into the timekeeping system approved by TennCare in accordance with the schedule at which services are needed by the member, the member's plan of care or person-centered support plan, as applicable, and the MCO's service authorization. Ensure ongoing maintenance of daily operations of the timekeeping system management for consumer directed workers including 1) authorization changes and 2) verification of time. Additionally, maintain adequate staff for management of the timekeeping system to ensure timesheets are consistent with current authorizations, timesheets are verified for each pay period and payroll is provided accurately and on time.

6. **The following is added as Grant Contract section A.23.k:**

   k. For members enrolled in ECF CHOICES, how to manage the delivery of each eligible ECF CHOICES HCBS within the authorized budget for that service.

7. **Contract Section A.38.a. is deleted in its entirety and replaced with the following:**

a. Monitor assignment of workers by the member/representative including the Contractor's entry of such assignment into the Contractor's timekeeping system to ensure service utilization in accordance with the monthly units or monthly or annual budget, as applicable, of consumer directed services specified in the plan of care or person-centered support plan, respectively, and in the service authorization, and notify the member's care coordinator or support coordinator, as applicable, when a member's needs have changed;

8. **Contract Section A.42 is deleted in its entirety and replaced with the following:**

A.42. The Contractor shall identify and report, as appropriate, abuse and neglect, fraud and abuse, and critical incidents for CHOICES and ECF CHOICES as specified in TennCare protocol or business rules, which shall be developed or prior approved by TennCare. Additionally, with the exception of Section A.43 of this Contract, which applies only to CHOICES critical incidents, the Contractor shall comply with Sections A.44 through A.48 of this Contract for the purposes of critical incidents in CHOICES and ECF CHOICES.

9. **Contract Section A.46 is deleted in its entirety and replaced with the following:**

A.46. The Contractor shall refer all instances of suspected abuse, neglect, or exploitation in CHOICES and ECF CHOICES to Adult Protective Services or the Department of Children's Services for investigation, as applicable and in accordance with state law.

10. **Contract Section A.56 is deleted in its entirety and replaced with the following:**

A.56. The Contractor shall develop and submit reports as specified below, using a format prescribed by TennCare. All reports shall be made available to TennCare via a web portal that provides the current detail on authorized services or budgets and expenditures. The reports shall be capable of sorting by selected date ranges as specified by the requestor.

a. Submit to TennCare a weekly Companion Care referral and enrollment report for members enrolled in CHOICES Group 2. For members that without the receipt of Companion Care services may not be served safely in CHOICES Group 2, the Contractor shall work with TennCare enrollment to ensure timely and seamless transition to consumer directed services. On a weekly basis, the contractor shall submit to TennCare a report tracking the enrollment process for each prospective member. At a minimum, the report will include, but is not limited to, the member's name, date of referral, supports broker's name, and status of required paperwork, home visit, back-up plan, and training.

b. Submit to TennCare a monthly Consumer Direction Count report, due on the 1st of the month. At a minimum, the report will include by program, region and MCO the total number of active referrals for Consumer Direction, the total number of members with active authorizations for Consumer Direction services, the total number of members with active authorizations for companion care (applicable only for CHOICES members), and the total number of members who noted on their service agreement that they will be self-directing healthcare tasks (also applicable only for CHOICES members).

c. Submit to TennCare a monthly supports broker report (electronic copy), due on the 20th of the following month. At a minimum, the report will include the turnover

rate for supports brokers, the supports broker-to-member ratio by program, number of members reassigned to a different supports broker (broken down by those changes requested by the member, and those initiated by the Contractor/subcontractor), and, per member, the current status of their case – new enrollment, on-going support, or post-enrollment assistance.

1. New enrollment – those members who are enrolling in consumer direction for the first time or re-enrolling after more than 365 days out of the program.
2. On-going support – those members who have been enrolled in the consumer direction program and have an Employer of Record (EOR) and all the necessary workers in place.
3. Post-enrollment assistance – those members who are enrolled in the consumer direction program and are experiencing a change in one or more of their workers and/or their EOR.

d. Quarterly reports, due on the 30th of the month following the end of each quarter, using a format prescribed by TennCare:

1. Report by month and cumulative for the quarter, on the complaints received from members/representatives, workers and care coordinators or support coordinators by program regarding the Contractor, workers or representatives, and the resolution and timeframe for resolution of reported incidents.

2. Report by month and cumulative for the quarter, on the issues identified and tracked through the Contractor's fraud and abuse system and the resolution and timeframes for resolution of identified issues by program.

3. Referral and Enrollment Report by program that provides the following information, at a minimum, by MCO and/or TennCare referral, as applicable, by month and cumulative for the quarter:

   (a) Total number of referrals received;
   (b) Total number of members enrolled in Consumer Direction (defined as having an authorization in place for Consumer Direction services and services initiated);
   (c) Total number of withdrawals from Consumer Direction and indicate if withdrawal occurred prior or subsequent to service initiation;
   (d) By service, the number of CHOICES members consumer directing attendant care, personal care, in-home respite, and companion care; and the number of ECF CHOICES members consumer directing personal assistance, supportive home care, respite and community transportation; and
   (e) How many days transpired from FEA referral by the MCO (date of referral upload, or as otherwise defined by TennCare) to initiation of services (date of service authorization, or as otherwise defined by TennCare) for Consumer Direction enrollees:

      i. Average number of days from referral to initiation of services;
      ii. Range of days from referral to initiation of services (least to greatest);
      iii. Summary of the foregoing for the last (4) four quarters on every quarterly submission; and

iv. Listing of each member for whom services have not been initiated within sixty (60) days and an explanation as to why these services have not been initiated

4. Customer Service report that provides, by program, month and cumulative for the quarter, the following information:

   (a) Number of calls received;
   (b) Average length of time of hold;
   (c) Number of voice messages received;
   (d) Number and percent of voice messages returned within 1 business day; and
   (e) List of reasons for each call and number of calls per reason.

5. Report by month and cumulative for each quarter, as well as annually (cumulative for each calendar year due ninety (90) days after the last day of each calendar year) a member utilization report that provides the following information, at a minimum:

   (a) Name and identification number of each CHOICES or ECF CHOICES member participating in consumer direction of eligible CHOICES HCBS or eligible EFC CHOICES HCBS during the reporting period and indicating, if applicable, the date of withdrawal from Consumer Direction and/or for CHOICES members only, participation in self direction of health care tasks;

   (b) Services authorized and rate per service for each worker and if worker is a family member;

   (c) Total units of each service provided and amount of payments made on each member's behalf;

   (d) Total authorized units or budget amount, as applicable of each service remaining for each member; and

   (e) Identification of members enrolled in consumer direction who incur no utilization of consumer directed services for a period of at least thirty (30) consecutive days.

e. Additional ad hoc reports shall be prepared and submitted as directed by TennCare within ten (10) business days from the date of the request unless otherwise specified by TennCare.

11. **Contract Section A.67.a. is deleted in its entirety and replaced with the following:**

a. Four (4) year degree in Human Services (psychology, sociology, social work, recreational therapy, education, nursing, PT, OT, speech, etc.) and at least one year professional experience working with persons in the applicable target population(s); a four (4) year degree in any other subject and two (2) years experience working with persons in the applicable target population(s); or a two (2) year degree in Human Services (psychology, sociology, social work, recreational therapy, education, nursing, PT, OT, speech, etc.) and at least five (5) years professional experience working with persons in the applicable target population(s); and

12. **Contract Section A.68 is deleted in its entirety and replaced with the following:**

A.68. The Contractor shall provide staff training including:

a. Customer service training for Contractor staff;

b. As appropriate, train staff on how to use the timekeeping system;

c. On an MCO's requirements for critical incidents identification and reporting, and identification and reporting of abuse and neglect;

d. On an MCO's complaint system; and

e. All Supports Brokers shall be trained in a manner prior approved by TennCare on supporting individuals with intellectual and developmental disabilities.

13. **Contract Section A.74.a. is deleted in its entirety and replaced with the following:**

a. Only bill for services that have been authorized by the MCO for an eligible member enrolled in CHOICES Group 2 or Group 3 or ECF CHOICES and in Consumer Direction at the time of service delivery. The Contractor must provide a web-based interface for the MCO and members to review information on the units or budget amount, as applicable, of services authorized, utilized, and remaining balances;

14. **Contract Section C.1 is deleted in its entirety and replaced with the following:**

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Twenty-Nine Million Five Thousand Five Hundred Fifty Dollars ($29,005,550.00) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

15. **Attachment A is deleted in its entirety and replaced with the Revised Attachment A, attached hereto.**

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

Amendment Effective Date. The revisions set forth herein shall be effective June 30, 2016. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

PUBLIC PARTNERSHIPS, LLC:

06/08/2016

SIGNATURE DATE

Marc Fenton, President

PRINTED NAME AND TITLE OF SIGNATORY (above)

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

Larry B. Martin/CD 6/8/2016

LARRY B. MARTIN, COMMISSIONER DATE

REVISED ATTACHMENT A

DEFINITIONS

Adult Protective Services (APS) – An office within the Tennessee Department of Human Services that investigates reports of abuse, neglect (including self-neglect) or financial exploitation of vulnerable adults. APS staff assess the need for protective services and provide services to reduce the identified risk to the adult.

Back-up Plan – A written plan that is a required component of the plan of care for all CHOICES members receiving companion care or the plan of care or person-centered support plan, as appropriate, for CHOICES or ECF CHOICES members receiving non-residential HCBS in their own home and which specifies unpaid persons as well as paid Consumer-Directed Workers and/or contract providers (as applicable) who are available, have agreed to serve as back-up, and who will be contacted to deliver needed care in situations when regularly scheduled CHOICES HCBS or ECF CHOICES providers or workers are unavailable or do not arrive as scheduled. A CHOICES or ECF CHOICES member or his/her representative may not elect, as part of the back-up plan, to go without services. The back-up plan shall include the names and telephone numbers of persons and agencies to contact and the services to be provided by each of the listed contacts. The member and his/her representative (as applicable) shall have primary responsibility for the development and implementation of the back-up plan for Consumer Directed services.

Care Coordinator - For purposes of CHOICES, a person who is employed or contracted by an MCO to perform the continuous process of care coordination:

(a) Assessing a Member's physical, behavioral, functional, and psychosocial needs;
(b) Identifying the physical health, behavioral health, and LTC services and other social support services and assistance (e.g., housing or income assistance) necessary to meet identified needs;
(c) Ensuring timely access to and provision, coordination and monitoring of physical health, behavioral health, and LTC services needed to help the Member maintain or improve his physical or behavioral health status or functional abilities and maximize independence; and
(d) Facilitating access to other social support services and assistance needed in order to ensure the Member's health, safety and welfare, and as applicable, to delay or prevent the need for more expensive institutional placement.

Child Protective Services (CPS) – A program division of the Tennessee Department of Children's Services whose purpose is to investigate allegations of child abuse and neglect and provide and arrange preventive, supportive, and supplementary services.

CHOICES Member – A member who has been enrolled by TennCare into CHOICES.

Confidential Information – Any non-public, confidential or proprietary information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, which is created under this Agreement. Any such information relating to individuals enrolled in the TennCare program ("TennCare members") or relating to individuals who may be potentially enrolled in the TennCare program, which is provided to or obtained 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.

Consumer Direction of Eligible CHOICES HCBS (Consumer Direction) – The opportunity for a CHOICES member assessed to need specified types of CHOICES HCBS including attendant care, personal care, in-home respite, companion care and/or any other service specified in TennCare rules and regulations as available for Consumer Direction to elect to direct and manage (or to have a representative

direct and manage) certain aspects of the provision of such services—primarily, the hiring, firing, and day-to-day supervision of Consumer-Directed Workers delivering the needed service(s).

Consumer Direction of Eligible ECF CHOICES HCBS (Consumer Direction) – The opportunity for an ECF CHOICES member assessed to need specified types of ECF CHOICES HCBS including personal assistance, supportive home care, in-home respite, community transportation and/or any other service specified in TennCare rules and regulations as available for Consumer Direction to elect to direct and manage (or to have a representative direct and manage) certain aspects of the provision of such services—primarily, the hiring, firing, and day-to-day supervision of Consumer-Directed Workers delivering the needed service(s) and the delivery of each eligible ECF CHOICES HCBS within the authorized budget for that service.

Consumer-Directed Worker (Worker) – An individual who has been hired by a CHOICES or ECF CHOICES member participating in consumer direction of eligible CHOICES HCBS or ECF CHOICES or his/her representative to provide one or more eligible CHOICES HCBS or ECF CHOICES to the member. Worker does not include an employee of an agency that is being paid by an MCO to provide HCBS to the member.

Contract Provider - A provider who is under contract with an Enrollee's MCO. Also called "Network Provider" or "In-Network provider."

Contractor Risk Agreement – The agreement between the MCO and TennCare regarding requirements for operation and administration of the TennCare managed care program, including CHOICES and ECF CHOICES.

ECF CHOICES Member - A member who has been enrolled by TENNCARE into ECF CHOICES.

Eligible CHOICES HCBS - Attendant care, personal care, in-home respite, companion care services and/or any other CHOICES HCBS specified in TennCare rules and regulations as eligible for consumer direction for which a CHOICES member is determined to need and elects to direct and manage (or have a representative direct and manage) certain aspects of the provision of such services – primarily the hiring, firing and day-to-day supervision of consumer-directed workers delivering the needed service(s). Eligible CHOICES HCBS do not include home health or private duty nursing services.

Eligible ECF CHOICES HCBS – Personal assistance, supportive home care, respite, community transportation, and/or any other ECF CHOICES HCBS specified in TennCare rules and regulations as eligible for consumer direction which an ECF CHOICES member is determined to need and elects to direct and manage (or have a representative direct and manage) certain aspects of the provision of such services – primarily the hiring, firing and day-to-day supervision of consumer-directed workers delivering the needed service(s) and the delivery of each eligible ECF CHOICES HCBS within the authorized budget for that service. Eligible ECF CHOICES HCBS do not include home health or private duty nursing services.

Employee – The worker hired by the CHOICES or ECF CHOICES member to deliver eligible CHOICES HCBS or eligible ECF CHOICES HCBS.

Employer of Record – The member participating in consumer direction of eligible CHOICES HCBS or ECF CHOICES or a representative designated by the member to assume the consumer direction of eligible CHOICES HCBS or ECF CHOICES HCBS functions on the member's behalf.

Fiscal Employer Agent (Contractor) – An entity contracting with the State and/or an MCO that helps CHOICES or ECF CHOICES members participating in consumer direction of eligible CHOICES HCBS or eligible ECF CHOICES HCBS. The Contractor provides both Financial Administration and Supports Brokerage functions for CHOICES and ECF CHOICES members participating in consumer direction of eligible CHOICES HCBS or eligible ECF CHOICES HCBS. This term is used by the IRS to designate an entity operating under Section 3504 of the IRS code, Revenue Procedure 70-6 and Notice 2003-70 as the

agent to members for the purpose of filing certain federal tax forms and paying federal income tax withholding, FICA and FUTA taxes. The Contractor also files state income tax withholding and unemployment insurance tax forms and pays the associated taxes and processes payroll based on the eligible CHOICES HCBS or eligible ECF CHOICES HCBS authorized and provided.

HIPAA – Health Insurance Portability and Accountability Act of 1996, 45 CFR Parts 160 and 164.

Home and Community-Based Services (HCBS) – Services that are provided pursuant to a Section 1915(c) waiver or the CHOICES or ECF CHOICES program as an alternative to long-term care institutional services in a nursing facility or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) or to delay or prevent placement in a nursing facility. HCBS may also include optional or mandatory services that are covered by Tennessee's Title XIX state plan or under the TennCare demonstration for all eligible enrollees, including home health or private duty nursing. However, only CHOICES HCBS and ECF CHOICES HCBS are eligible for Consumer Direction. CHOICES HCBS and ECF CHOICES HCBS do not include home health or private duty nursing services or any other HCBS that are covered by Tennessee's Title XIX state plan or under the TennCare demonstration for all eligible enrollees, although such services are subject to estate recovery and shall be counted for purposes of determining whether a CHOICES member's needs can be safely met in the community within his or her individual cost neutrality cap. The cost of home health and private duty nursing shall also be counted against the member's Expenditure Cap for members in ECF CHOICES Group 6 who are granted an exception to the Expenditure Cap based on exceptional medical and/or behavioral needs.

List of Excluded Individuals/Entities (LEIE) – List of Excluded Individuals/Entities is the database maintained by the Office of the Inspector General in the Department of Human Services containing the names of providers excluded from participation in federally financed healthcare programs by the authority granted in 42 USCA 1320a-7.

Managed Care Organization (MCO) – Managed Care Organization shall mean an appropriately licensed Health Maintenance Organization (HMO) approved by the Bureau of TennCare as capable of providing medical, behavioral, and long-term care services in the TennCare Program.

Member – Member shall mean a TennCare Medicaid or TennCare Standard-eligible individual who is enrolled in a managed care organization.

Provider - Provider shall mean an appropriately licensed institution, facility, agency, person, corporation, partnership, or association that delivers health care services. Providers are categorized as either TennCare Providers or Non-TennCare Providers. TennCare Providers may be further categorized as being one of the following:

(a) Participating Providers or In-Network Providers
(b) Non-Participating Providers or Out-of-Network Providers
(c) Out-of-State Emergency Providers

Definitions of each of these terms are contained in TennCare Rule 1200-13-13-.01.
Provider does not include Consumer-Directed Workers (See Consumer-Directed Worker); nor does provider include the Contractor (Fiscal Employer Agent).

Provider Agreement – An agreement, using the provider agreement template approved by TDCI, between the MCO and a provider or between the MCO's subcontractor and a provider that describes the conditions under which the provider agrees to furnish covered services to the MCO's members.

Regulatory Requirements - Any requirements imposed by applicable federal, state or local laws, rules, regulations, court orders and consent decrees, a program contract, or otherwise imposed by TennCare in

connection with the operation of the program or the performance required by either party under this agreement.

Representative – In general, for CHOICES and ECF CHOICES members, a person who is at least eighteen (18) years of age and is authorized by the member to participate in care or support planning and implementation and to speak and/or make decisions on the member's behalf, including but not limited to identification of needs, preference regarding services and service delivery settings, and communication and resolution of complaints and concerns, provided that any decision making authority not specifically delegated to a legal representative (e.g., a guardian or conservator) is retained by the member unless he or she chooses to allow a (non-legal) representative whom he or she has freely chosen to make such decisions. As it relates to consumer direction of eligible CHOICES HCBS or eligible ECF CHOICES HCBS, a person who is authorized by the member to serve as the employer of record, and to direct and manage the member's worker(s), and signs a representative agreement. The representative for consumer direction of eligible CHOICES HCBS or eligible ECF CHOICES HCBS must also: be at least 18 years of age; have a personal relationship with the member and understand his/her support needs; know the members daily schedule and routine, medical and functional status, medication regimen, likes and dislikes, and strengths and weaknesses; and be physically present in the member's residence on a regular basis or at least at a frequency necessary to supervise and evaluate workers.

Representative Agreement – The agreement between a CHOICES or ECF CHOICES member electing consumer direction of eligible CHOICES HCBS or eligible ECF CHOICES HCBS who has a representative direct and manage the consumer's worker(s) and the member's representative that specifies the roles and responsibilities of the member and the member's representative.

Risk Agreement – An agreement signed by a CHOICES member who will receive HCBS (or his/her representative) that includes, at a minimum, identified risks to the member of residing in the community and receiving HCBS, the consequences of such risks, strategies to mitigate the identified risks, and the member's decision regarding his/her acceptance of risk. For members electing to participate in Consumer Direction, the Risk Agreement must include any additional risks associated with the member's decision to act as the employer of record, or to have a Representative act as the employer of record on his/her behalf. For members in ECF CHOICES, the support coordinator shall identify risks and strategies to mitigate risks as part of the person-centered support plan.

Safeguarding Enrollee Information – To maintain reasonable and appropriate administrative, technical and physical safeguards, ensure the integrity and confidentiality, and protect against any reasonably anticipated threats or hazards to the security or integrity or unauthorized uses or disclosures of information regarding a TennCare member.

Self-Direction of Health Care Tasks – A decision by a CHOICES member participating in Consumer Direction to direct and supervise a paid worker delivering eligible CHOICES HCBS in the performance of health care tasks that would otherwise be performed by a licensed nurse. Self-direction of health care tasks is not a service, but rather, health care-related duties and functions (such as administration of medications) that a CHOICES member participating in Consumer Direction may elect to have performed by a Consumer-Directed Worker as part of the delivery of eligible CHOICES HCBS s/he is authorized to receive.

Service Agreement – The agreement between a CHOICES or ECF CHOICES member electing consumer direction of eligible CHOICES HCBS or eligible ECF CHOICES HCBS (or the member's representative) and the member's Consumer-Directed Worker that specifies the roles and responsibilities of the member (or the member's representative) and the member's worker.

State – The State of Tennessee, including, but not limited to, any entity or agency of the state, such as the Tennessee Department of Finance and Administration, the Office of Inspector General, the Bureau of TennCare, the Tennessee Bureau of Investigation, Medicaid Fraud Control Unit, the Tennessee Department of Mental Health and Developmental Disabilities, the Tennessee Department of Children's

Services, the Tennessee Department of Health, the Tennessee Department of Commerce and Insurance, and the Office of the Attorney General.

Support Coordinator – For purposes of ECF CHOICES, a person who is employed or contracted by an MCO to perform responsibilities related to the continuous process of:

(a) identifying, developing, and supporting opportunities for a member's community involvement, including achieving and maintaining competitive, integrated employment consistent with the member's individual strengths, preferences and conditions for success;
(b) leveraging member strengths, resource and opportunities available in the member's community, and natural supports available to the member in coordination with ECF CHOICES services and supports to enable the member to achieve his/her desired lifestyle and goals for community involvement, employment and independent living and wellness;
(c) assessing a member's physical, behavioral, functional, and psychosocial needs;
(d) identifying the physical health, behavioral health and long-term services and other support services and assistance (e.g., vocational rehabilitation, housing or income assistance) that are necessary to enable the member to achieve his/her desired lifestyle, goals for community involvement, employment and independent living, and wellness, and to address identified needs;
(e) ensuring timely access to and provision, coordination and monitoring of physical health, behavioral health, and long-term services and supports necessary to facilitate the member's community involvement, including achieving and maintaining competitive, integrated employment, consistent with the member's individual strengths, preferences and conditions for success and necessary to maintain or improve his or her physical or behavioral health status and functional abilities, to maximize independence, to ensure the member's rights and choices, health, safety and welfare, and as applicable, to delay or prevent the need for more restrictive and more expensive institutional placement; and
(f) facilitating access to other support services and assistance the member needs to achieve his/her desired lifestyle, goals for community involvement, employment and independent living and wellness, and to address identified needs.

Supports Broker – An individual assigned by the Contractor to each CHOICES or ECF CHOICES member referred for participation in consumer direction of eligible CHOICES HCBS or eligible ECF CHOICES HCBS who assists the member/representative as needed in performing certain employer functions as follows: developing job descriptions, locating, recruiting, interviewing, and scheduling workers; member and worker enrollment in consumer direction and consumer direction training; and developing (as part of the on boarding process for new workers) a schedule for the member's workers that comports with the schedule at which services are needed by the member as reflected in the plan of care or person-centered support plan, as applicable. The supports broker shall also assist the member as needed with developing and verifying the initial back-up plan for consumer direction. The supports broker collaborates with the member's care coordinator or support coordinator, as appropriate. The supports broker does not have authority or responsibility for consumer direction. The member or member's representative must retain authority and responsibility for consumer direction.

Target population – Refers to the population that may be served in a particular LTSS program as defined under the approved 1115 demonstration waiver and in TennCare rule. For CHOICES, the target population shall be older adults (age sixty-five (65) or older) and adults age twenty-one (21) who have a physical disability. For ECF CHOICES, the target population shall be persons who have an intellectual or developmental disability.

TennCare or TennCare Program – The program administered by the single state agency, as designated by the state and CMS, pursuant to Title XIX of the Social Security Act and the Section 1115 research and demonstration waiver granted to the State of Tennessee and any successor programs.

TennCare CHOICES in Long-Term Services and Supports (CHOICES) – A program in which all nursing facility services and home and community based long-term care services for elders and/or adults with physical disabilities are integrated into TennCare's managed care delivery system.

TennCare Employment and Community First (ECF) CHOICES - A managed long-term services and supports program that offers home and community-based services to eligible individuals with intellectual and developmental disabilities enrolled in the program in order to promote competitive employment and integrated community living as the first and preferred option. The ECF CHOICES program will begin implementation at a date to be determined by TennCare, but no sooner than July 1, 2016.

Timekeeping System - A system developed, implemented, and maintained by the Contractor to capture time submitted for the delivery of CHOICES Consumer-Directed HCBS. The system is used to monitor Member receipt of HCBS, ensure provided HCBS is authorized by the MCO, generate payment to Consumer Directed workers for hours worked as appropriate, and also to generate claims for submission by the provider. The system will not allow payment to workers for services not authorized by the MCO.

Vital Documents – Vital Documents may include, but are not limited to, consent and complaint forms, intake and application forms with the potential for important consequences, notices pertaining to the reduction, denial, delay, suspension, or termination of services, certain critical outreach documents (i.e., case management and Population Health documents) and any other documents designated by the State. At a minimum, all vital documents shall be available in the Spanish language.

Warm Transfer – A telecommunications mechanism in which the person answering the call facilitates transfer to a third party, announces the caller and issue, and remains engaged as necessary to provide assistance.

CONTRACT AMENDMENT

Agency Tracking #	Edison ID	Contract #	Amendment #
31865-00068	25010	FA1134502	04

Contractor Legal Entity Name	Edison Vendor ID
Public Partnerships, LLC	0000005040

Amendment Purpose & Effect(s)
Updates Scope, Extends Term and Increases Maximum Liability

Amendment Changes Contract End Date: ☒ YES ☐ NO **End Date:** December 31, 2017

TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A): **$ 8,400,000.00**

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	$399,585.00	$399,585.00			$799,170.00
2012	$1,598,340.00	$1,598,340.00			$3,196,680.00
2013	$1,598,340.00	$1,598,340.00			$3,196,680.00
2014	$1,698,735.00	$1,698,735.00			$3,397,470.00
2015	$1,550,000.00	$1,550,000.00			$3,100,000.00
2016	$2,400.000.00	$2,400.000.00			$4,800,000.00
2017	$2,400.000.00	$2,400.000.00			$4,800,000.00
2018	$1,200,000.00	$1,200,000.00			$2,400,000.00
TOTAL:	**$12,845,000.00**	**$12,845,000.00**			**$25,690,000.00**

American Recovery and Reinvestment Act (ARRA) Funding: ☐ YES ☒ NO

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Speed Chart (optional)	Account Code (optional)
TN00000236	70803000

OCR USE

AMENDMENT #4
CONTRACT FA1134502
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
AND
PUBLIC PARTNERSHIPS, LLC

This Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare" and Public Partnerships, LLC, hereinafter referred to as the "Contractor" for the provision of Financial Administration and Supports Brokerage functions for consumer direction of eligible CHOICES Home and Community Based Services (HCBS) relevant to the TennCare CHOICES in Long-Term Services and Supports Program. For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract Section A.15.k is deleted in its entirety and replaced with the following:

k. Input the member and/or representative's assignment of individual consumer directed workers into the timekeeping system approved by TennCare in accordance with the schedule at which services are needed by the member, based on the member's plan of care and the MCO's service authorization. Ensure ongoing maintenance of daily operations of the timekeeping system management for consumer directed workers including 1) authorization changes and 2) verification of visits. Additionally, maintain adequate staff for management of the timekeeping system to ensure timesheets are consistent with current authorizations, timesheets are verified for each pay period and payroll is provided accurately and on time;

2. Contract Section A.16 is deleted in its entirety and replaced with the following:

A.16. The Contractor shall have a system in place for receiving and maintaining member specific information received from an MCO, including a member's plan of care for the authorized consumer direction services, via the format agreed to with the MCO. Additionally, the Contractor shall maintain a system and process for receiving authorization changes from the MCO and shall update the timekeeping system to reflect such changes within the timeframe necessary to ensure members are receiving the appropriate services, timesheets can be verified and workers will be paid for authorized services provided in a timely manner.

3. Contract Section A.23 is deleted in its entirety and replaced with the following:

A.23. The Contractor shall be responsible for providing or arranging for initial and ongoing training of members/representatives. Ongoing training shall be provided upon request of the member/representative or if a care coordinator determines that additional training is warranted. When training is not directly provided by the Contractor, the Contractor shall validate completion of training. Initial training must be completed prior to initiation of consumer directed services. At a minimum, consumer direction training for members and/or representatives shall address the following issues:

a. Understanding the role of members and/or representatives in consumer direction;

b. Understanding the role of the FEA, including as it relates to the care coordinator;

c. Selecting workers;

d. Abuse and neglect prevention and reporting;

e. Being an employer, evaluating worker performance and managing workers;

f. Fraud and abuse prevention and reporting;

g. Training the member on the Contractor's timekeeping system and the role of the member/representative in ensuring workers' proper use of the system;

h. Training the member on the responsibility of the member/representative in verifying worker's time in a timely manner;

i. Training the member on the Contractor's web portal; and

j. Scheduling workers and back-up planning.

4. Contract Section A.25 is deleted in its entirety and replaced with the following:

A.25. The Contractor shall train all consumer directed workers on how to submit time in the Contractor's timekeeping system and MCO guidelines, and TennCare guidelines, as applicable, regarding scheduling as outlined in the service agreement.

5. Contract Section A.27 and applicable subheading are deleted in their entirety and replaced with the following:

Worker Qualifications and Enrollment

A.27. The Contractor shall ensure that workers meet all of the requirements specified herein and in TennCare rules or policies prior to delivering consumer directed services.

a. Be at least eighteen (18) years of age or older;

b. Pass a background check, which includes criminal background check (including fingerprinting), or, as an alternative, a background check from a licensed private investigation company, verification that the person's name does not appear on the State abuse registry, verification that the person's name does not appear on the State and national sexual offender registries, and verification that the person has not been excluded from participation in Medicare, Medicaid, SCHIP, or any Federal health care programs (as defined in Section 1128B(f) of the Social Security Act). Except for lapses in employment (i.e., when a worker is not employed by *any* CHOICES member participating in consumer direction or his/her representative) which exceed 365 days, a background check is required only once prior to the person's initial employment as a consumer directed worker in the CHOICES program, even if s/he is subsequently employed by multiple members and/or representatives participating in consumer direction. A Member or member's representative cannot waive a background check for a potential Worker. A background check may reveal a potential worker's past criminal conduct that may pose an unacceptable risk to the member. The following findings shall disqualify a person from serving as a Worker:

1. Identification on the abuse registry;
2. Identification on the State or national sexual offender registry;
3. Identification that the person has been excluded from participation in Medicare, Medicaid, SCHIP, or any Federal health care programs (as defined in Section 128B(f) of the Social Security Act;
4. Failure to have a required license; and/or
5. Refusal to cooperate with a background check;

c. Complete all required training (refer to Section A.35);

d. Complete all applicable required applications to become a TennCare provider;

e. Sign an abbreviated Medicaid agreement;

f. Are assigned a Medicaid provider ID number;

g. Sign a service agreement, using the TennCare-approved template; and

h. If the Worker will be transporting the Member as specified in the Service Agreement, a valid driver's license and proof of insurance must also be provided.

i. If a potential Worker fails the background check, the potential Worker may request an individualized assessment that will be conducted by the Member with the help of the Contractor. After considering the individualized assessment and any other evidence submitted by the potential Worker, the Member can decide not to hire the potential Worker or may grant an exception to the potential Worker. Should the Member decide to grant the criminal history exception and hire the Worker, the Contractor shall notify the Member's MCO and collaborate with that MCO to amend the Member's Risk Agreement to reflect that the Member voluntarily chooses to take on the risk associated with hiring an individual with a criminal history and is solely responsible for any negative consequences stemming from that decision.

j. Both the individualized assessment and exception request shall be completed by the member with help of the Contractor. The Contractor shall assist the Member in conducting the individualized assessment in accordance with the Equal Employment Opportunity Commission's enforcement guidance the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, No.915.002 (April 25, 2012), as amended. The Member shall use this guidance during the assessment process of the potential Worker to consider the following three (3) factors:

1. Whether the evidence gathered from the potential Worker shows that their criminal conduct is related to the job in such a way that could place the Member at risk;
2. The nature and gravity of the offense(s) or conduct, such as, whether the offense is related to physical, sexual, or emotional abuse of another person, if the offense involves violence against another person, or the manufacture, sale, or distribution of drugs; and
3. The time that has passed since the offense(s) or conduct and/or completion of the sentence.

6. Contract Section A.30.d is deleted in its entirety and shall remain blank.

7. Contract Section A.33.g and A.33.h are deleted in their entirety and replaced with the following:

g. Use of Contractor's timekeeping system;

h. Use of the Contractor's web portal; and

8. Contract Sections A.38.a and A.38.b are deleted in their entirety and replaced with the following:

a. Monitor assignment of workers by the member/representative including the Contractor's entry of such assignment into the Contractor's timekeeping system to ensure adherence to the schedule for consumer directed services specified in the plan of care and in the service authorization, and notify the member's care coordinator when a member's needs have changed, such that a new authorization is needed;

b. Monitor service utilization to ensure that it is aligned with the member's plan of care, and when the Contractor identifies that services did not occur according to the plan of care, notify the member's care coordinator so that the care coordinator can ensure the back-up plan was implemented and continues to be effective and appropriate.

9. Contract Section A.56.d.3.e is deleted in its entirety and replaced with the following:

(e) How many days transpired from FEA referral by the MCO (date of referral upload, or as otherwise defined by TennCare) to initiation of services (date of service authorization, or as otherwise defined by TennCare) for Consumer Direction enrollees:

10. Contract Section A.68 is deleted in its entirety and replaced with the following:

A.68. The Contractor shall provide staff training including;

a. Customer service training for Contractor staff;

b. As appropriate, train staff on how to use the timekeeping system;

c. On an MCO's requirements for critical incident identification and reporting, and identification and reporting of abuse and neglect; and

d. On an MCO's complaint system.

11. Contract Section A.70 is deleted in its entirety and replaced with the following:

A.70. The Contractor shall have in place the following procedures and policies for payroll processing:

a. Develop, implement, and maintain a system for managing worker time and generating and submitting claims to MCOs based on worker time as further defined in Revised Attachment A;

b. Establish the accounting and information systems necessary for processing and paying workers as specified in the authorization of consumer directed services and establish the reporting functions and the internal controls necessary to track and manage these functions in an effective and timely manner. This includes ensuring that payment to workers is only made for eligible CHOICES HCBS authorized by the MCO to a member enrolled in CHOICES Group 2 or Group 3 and in Consumer Direction at the time of service delivery, and for ensuring compliance with the Fair Labor Standards Act and all other applicable federal and state law and regulation, as well as TennCare policies and/or protocols regarding worker compensation, overtime and overtime pay, including services delivered in a back-up capacity;

c. Develop and implement a bi-weekly payment schedule for workers or as otherwise agreed upon with TennCare and the MCOs;

d. Review timesheets submitted in the timekeeping system to verify amounts that should be paid to the worker(s);

e. Develop a process for identifying and resolving, on a bi-weekly basis, errors or omissions in timesheets, including instances when an employer fails to approve a timesheet;

f. Timely resolve discrepancies in time submissions for purposes of paying workers and generating claims for submission (in this context, "timely" means that the FEA shall initiate action and shall make all reasonable efforts to resolve such discrepancies on at least a bi-weekly basis and within the current payroll processing period during which payment to the worker should be processed, and prior to submission of claims to the MCO and payment of workers by the Contractor).

g. Reconcile and document, pursuant to business rules developed in collaboration with the MCO, any discrepancies between the timekeeping system, payments made to a consumer directed worker, and claims submitted for reimbursement to the MCO. Such reconciliation shall be conducted on at least a bi-weekly basis and completed within any applicable MCO reporting timelines to TennCare in order to ensure the accuracy of MCO reports;

h. Develop and implement a process for immediately notifying the member and his/her worker when a discrepancy in time reporting cannot be resolved and the worker will not be reimbursed for services delivered and submitted in the timekeeping system.

i. Obtain necessary documentation from the member/representative to ensure that services were provided prior to paying workers, which may be obtained via the timekeeping system.

j. Review, as necessary, detailed documentation of service delivery including but not limited to the specific tasks and functions performed for the member to help ensure that services are being provided and that the member's needs are being met.

k. Facilitate resolution of any disputes regarding payment to workers for services rendered;

l. Compute, withhold, and file federal and state income tax withholding, FICA, FUTA and Tennessee unemployment insurance taxes per State and federal periodicity requirements;

m. Have a system in place for determining if the member's workers are family members who might be exempt from FICA, FUTA, and SUTA and for processing them accordingly;

n. Deposit FICA and federal income tax withholding in the aggregate for all members it represents using the Contractor's separate FEIN, in accordance with IRS depositing rules and maintain relevant documentation in the Contractor's files;

o. Deposit FUTA in the aggregate using its separate FEIN quarterly for all members it represents and maintain the relevant documentation in the Contractor's files;

p. Pay unemployment taxes individually for each member it represents per the State's payment schedule and maintain the relevant documentation in the Contractor's files;

q. Obtain each member's employer number for State unemployment tax filing and payment purposes for each member it represents and maintain the relevant documentation in the Contractor's files;

r. Retire a member's State unemployment tax registration number when the member is no longer the employer of workers (permanently);

s. Ensure that workers are paid in compliance with federal and State Department of Labor wage and hour rules for regular and overtime pay (if program permits a worker working more than forty (40) hours in a work week) for all time submitted in accordance with

specified requirements as well as any adjustments thereto (i.e., resolution of exceptions) which are determined appropriate based on program business rules. The Contractor is not responsible for paying the worker prior to completion of all required paperwork or for wages that exceed the authorized number of hours or funding amount approved for the member. The Contractor has the right to charge an administrative fee to workers for issuing stop payments or reissuing checks. The Contractor will provide workers with the option to receive payment via either mailed check or Electronic Funds Transfer (once total enrollment has exceeded 100 members).

t. Manage the application of all garnishments, levies and liens on workers' payroll checks in an accurate and timely manner and maintain the relevant documentation in the Contractor's files. The Contractor has the right to charge an administrative fee to workers for these services;

u. Report new hires per State requirements;

v. Submit to TennCare a list of checks reportable under the State's Unclaimed Property Act each year. TennCare will designate a staff person who is authorized to receive and approve the list of abandoned checks from the Contractor. TennCare will receive a remittance check from the Contractor that is equal to the face value of checks reported on the abandoned property report. The Contractor will void all items on the abandoned property report, providing an internal control to prevent re-issuance. TennCare shall assume responsibility for managing the abandoned property filing and for performing any reconciliation related to Medicaid escheatment or CMS-64 reporting. When a check that was previously reported as abandoned by the Contractor is presented for payment, TennCare shall remit the funds to the holder in due course;

w. Refund over-collected FICA to applicable individual-employers (or State or county government) and workers in accordance with the December 18, 2000 IRS letter and maintain the relevant documentation in the Contractor's files;

x. Prepare, file, and distribute IRS Forms W-2 for member's workers per IRS instructions for agents, for electronic filing when processing 250 or more IRS Forms W-2 and maintain the relevant documentation in the Contractor's files. The Contractor has the right to charge an administrative fee to workers for the replacement of lost W-2s;

y. Prepare, file, and distribute IRS Forms W-3 in the aggregate for all members the agent represents per IRS instructions and maintain the relevant documentation in the Contractor's files; and

z. Pay workers for authorized services rendered within authorized timeframes and have a system in place for processing workers' direct deposit and for maintaining the relevant documentation in the Contractor's files.

12. Contract Section A.71 is no longer effective pursuant to amendment execution. In an effort to avoid contract re-numbering, this section is deleted in its entirety and replaced with the following:

A.71. Deleted and intentionally left blank

13. Contract Section A.72 is deleted in its entirety and replaced with the following:

A.72. The Contractor shall submit an electronic claims submission file in the 837i format to the MCO at the appropriate frequency.

Contract Sections B.1 and B.2 are deleted in their entirety and replaced with the following:

B.1. This Contract shall be effective for the period beginning April 1, 2011 and ending on December 31, 2017. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than six (6) years nine (9) months, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract, and shall be based upon payment rates provided for in the original Contract.

15. Contract Section C.1 is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Twenty-Five Million Six Hundred Ninety Thousand Dollars ($25,690,000.00) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

16. Contract Attachment A is deleted in its entirety and replaced with the Revised Attachment A attached hereto.

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

Amendment Effective Date. The revisions set forth herein shall be effective September 30, 2015. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

PUBLIC PARTNERSHIPS, LLC:

	9/09/2015
SIGNATURE	**DATE**
Marc Fenton, President	
PRINTED NAME AND TITLE OF SIGNATORY (above)	

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

Larry B. Martin/CD — 9/10/2015

LARRY B. MARTIN, COMMISSIONER — **DATE**

DEFINITIONS

Adult Protective Services (APS) – An office within the Tennessee Department of Human Services that investigates reports of abuse, neglect (including self-neglect) or financial exploitation of vulnerable adults. APS staff assess the need for protective services and provide services to reduce the identified risk to the adult.

Back-up Plan – A written plan that is a required component of the plan of care for all CHOICES members receiving companion care or non-residential HCBS in their own home and which specifies unpaid persons as well as paid Consumer-Directed Workers and/or contract providers (as applicable) who are available, have agreed to serve as back-up, and who will be contacted to deliver needed care in situations when regularly scheduled HCBS providers or workers are unavailable or do not arrive as scheduled. The member/representative (as applicable) may not elect, as part of the back-up plan, to go without services. The back-up plan shall include the names and telephone numbers of persons and agencies to contact and the services to be provided by each of the listed contacts. The member and his/her representative (as applicable) shall have primary responsibility for the development and implementation of the back-up plan for Consumer Directed services.

Care Coordinator - For purposes of CHOICES, a person who is employed or contracted by an MCO to perform the continuous process of care coordination:

(a) Assessing a Member's physical, behavioral, functional, and psychosocial needs;
(b) Identifying the physical health, behavioral health, and LTC services and other social support services and assistance (e.g., housing or income assistance) necessary to meet identified needs;
(c) Ensuring timely access to and provision, coordination and monitoring of physical health, behavioral health, and LTC services needed to help the Member maintain or improve his physical or behavioral health status or functional abilities and maximize independence; and
(d) Facilitating access to other social support services and assistance needed in order to ensure the Member's health, safety and welfare, and as applicable, to delay or prevent the need for more expensive institutional placement.

Child Protective Services (CPS) – A program division of the Tennessee Department of Children's Services whose purpose is to investigate allegations of child abuse and neglect and provide and arrange preventive, supportive, and supplementary services.

CHOICES Member – A member who has been enrolled by TennCare into CHOICES.

Confidential Information – Any non-public, confidential or proprietary information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, which is created under this Agreement. Any such information relating to individuals enrolled in the TennCare program ("TennCare members") or relating to individuals who may be potentially enrolled in the TennCare program, which is provided to or obtained 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.

Consumer Direction of Eligible CHOICES HCBS (Consumer Direction) – The opportunity for a CHOICES member assessed to need specified types of CHOICES HCBS including attendant care, personal care, in-home respite, companion care and/or any other service specified in TennCare rules and regulations as available for Consumer Direction to elect to direct and manage (or to have a representative direct and manage) certain aspects of the provision of such services—primarily, the hiring, firing, and day-to-day supervision of Consumer-Directed Workers delivering the needed service(s).

Consumer-Directed Worker (Worker) – An individual who has been hired by a CHOICES member participating in consumer direction of eligible CHOICES HCBS or his/her representative to provide one or

e eligible CHOICES HCBS to the member. Worker does not include an employee of an agency that is ıg paid by an MCO to provide HCBS to the member.

Contract Provider - A provider who is under contract with an Enrollee's MCO. Also called "Network Provider" or "In-Network provider."

Contractor Risk Agreement – The agreement between the MCO and TennCare regarding requirements for operation and administration of the TennCare managed care program, including CHOICES.

Eligible CHOICES HCBS - Attendant care, personal care, in-home respite, companion care services and/or any other CHOICES HCBS specified in TennCare rules and regulations as eligible for consumer direction for which a CHOICES member is determined to need and elects to direct and manage (or have a representative direct and manage) certain aspects of the provision of such services – primarily the hiring, firing and day-to-day supervision of consumer-directed workers delivering the needed service(s). Eligible CHOICES HCBS do not include home health or private duty nursing services.

Employee – The worker hired by the CHOICES member to deliver eligible CHOICES HCBS.

Employer of Record – The member participating in consumer direction of eligible CHOICES HCBS or a representative designated by the member to assume the consumer direction of eligible CHOICES HCBS functions on the member's behalf.

Fiscal Employer Agent (Contractor) – An entity contracting with the State and/or an MCO that helps CHOICES members participating in consumer direction of eligible CHOICES HCBS. The Contractor provides both Financial Administration and Supports Brokerage functions for CHOICES members participating in consumer direction of eligible CHOICES HCBS. This term is used by the IRS to designate an entity operating under Section 3504 of the IRS code, Revenue Procedure 70-6 and Notice 2003-70 as the agent to members for the purpose of filing certain federal tax forms and paying federal income tax withholding, FICA and FUTA taxes. The Contractor also files state income tax withholding and unemployment insurance tax forms and pays the associated taxes and processes payroll based on the eligible CHOICES HCBS authorized and provided.

HIPAA – Health Insurance Portability and Accountability Act of 1996, 45 CFR Parts 160 and 164.

Home and Community-Based Services (HCBS) – Services that are provided pursuant to a Section 1915(c) waiver or the CHOICES program as an alternative to long-term care institutional services in a nursing facility or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) or to delay or prevent placement in a nursing facility. HCBS may also include optional or mandatory services that are covered by Tennessee's Title XIX state plan or under the TennCare demonstration for all eligible enrollees, including home health or private duty nursing. However, only CHOICES HCBS are eligible for Consumer Direction. CHOICES HCBS do not include home health or private duty nursing services or any other HCBS that are covered by Tennessee's Title XIX state plan or under the TennCare demonstration for all eligible enrollees, although such services are subject to estate recovery and shall be counted for purposes of determining whether a CHOICES member's needs can be safely met in the community within his or her individual cost neutrality cap.

List of Excluded Individuals/Entities (LEIE) – List of Excluded Individuals/Entities is the database maintained by the Office of the Inspector General in the Department of Human Services containing the names of providers excluded from participation in federally financed healthcare programs by the authority granted in 42 USCA 1320a-7.

Managed Care Organization (MCO) – Managed Care Organization shall mean an appropriately licensed Health Maintenance Organization (HMO) approved by the Bureau of TennCare as capable of providing medical, behavioral, and long-term care services in the TennCare Program.

Member – Member shall mean a TennCare Medicaid or TennCare Standard-eligible individual who is enrolled in a managed care organization.

vider - Provider shall mean an appropriately licensed institution, facility, agency, person, corporation, nership, or association that delivers health care services. Providers are categorized as either TennCare Providers or Non-TennCare Providers. TennCare Providers may be further categorized as being one of the following:

(a) Participating Providers or In-Network Providers
(b) Non-Participating Providers or Out-of-Network Providers
(c) Out-of-State Emergency Providers

Definitions of each of these terms are contained in TennCare Rule 1200-13-13-.01.
Provider does not include Consumer-Directed Workers (See Consumer-Directed Worker); nor does provider include the Contractor (Fiscal Employer Agent).

Provider Agreement – An agreement, using the provider agreement template approved by TDCI, between the MCO and a provider or between the MCO's subcontractor and a provider that describes the conditions under which the provider agrees to furnish covered services to the MCO's members.

Regulatory Requirements - Any requirements imposed by applicable federal, state or local laws, rules, regulations, court orders and consent decrees, a program contract, or otherwise imposed by TennCare in connection with the operation of the program or the performance required by either party under this agreement.

Representative – In general, for CHOICES members, a person who is at least eighteen (18) years of age and is authorized by the member to participate in care planning and implementation and to speak and make decisions on the member's behalf, including but not limited to identification of needs, preference regarding services and service delivery settings, and communication and resolution of complaints and concerns. As it relates to consumer direction of eligible CHOICES HCBS, a person who is authorized by the member to serve as the employer of record, and to direct and manage the member's worker(s), and signs a representative agreement. The representative for consumer direction of eligible CHOICES HCBS must also: be at least 18 years of age; have a personal relationship with the member and understand his/her support needs; know the members daily schedule and routine, medical and functional status, medication regimen, likes and dislikes, and strengths and weaknesses; and be physically present in the member's residence on a regular basis or at least at a frequency necessary to supervise and evaluate workers.

Representative Agreement – The agreement between a CHOICES member electing consumer direction of eligible CHOICES HCBS who has a representative direct and manage the consumer's worker(s) and the member's representative that specifies the roles and responsibilities of the member and the member's representative.

Risk Agreement – An agreement signed by a member who will receive HCBS (or his/her representative) that includes, at a minimum, identified risks to the member of residing in the community and receiving HCBS, the consequences of such risks, strategies to mitigate the identified risks, and the member's decision regarding his/her acceptance of risk. For members electing to participate in Consumer Direction, the Risk Agreement must include any additional risks associated with the member's decision to act as the employer of record, or to have a Representative act as the employer of record on his/her behalf.

Safeguarding Enrollee Information – To maintain reasonable and appropriate administrative, technical and physical safeguards, ensure the integrity and confidentiality, and protect against any reasonably anticipated threats or hazards to the security or integrity or unauthorized uses or disclosures of information regarding a TennCare member.

Self-Direction of Health Care Tasks – A decision by a CHOICES member participating in Consumer Direction to direct and supervise a paid worker delivering eligible CHOICES HCBS in the performance of health care tasks that would otherwise be performed by a licensed nurse. Self-direction of health care tasks is not a service, but rather, health care-related duties and functions (such as administration of medications) that a CHOICES member participating in Consumer Direction may elect to have performed by a Consumer-Directed Worker as part of the delivery of eligible CHOICES HCBS s/he is authorized to receive.

CENTRAL PROCUREMENT OFFICE

vice Agreement – The agreement between a CHOICES member electing consumer direction of eligible CHOICES HCBS (or the member's representative) and the member's Consumer-Directed Worker that specifies the roles and responsibilities of the member (or the member's representative) and the member's worker.

State – The State of Tennessee, including, but not limited to, any entity or agency of the state, such as the Tennessee Department of Finance and Administration, the Office of Inspector General, the Bureau of TennCare, the Tennessee Bureau of Investigation, Medicaid Fraud Control Unit, the Tennessee Department of Mental Health and Developmental Disabilities, the Tennessee Department of Children's Services, the Tennessee Department of Health, the Tennessee Department of Commerce and Insurance, and the Office of the Attorney General.

Supports Broker – An individual assigned by the Contractor to each CHOICES member referred for participation in consumer direction of eligible CHOICES HCBS who assists the member/representative as needed in performing certain employer functions as follows: developing job descriptions, locating, recruiting, interviewing, and scheduling workers; member and worker enrollment in consumer direction and consumer direction training; and developing (as part of the on boarding process for new workers) a schedule for the member's workers that comports with the schedule at which services are needed by the member as reflected in the plan of care. The supports broker shall also assist the member as needed with developing and verifying the initial back-up plan for consumer direction. The supports broker collaborates with the member's care coordinator, as appropriate. The supports broker does not have authority or responsibility for consumer direction. The member or member's representative must retain authority and responsibility for consumer direction.

TennCare or TennCare Program – The program administered by the single state agency, as designated by the state and CMS, pursuant to Title XIX of the Social Security Act and the Section 1115 research and demonstration waiver granted to the State of Tennessee and any successor programs.

TennCare CHOICES in Long-Term Services and Supports (CHOICES) – A program in which all nursing facility services and home and community based long-term care services for elders and/or adults with physical disabilities are integrated into TennCare's managed care delivery system.

Timekeeping System - A system developed, implemented, and maintained by the Contractor to capture time submitted for the delivery of CHOICES Consumer-Directed HCBS. The system is used to monitor Member receipt of HCBS, ensure provided HCBS is authorized by the MCO, generate payment to Consumer Directed workers for hours worked as appropriate, and also to generate claims for submission by the provider. The system will not allow payment to workers for services not authorized by the MCO.

Vital Documents – Vital Documents may include, but are not limited to, consent and complaint forms, intake and application forms with the potential for important consequences, notices pertaining to the reduction, denial, delay, suspension, or termination of services, certain critical outreach documents (i.e., case management and Population Health documents) and any other documents designated by the State. At a minimum, all vital documents shall be available in the Spanish language.

Warm Transfer – A telecommunications mechanism in which the person answering the call facilitates transfer to a third party, announces the caller and issue, and remains engaged as necessary to provide assistance.

CONTRACT AMENDMENT

Agency Tracking #	Edison ID	Contract #	Amendment #
31865-00068	25010	FA1134502	03

Contractor Legal Entity Name	Edison Vendor ID
Public Partnerships, LLC	0000005040

Amendment Purpose & Effect(s)
Extends Term and Increases Maximum Liability

Amendment Changes Contract End Date: ☒ YES ☐ NO **End Date:** March 31, 2016

TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A): **$ 5,200,000.00**

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	$399,585.00	$399,585.00			$799,170.00
2012	$1,598,340.00	$1,598,340.00			$3,196,680.00
2013	$1,598,340.00	$1,598,340.00			$3,196,680.00
2014	$1,698,735.00	$1,698,735.00			$3,397,470.00
2015	$1,550,000.00	$1,550,000.00			$3,100,000.00
2016	$1,800.000.00	$1,800.000.00			$3,600,000.00
TOTAL:	**$8,645,000.00**	**$8,645,000.00**			**$17,290,000.00**

American Recovery and Reinvestment Act (ARRA) Funding: ☐ YES ☒ NO

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Speed Chart (optional)	Account Code (optional)
TN00000236	70803000

OCR USE

AMENDMENT #3
CONTRACT FA1134502
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
AND
PUBLIC PARTNERSHIPS, LLC

This Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare" and Public Partnerships, LLC, hereinafter referred to as the "Contractor" for the provision of Financial Administration and Supports Brokerage functions for consumer direction of eligible CHOICES Home and Community Based Services (HCBS) relevant to the TennCare CHOICES in Long-Term Services and Supports Program. For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract section B.1 is deleted in its entirety and replaced with the following:

   B.1. This Contract shall be effective for the period beginning April 1, 2011, and ending on March 31, 2016. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

2. Contract section C.1 is deleted in its entirety and replaced with the following:

   C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Seventeen Million Two Hundred Ninety Thousand Dollars ($17,290,000.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

   The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. 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.

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

Amendment Effective Date. The revisions set forth herein shall be effective March 31, 2015. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

PUBLIC PARTNERSHIPS, LLC:

SIGNATURE DATE 3/10/2015

Marc Fenton, President

PRINTED NAME AND TITLE OF SIGNATORY (above)

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

Larry B. Martin /CD 3/17/2015

LARRY B. MARTIN, COMMISSIONER DATE

CONTRACT AMENDMENT

Agency Tracking #	Edison ID	Contract #	Amendment #
31865-00068	25010	FA1134502	02

Contractor Legal Entity Name	Edison Vendor ID
Public Partnerships, LLC	0000005040

Amendment Purpose & Effect(s)
Updates Scope, Extends Term and Increases Maximum Liability

Amendment Changes Contract End Date: ☒ YES ☐ NO **End Date:** March 31, 2015

TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A): **$ 2,500,000.00**

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	$399,585.00	$399,585.00			$799,170.00
2012	$1,598,340.00	$1,598,340.00			$3,196,680.00
2013	$1,598,340.00	$1,598,340.00			$3,196,680.00
2014	$1,698,735.00	$1,698,735.00			$3,397,470.00
2015	$750,000.00	$750,000.00			$1,500,000.00
TOTAL:	**$6,045,000.00**	**$6,045,000.00**			**$12,090,000.00**

American Recovery and Reinvestment Act (ARRA) Funding: ☐ YES ☒ NO

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Speed Chart (optional)	Account Code (optional)
TN00000236	70803000

OCR USE

AMENDMENT #2
CONTRACT FA1134502
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE
AND
PUBLIC PARTNERSHIPS, LLC

This Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare" and Public Partnerships, LLC, hereinafter referred to as the "Contractor" for the provision of Financial Administration and Supports Brokerage functions for consumer direction of eligible CHOICES Home and Community Based Services (HCBS) relevant to the TennCare CHOICES in Long-Term Services and Supports Program. For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract section A.2 is deleted in its entirety and replaced with the following:

   A.2. The Contractor shall provide the financial administration and supports brokerage functions for consumer direction of eligible CHOICES HCBS for all CHOICES Group 2 and 3 members assessed by a Managed Care Organization (MCO) to need eligible CHOICES HCBS and who choose to participate in consumer direction of HCBS for some or all needed eligible CHOICES HCBS. In addition, the Contractor shall process referrals for persons specified by TennCare who are not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services, and shall perform functions necessary to facilitate such participation should the person ultimately be enrolled in CHOICES and in Consumer Direction of eligible CHOICES HCBS. Such functions shall include (but are not limited to) member enrollment, education and training, assistance in developing initial back-up plans and executing Service Agreements, and worker enrollment, background checks and training, The Contractor shall not, however, initiate consumer direction of eligible CHOICES HCBS until the person is enrolled in CHOICES, and in accordance with the terms set forth in this Agreement and the TennCare Rules. References to "member" in this scope of services shall include "CHOICES Members" as defined in Attachment A, as well as persons specified by TennCare (which may include "Member" as defined in Attachment A or other persons) who are not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services.

      a. Financial administration functions are functions related to the performance of payroll and related tasks.

      b. Supports brokerage functions are certain functions that assist the member (or his/her representative, as applicable) with non-payroll-related employer tasks such as recruiting and training workers.

      c. The Contractor's financial administration and support brokerage functions are available only to CHOICES members who elect to participate in consumer direction of eligible CHOICES HCBS or to persons specified by TennCare who are not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services. The use of the Contractor's financial administration and supports brokerage functions shall be mandatory for all members electing to participate in consumer direction.

      d. Definitions relative to this Contract are included as Attachment A. All uses herein of the defined terms included on Attachment A shall be construed in accordance

therewith whether such defined terms are capitalized or appear in lowercase in this Contract.

e. The Contractor must maintain a physical office in Metropolitan-Davidson County, Tennessee, or counties contiguous to Metropolitan-Davidson County. All staff (employed or subcontracted) providing supports brokerage functions, as well as the Project Lead, must be physically located within the State of Tennessee. Staff providing customer service and financial administration functions are permitted to be located outside of Tennessee, so long as the Contractor remains compliant with all contractual (including payment) time lines and requirements.

2. Contract sections A.4 and A.5 and applicable headings are deleted in their entirety and replaced with the following:

Educational and Outreach Materials

A.4. The Contractor shall, upon request or approval from TennCare or an MCO, coordinate with TennCare and/or the TennCare MCOs to conduct consumer direction outreach activities for CHOICES members, as specified herein. The outreach activities shall be targeted primarily to CHOICES members for whom, through an assessment, a care coordinator has determined eligible CHOICES HCBS are needed, but the members have not yet chosen to participate in consumer direction of eligible CHOICES HCBS. The Contractor's outreach activities shall focus on providing information about the CHOICES consumer direction of eligible CHOICES HCBS option (e.g., how it works, using a representative, roles and responsibilities, program requirements, how to enroll in consumer direction, assistance provided by to a member/representative by the Contractor, coordination between the Contractor and the MCO, etc.).

a. All educational and outreach materials must be submitted to TennCare via the Office of Contract Compliance and Performance (OCCP) software program and prior approved by TennCare. TennCare shall review the submitted educational and outreach materials and either approve or deny them within fifteen (15) calendar days from the date of submission. In the event TennCare does not approve the materials, TennCare may provide written comments, and the Contractor shall resubmit the materials. No educational or outreach materials shall be utilized until receipt of written approval from TennCare.

b. Prior to modifying any approved educational or outreach materials, the Contractor shall submit for written approval by TennCare a detailed description of the proposed modification. TennCare reserves the right to notify the Contractor to discontinue or modify educational or outreach materials after approval.

A.5. The Contractor shall ensure that all member materials, including educational and outreach materials, meet the following TennCare specifications:

a. All member materials educational or outreach materials shall be worded at a sixth (6th) grade reading level, unless approved otherwise by TennCare;

b. Unless otherwise approved in writing by TennCare, all written member materials shall be clearly legible with a minimum font size of 12pt;

c. All written member materials shall be printed with the assurance of non-discrimination on the grounds of handicap, and/or disability, age, race, color, religion, sex or national origin;

d. All Contractor member materials shall be translated and available in Spanish. Within ninety (90) calendar days of notification by TennCare, all vital Contractor documents shall be translated and available to each Limited English Proficiency

group identified by TennCare that constitutes five percent (5%) of the TennCare population or one-thousand (1,000) enrollees, whichever is less;

e. All written member materials shall notify enrollees that oral interpretation is available for any language at no expense to them and how to access those services; and

f. All written member materials shall be made available in alternative formats for persons with special needs at no expense to the member.

3. Contract Sections A.8 through A.13 and applicable headings are deleted in their entirety and replaced with the following:

MCO Staff Training

A.8. Prior to the implementation of this Contract and at least annually upon request by the MCO, the Contractor shall provide standardized training to care coordinators employed by each at-risk TennCare MCO regarding consumer direction of eligible CHOICES HCBS and the role and responsibilities of the Contractor (including financial administration and supports brokerage functions).

Referrals for Consumer Direction of Eligible CHOICES HCBS

A.9. The Contractor shall, within two (2) business days of receipt of a referral from the MCO or within two (2) business days of receipt of a referral from TennCare for a person not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services, assign a supports broker to the member, notify the care coordinator of the assignment (as applicable), and provide the name and contact information of the supports broker. Within five (5) days of receipt of the referral, the Contractor shall contact the member to inform the member of his/her assigned supports broker, provide contact information for the supports broker, and begin the process of initiating consumer direction of eligible CHOICES HCBS.

A.10. The Contractor shall, upon request, assist the MCO in identifying and addressing in the risk assessment and plan of care processes any additional risk associated with the member participating in consumer direction.

A.11. The Contractor shall assist the member/representative as needed in developing the initial back-up plan for consumer direction that adequately identifies how the member/representative will address situations when a scheduled worker is not available or fails to show up as scheduled. The member/representative (as applicable) shall have primary responsibility for the development of the back-up plan for consumer directed services. The member/representative (as applicable) may not elect, as part of a back-up plan, to go without services.

a. The back-up plan for consumer direction shall be integrated into the member's back-up plan for services provided by contracted providers, as applicable, and the member's plan of care.

b. The back-up plan for consumer direction shall include the names and telephone numbers of contacts (workers, agency staff, organizations, supports) for alternate care, the order in which each shall be notified, and the services to be provided by each contact. Back-up contacts may include paid and unpaid supports; however, it is the responsibility of the member electing consumer direction and/or his/her representative to secure paid (as well as unpaid) back-up contacts who are willing and available to serve in this capacity. The MCO shall not be expected or required to maintain contract providers "on standby" to serve in a back-up capacity for services a member has elected to receive through consumer direction.

c. All persons and/or organizations noted in the back-up plan for consumer directed services shall be contacted by the member/representative to determine their willingness and availability to serve as back-up contacts. For the initial back-up plan, the Contractor shall confirm with these persons and/or organizations their willingness and availability to provide care when needed, document confirmation in the member's file and forward a copy of the documentation to the MCO. The care coordinator shall be responsible for assistance as needed with implementing the back-up plan and for updating and verifying the back-up plan on an ongoing basis.

d. The Contractor and the MCO shall each file a copy of the back-up plan for consumer direction in the member's file.

A.12. The care coordinator shall develop and/or update, as applicable, a risk agreement which takes into account the member's decision to participate in consumer direction, and which identifies any additional risks associated with the member's decision to direct his/her services, the potential consequences of such risk, as well as measures to mitigate these risks. The member and his/her representative (if applicable) shall participate in the risk assessment process. Once a referral has been made to the Contractor for consumer direction, the member's supports broker should be involved in risk assessment and risk planning activities as appropriate. The new or updated risk agreement, as applicable, shall be signed by the care coordinator and the member (or the member's representative, as applicable). The MCO, member/representative and Contractor shall receive a copy of the risk agreement.

A.13. The Contractor shall notify the member's care coordinator immediately if the Contractor becomes aware of changes in the member's needs and/or circumstances which warrant a reassessment of needs and/or risk, or changes to the plan of care or risk agreement.

4. Contract Sections A.15 and A.16 and applicable headings are deleted in their entirety and replaced with the following:

Service Authorization and Initiation

A.15. The Contractor shall:

a. Ensure that consumer directed services begin as soon as possible but no later than sixty (60) days from the date of the MCO's referral to the Contractor, except due to circumstances beyond the Contractor's control, which must be documented in writing and maintained in the Web Portal as required in this contract. At a minimum, the documentation shall include:

1. The cause of the delay;
2. Efforts made to meet the timeframe; and
3. Documentation shall be provided to the MCO in a manner agreed upon between the Contractor and the MCO;

b. Work with the member/representative to determine the appropriate level of assistance necessary to recruit, interview and hire workers, and provide the required level of assistance;

c. As needed, assist the member/representative in developing job descriptions;

d. As needed, assist the member/representative in locating and recruiting workers;

e. As needed, assist the member/representative in interviewing workers (developing questions, evaluating responses);

f. As needed, assist the member/representative with hiring workers;

g. Provide weekly updates to the member's MCO, in the format approved by TennCare, regarding the status of completing required functions necessary to initiate consumer direction, including, but not limited to, obtaining completed paperwork from the member/representative, selecting workers for each identified consumer directed service, completing worker paperwork and training, and any anticipated timeframes by which qualified workers will be secured and consumer directed services may begin;

h. Once potential workers are identified, verify that a potential worker meets all applicable qualifications, including confirming that the potential worker is not a family member prohibited by rule from providing services, and does not reside (or has not resided) with the family member as specified in TennCare Rules;

i. Ensure that a service agreement, using the template provided by TennCare, is signed between the member or member's representative and his/her worker within five (5) business days following the Contractor's verification that a worker meets all qualifications, except due to circumstances beyond the Contractor's control, which shall be documented in writing and maintained in the Contractor's files;

j. Ensure that a service agreement is updated anytime there is a change in any of the terms or conditions specified in the agreement, including a change in the eligible CHOICES HCBS provided by a worker;

k. Ensure that new representatives sign all service agreements;

l. Provide a copy of each service agreement to the member/representative, worker, and member's MCO and maintain a copy in the Contractor's files;

m. Notify the MCO when all requirements have been fulfilled and the date that the member is ready to begin consumer direction of specified eligible CHOICES HCBS;

n. Input the member and/or representative's assignment of individual consumer directed workers into the EVV system in accordance with MCO guidelines and the schedule at which services are needed by the member, based on the member's plan of care and the MCO's service authorization. Ensure ongoing maintenance of daily operations of the EVV system management for consumer directed workers including: 1) scheduling; 2) schedule changes; 3) authorization changes; and 4) verification of visits that went to an exception status. Additionally, maintain adequate staff for management of the EVV system to ensure schedules are consistent with current authorizations, visits are verified for each pay period and payroll is provided accurately and on time;

o. Ensure that services provided via consumer direction of eligible CHOICES HCBS are not initiated for a CHOICES member until the following activities at a minimum are completed: (1) the Contractor verifies that the member's enrollment (including employer) paperwork and related documentation is in order; (2) the Contractor verifies that workers meet all qualifications, including participation in required training and completion of required paperwork; (3) the Contractor secures a signed service agreement, specific to each worker as applicable, between the member/representative and each worker; and (4) the MCO issues to the Contractor an authorization for each service to be delivered through consumer direction; and

p. If initiation of consumer directed services does not begin within sixty (60) days from the date of the MCO's referral to the Contractor, contact the MCO regarding the cause of the delay and provide appropriate documentation to demonstrate efforts to meet timeframe as specified in A.15.a.

A.16. The Contractor shall have a system in place for receiving and maintaining member specific information received from an MCO, including a member's plan of care for the authorized consumer direction services, via the format agreed to with the MCO. Additionally, the Contractor shall maintain a system and process for receiving authorization changes from the MCO and shall update the EVV to reflect such changes within the timeframe necessary to ensure members are receiving the appropriate services, visits can be verified and workers will be paid for authorized services provided in a timely manner.

5. Contract Section A.20 is deleted in its entirety and replaced with the following:

A.20. The Contractor shall develop and distribute an enrollment packet to each CHOICES member referred by an MCO for enrollment into consumer direction of eligible CHOICES HCBS. The enrollment packet shall be pre-populated with required data and made available for the MCO and members/representatives to access on-line; however it shall also be available in hard copy format. The enrollment packet shall contain, at a minimum, the following:

a. An introductory letter;

b. Information about the Contractor's services and operations (e.g., roles and responsibilities of the Contractor, hours of operation, contact information, customer service toll-free number, and complaint system);

c. Information regarding the role of the supports broker;

d. Federal forms that the member/representative must complete, sign and return (e.g., IRS Forms SS-4, 2678, 8821);

e. Any applicable State forms the member/representative must complete, sign and return;

f. Instructions regarding the process for completing and submitting the required forms to the Contractor; and

g. State power of attorney form(s) as applicable.

6. Contract Sections A.22 and A.23 are deleted in their entirety and replaced with the following:

A.22. The Contractor shall provide education and training activities for CHOICES members, as specified herein, as well as persons specified by TennCare who are not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services. The education and training activities shall be limited to CHOICES members who have chosen to participate in consumer direction of eligible CHOICES HCBS and for whom the Contractor has received a referral from an MCO or person specified and referred by TennCare who are not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services. All member education and training materials shall meet TennCare specifications and be prior approved by TennCare (refer to Sections A.4, A.5, and A.7).

A.23. The Contractor shall be responsible for providing or arranging for initial and ongoing training of members/representatives. Ongoing training shall be provided upon request of the member/representative or if a care coordinator determines that additional training is

warranted. When training is not directly provided by the Contractor, the Contractor shall validate completion of training. Initial training must be completed prior to initiation of consumer directed services. At a minimum, consumer direction training for members and/or representatives shall address the following issues:

a. Understanding the role of members and/or representatives in consumer direction;

b. Understanding the role of the FEA, including as it relates to the care coordinator;

c. Selecting workers;

d. Abuse and neglect prevention and reporting;

e. Being an employer, evaluating worker performance and managing workers;

f. Fraud and abuse prevention and reporting;

g. Understanding the use of the EVV system and the role of the member/representative in ensuring workers' proper use of the system; and

h. Scheduling workers and back-up planning.

7. Contract Sections A. 26 and A.27 are deleted in their entirety and replaced with the following:

A.26. The Contractor and TennCare shall develop mutually acceptable specifications for education and training concerning consumer direction of eligible CHOICES HCBS, including definition of roles and responsibilities.

Worker Qualifications and Enrollment

A.27. The Contractor shall ensure that workers meet all of the requirements specified herein or in TennCare rules or policies prior to delivering consumer directed services.

a. Be at least eighteen (18) years of age or older;

b. Pass a background check, which includes criminal background check (including fingerprinting), or, as an alternative, a background check from a licensed private investigation company, verification that the person's name does not appear on the State abuse registry, verification that the person's name does not appear on the State and national sexual offender registries, and verification that the person has not been excluded from participation in Medicare, Medicaid, SCHIP, or any Federal health care programs (as defined in Section 1128B(f) of the Social Security Act). Except for lapses in employment (i.e., when a worker is not employed by *any* CHOICES member participating in consumer direction or his/her representative) which exceed 365 days, a background check is required only once prior to the person's initial employment as a consumer directed worker in the CHOICES program, even if s/he is subsequently employed by multiple members and/or representatives participating in consumer direction. A Member or member's representative cannot waive a background check for a potential Worker. A background check may reveal a potential worker's past criminal conduct that may pose an unacceptable risk to the member. The following findings shall disqualify a person from serving as a Worker:

1. Identification on the abuse registry;
2. Identification on the State or national sexual offender registry;
3. Identification that the person has been excluded from participation in Medicare, Medicaid, SCHIP, or any Federal health care programs (as defined in Section 128B(f) of the Social Security Act;

4. Failure to have a required license; and/or
5. Refusal to cooperate with a background check;

c. Complete all required training (refer to Section A.35);

d. Complete all applicable required applications to become a TennCare provider;

e. Sign an abbreviated Medicaid agreement;

f. Are assigned a Medicaid provider ID number;

g. Sign a service agreement, using the TennCare template; and

h. If the Worker will be transporting the Member as specified in the Service Agreement, a valid driver's license and proof of insurance must also be provided.

i. If a potential Worker fails the background check, the potential Worker may request an individualized assessment that will be conducted by the Member with the help of the Contractor. After considering the individualized assessment and any other evidence submitted by the potential Worker, the Member can decide not to hire the potential Worker or may request an exception from TennCare to the potential Worker's possible disqualification.

j. Both the individualized assessment and exception request shall be completed by the member with help of the Contractor. The individualized assessment shall be conducted in accordance with TennCare protocols, policies, and forms, and consider the following factors:

1. Whether the evidence gathered from the potential Worker shows that their criminal conduct is related to the job in such a way that could place the Member at risk;
2. The nature and gravity of the offense(s) or conduct, such as, whether the offense is related to physical, sexual, or emotional abuse of another person, if the offense involves violence against another person, or the manufacture, sale, or distribution of drugs; and
3. The time that has passed since the offense(s) or conduct and/or completion of the sentence.

k. Approved exceptions shall by be granted by TennCare for a period of one year and may be revoked at any time if a member is at-risk. Exceptions shall be reviewed annually by TennCare to make a determination to uphold or deny the continuation of the exception. The Contractor is responsible for implementing and maintaining a process for tracking exceptions to ensure that all renewal requests on behalf of the member and worker are submitted to TennCare and the member's MCO at a minimum of thirty (30) calendar days prior to the expiration date of the exception.

8. Contract Section A.30 is deleted in its entirety and replaced with the following:

A.30. The Contractor shall develop and produce for workers an employment packet that shall be partially populated in advance, where appropriate, in order to assist in accurate completion, and for obtaining signatures on all relevant forms and documents (including required IRS forms). The Contractor shall assist workers in completing the forms (as appropriate), collect and process all required information contained in the worker employment packet, and maintain copies in each worker's file. The Contractor shall attempt and document weekly contacts with the member/representative and worker until such time that the worker's employment packet is complete. The Contractor shall notify the member/representative when the worker has completed the enrollment packet. The employment packet should include at a minimum:

a. Form that collects worker information (e.g. name, social security number);

b. U.S. Citizenship and Immigration and Naturalization Services (USCIS) Form I-9: Employment Eligibility Verification Form;

c. IRS Form W-4: Employee's Withholding Allowance Certificate;

d. IRS Notice 797: Possible Federal Tax Refund Due to the Earned Income Credit (EIC);

e. Worker payroll schedule;

f. Notice about option for direct deposit and instructions for how to request direct deposit;

g. Change of Address/Contact Form;

h. Information about how to receive assistance, including the Contractor's toll-free number; and

i. Information about the customer service and complaint systems.

9. Contract Sections A.33 through A.38 and headings are deleted in their entirety and replaced with the following:

A.33. The Contractor, specifically the supports broker, shall be responsible for providing or arranging for initial and ongoing training of all workers. When training is not directly provided by the Contractor, the Contractor shall validate completion of training. Initial training must be completed prior to initiation of services and payment for services. At a minimum, training shall consist of the following required elements:

a. Overview of the CHOICES program and consumer direction of eligible CHOICES HCBS;

b. Caring for elderly and disabled populations;

c. Abuse and neglect identification and reporting;

d. Fraud and abuse identification and reporting;

e. Critical incident reporting;

f. Submission of required documentation and withholdings;

g. Use of EVV system; and

h. General training regarding administration of self-directed health care task(s) and blood borne pathogens training. The member or their representative shall be responsible for training the worker(s) regarding individualized service needs and preferences and for specific training regarding health care tasks the member or their representative elects to self-direct (as applicable).

A.34. Verify that workers have successfully completed CPR and first aid certification and all required training prior to service initiation and payment for services.

A.35. The Contractor shall ensure that workers maintain CPR and first aid certification and receive required refresher training as a condition of continued employment. The Contractor shall develop and maintain a process for notifying the member/representative,

the worker, and the member's MCO of an expiring CRA and/or first aid certification a minimum of ninety (90) calendar days prior to the expiration date. Additional training components may be provided by the supports broker to a worker to address issues identified by the Contractor, care coordinator, member and/or the representative or at the request of the worker. Refresher training may be provided more frequently if determined necessary by the Contractor, care coordinator, member/representative or at the request of the worker.

Supports Brokerage Functions

A.36. The Contractor shall provide directly, or through a subcontractor, supports brokerage functions. The Contractor shall assign a supports broker to each CHOICES member referred by the MCO for consumer direction of eligible CHOICES HCBS and ensure that each supports broker provides the following:

a. Collaborate with the member's care coordinator;

b. Participate in development of the member's plan of care and the risk assessment as appropriate and if requested by the care coordinator;

c. Assist the member/representative in developing (as part of the on boarding process for new workers) a schedule for the member's workers that comports with the schedule at which services are needed by the member as reflected in the plan of care;

d. Assist the member in developing the initial back-up plan in accordance with the requirement in section A.11 of this contract;

e. Assist the member/representative in managing and monitoring payments to workers;

f. Assist the member/representative in identification and training of new workers, and with training refreshers and replacement of workers as needed;

g. Provide intensive, hands-on assistance to the member/representative and their workers in completing all required consumer direction paperwork;

h. Assist the member/representative with training in a manner that meets the service authorization and initiation timelines specified in this contract in Section A.15, and meets the requirements for training the member/representative provided in Section A.23 of this contract; and

i. When it is necessary for a member to employ new or additional workers, the supports broker shall assist with the completion of all required employment paperwork and provide all required training to the worker in accordance with Sections A.25 and A.33 of this contract.

A.37. The Contractor shall provide access for supports brokers to the Contractor's financial management system for review of member transactions, ensure that an adequate number of supports brokers are available and that sufficient supports broker-to-member ratios are maintained to address the enrollment process of members and workers, and to meet all requirements specified in this contract. Support broker ratios shall be monitored and ratios adjusted as necessary to ensure that supports brokers are able to meet the requirements of this contract.

Monitoring and Oversight

A.38. The Contractor shall:

a. Monitor assignment of workers by the member/representative including the Contractor's entry of such assignment into the EVV to ensure adherence to the schedule for consumer directed services specified in the plan of care and in the service authorization, and notify the member's care coordinator when a member's scheduling needs have changed, such that a new authorization is needed;

b. Monitor timeliness of service delivery to ensure payroll accuracy;

c. Monitor service utilization and worker payments;

d. Monitor to ensure compliance with the Fair Labor Standards Act and all other applicable federal and state law and regulation, as well as TennCare policies and/or protocols regarding worker compensation, overtime, and overtime pay, including services delivered in a back-up capacity. The Contractor shall work with the member and/or representative to develop an adequate supply of reliable workers;

e. Provide a web portal for MCOs to review and monitor member status at any time;

f. Establish and maintain a system for tracking and monitoring all information including but not limited to: adherence to timeframes for initiation of services; name of care coordinator and contact information; authorizations for consumer direction of eligible CHOICES HCBS; supports broker visits and outcomes; results of monitoring activities; service agreements; supports broker assignments; notification to MCO of supports broker assignment; information received from MCO and information transmitted to MCO; and service utilization;

g. As requested by the care coordinator, assist the member/representative in monitoring and evaluating the performance of workers;

h. Assist the member/representative in managing and monitoring payments to workers;

i. Work with the member/representative to help identify and find replacement workers;

j. Ensure that new representatives sign service agreements;

k. Communicate with the MCO any concerns regarding member health, safety and welfare and/or change in condition and concerns regarding workers; and

l. Within three (3) business days of becoming aware, notify the MCO of changes to representative contact information.

10. Contract section A.39 is no longer effective pursuant to amendment execution. In an effort to avoid contract re-numbering, this section is deleted in its entirety and replaced with the following:

A.39. Deleted and intentionally left blank.

11. Contract Sections A.42 and A.43 are deleted in their entirety and replaced with the following:

A.42. The Contractor shall identify and report, as appropriate, abuse and neglect, fraud and abuse, and critical incidents.

A.43 The Contractor shall, within 24 hours, report to the MCO on worker and/or staff identification of critical incidents. Critical incidents shall include but not be limited to the following incidents when they occur in a home and community-based long-term care service delivery setting:

a. Unexpected death of a CHOICES member;

b. Suspected physical or mental abuse of a CHOICES member;

c. Theft or financial exploitation of a CHOICES member;

d. Severe injury sustained by a CHOICES member;

e. Medication error involving a CHOICES member self-directing medication administration; and

f. Sexual abuse and/or suspected abuse and neglect of a CHOICES member.

12. Contract Sections A.46 and A.47 are deleted in their entirety and replaced with the following:

A.46. The Contractor shall refer all instances of suspected abuse, neglect, or exploitation as defined in T.C.A. § 71-6-103 to Adult Protective Services for investigation.

A.47. As the employer of record, the member and/or his/her representative (as applicable) shall determine the appropriate corrective action when an incident has occurred; however, the Contractor may offer recommendations and/or assistance to the member and/or his/her representative in making the determination. The Contractor shall report to the MCO all critical incidents identified, including incidents referred to APS, and any concerns regarding the member's health and safety, including updates to the plan of care or risk assessment and/or risk agreement, as appropriate. The Contractor may also report corrective actions determined by the member or his/her representative (as applicable).

13. Contract Sections A.50 and A.51 are deleted in their entirety and replaced with the following:

A.50. The Contractor shall report any concerns regarding health, safety and welfare and the member's ability to participate in consumer direction of eligible CHOICES HCBS to the MCO as well as concerns regarding representatives.

A.51. On an annual basis, the Contractor shall conduct a survey of participating members/ representatives to determine satisfaction with the Contractor and participation in consumer direction of eligible CHOICES HCBS. This survey shall represent a statistically valid sample size of the existing CHOICES members enrolled in consumer direction of eligible CHOICES HCBS. The survey instrument shall be prior approved by TennCare. A comprehensive report of results shall be provided to TennCare and MCOs using the TennCare specified process and format; copies of survey results shall be provided to the MCOs and to TennCare.

14. Contract Sections A.56 and A.57 and associated headings are deleted in their entirety and replaced with the following:

Reporting

A.56. The Contractor shall develop and submit reports as specified below, using a format prescribed by TennCare. All reports shall be made available to TennCare via a web portal that provides the current detail on authorized services and expenditures. The reports shall be capable of sorting by selected date ranges as specified by the requestor.

a. Submit to TennCare a weekly Companion Care referral and enrollment report. For members that without the receipt of Companion Care services may not be served safely in CHOICES Group 2, the Contractor shall work with TennCare enrollment to ensure timely and seamless transition to consumer directed services. On a weekly basis, the contractor shall submit to TennCare a report tracking the enrollment process for each prospective member. At a minimum, the report will include, but is not limited to, the member's name, date of referral, supports broker's name, and status of required paperwork, home visit, back-up plan, and training.

b. Submit to TennCare a monthly Consumer Direction Count report, due on the 1st of the month. At a minimum, the report will include by region and MCO the total number of active referrals for Consumer Direction, the total number of members with active authorizations for Consumer Direction services, the total number of members with active authorizations for companion care, and the total number of members who noted on their service agreement that they will be self-directing healthcare tasks.

c. Submit to TennCare a monthly supports broker report (electronic copy), due on the 20th of the following month. At a minimum, the report will include the turnover rate for supports brokers, the supports broker-to-member ratio, number of members reassigned to a different supports broker (broken down by those changes requested by the member, and those initiated by the Contractor/subcontractor), and, per member, the current status of their case – new enrollment, on-going support, or post-enrollment assistance.

1. New enrollment – those members who are enrolling in consumer direction for the first time or re-enrolling after more than 365 days out of the program.
2. On-going support – those members who have been enrolled in the consumer direction program and have an Employer of Record (EOR) and all the necessary workers in place.
3. Post-enrollment assistance – those members who are enrolled in the consumer direction program and are experiencing a change in one or more of their workers and/or their EOR.

d. Quarterly reports, due on the 30th of the month following the end of each quarter, using a format prescribed by TennCare:

1. Report by month and cumulative for the quarter, on the complaints received from members/representatives, workers and care coordinators regarding the Contractor, workers or representatives, and the resolution and timeframe for resolution of reported incidents.

2. Report by month and cumulative for the quarter, on the issues identified and tracked through the Contractor's fraud and abuse system and the resolution and timeframes for resolution of identified issues.

3. Referral and Enrollment Report that provides the following information, at a minimum, by MCO and/or TennCare referral, as applicable, by month and cumulative for the quarter:

(a) Total number of referrals received;
(b) Total number of members enrolled in Consumer Direction (defined as having an authorization in place for Consumer Direction services and services initiated);
(c) Total number of withdrawals from Consumer Direction and indicate if withdrawal occurred prior or subsequent to service initiation;
(d) By service, the number of enrollees consumer directing attendant care, personal care, in-home respite, and companion care; and

(e) How many days transpired from FEA referral by the MCO (date of referral upload, or as otherwise defined by TennCare) to initiation of services (date of EVV authorization, or as otherwise defined by TennCare) for Consumer Direction enrollees:

i. Average number of days from referral to initiation of services;
ii. Range of days from referral to initiation of services (least to greatest);
iii. Summary of the foregoing for the last (4) four quarters on every quarterly submission; and
iv. Listing of each member for whom services have not been initiated within sixty (60) days and an explanation as to why these services have not been initiated

4. Customer Service report that provides, by month and cumulative for the quarter, the following information:

(a) Number of calls received;
(b) Average length of time of hold;
(c) Number of voice messages received;
(d) Number and percent of voice messages returned within 1 business day; and
(e) List of reasons for each call and number of calls per reason.

5. Report by month and cumulative for each quarter, as well as annually (cumulative for each calendar year due ninety (90) days after the last day of each calendar year) a member utilization report that provides the following information, at a minimum:

(a) Name and identification number of each CHOICES member participating in consumer direction of eligible CHOICES HCBS during the reporting period and indicating, if appropriate, the date of withdrawal from Consumer Direction and participation in self direction;

(b) Services authorized and rate per service for each worker and if worker is a family member;

(c) Total units of each service provided and amount of payments made on each member's behalf;

(d) Total authorized units of each service remaining for each member; and

(e) Identification of members enrolled in consumer direction who incur no utilization of consumer directed services for a period of at least thirty (30) consecutive days.

e. Additional ad hoc reports shall be prepared and submitted as directed by TennCare within ten (10) business days from the date of the request unless otherwise specified by TennCare.

Withdrawal from Consumer Direction of Eligible CHOICES HCBS

A.57. In the event that the Contractor has concerns that a worker is unable to deliver appropriate care as prescribed in the service agreement and the plan of care, or that a member is not an appropriate candidate for consumer direction, the Contractor shall notify the care coordinator regarding those concerns within one (1) business day of identifying issue(s) as well as inform the member and/or representative of any potential risks associated with continuing to use the worker, and in conjunction with the MCOs shall:

a. Collaborate to develop strategies to address identified issues and concerns;

b. Abide by TennCare's decision regarding disenrollment of a member from consumer direction. TennCare shall conduct the disenrollment process in accordance with TennCare Rules, including providing the member with advance notice of involuntary disenrollment or withdrawal. The notice shall include a statement of the Member's right to request a fair hearing within thirty (30) days from receipt of the written notice regarding valid factual disputes pertaining to the decision. In the case of involuntary withdrawal from participation in Consumer Direction, if the appeal is received prior to the date of action, continuation of participation in Consumer Direction shall be provided, unless such continuation would pose a serious risk to the Member's health, safety and welfare, in which case, services specified in the POC shall be made available through Contract Providers pending resolution of the appeal and shall follow;

c. Facilitate a seamless transition from workers to contract providers and ensure there are no interruptions or gaps in services, and

d. For members who have been involuntarily withdrawn, either as a result of concerns about the member or worker, and choose to be reinstated in consumer direction of eligible CHOICES HCBS, ensure that the issues previously identified as reasons for withdrawal have been adequately addressed prior to reinstatement. All members shall be required to participate in consumer direction training programs prior to re-instatement in consumer direction of eligible CHOICES HCBS.

15. Contract Section A.65. is deleted in its entirety and replaced with the following:

A.65. The Contractor shall have sufficient staff with relevant experience and qualifications to fulfill all specified requirements per the terms of this contract, and implement a policy to ensure service coverage for all CHOICES members participating in consumer direction of eligible CHOICES HCBS during the absence of staff and vacated positions. All supports brokers and other staff, including subcontractors, whose job functions include direct contact with or responsibility for CHOICES members must pass a background check which includes criminal background check (including fingerprinting), or, as an alternative, a background check from a licensed private investigation company, verification that the person's name does not appear on the State abuse registry, verification that the person's name does not appear on the State and national sexual offender registries, the federal government's LEIE excluded provider database, and licensure verification, as applicable.

16. Contract section A.68. is deleted in its entirety and replaced with the following:

A.68. The Contractor shall provide staff training including;

a. Customer service training for Contractor staff;

b. As appropriate, train staff on how to use the EVV system and MCO scheduling requirements;

c. On an MCO's requirements for critical incident identification and reporting, and identification and reporting of abuse and neglect; and

d. On an MCO's complaint system.

17. Contract sections A.70.a, A.70.d., and A.70.i are deleted in their entirety and replaced with the following:

a. Establish the accounting and information systems necessary for processing and paying workers as specified in the authorization of consumer directed services and establish the reporting functions and the internal controls necessary to track and manage these functions in an effective and timely manner. This includes ensuring that payment to workers is only made for eligible CHOICES HCBS authorized by the MCO to a member enrolled in CHOICES Group 2 or Group 3 and in Consumer Direction at the time of service delivery, and for ensuring compliance with the Fair Labor Standards Act and all other applicable federal and state law and regulation, as well as TennCare policies and/or protocols regarding worker compensation, overtime and overtime pay, including services delivered in a back-up capacity;

d. Develop a process for identifying and resolving, on a daily basis, errors or omissions in electronically captured visit information, including instances when a worker fails to log in or out of a consumer direction service visit;

l. Review, as necessary, detailed documentation of service delivery including but not limited to the specific tasks and functions performed for the member to help ensure that services are being provided and that the member's needs are being met.

18. Contract Sections A.74 and A.75 are deleted in their entirety and replaced with the following:

A.74. For reimbursement for authorized services, the Contractor shall:

a. Only bill for services that have been authorized by the MCO for an eligible member enrolled in CHOICES Group 2 or Group 3 and in Consumer Direction at the time of service delivery. The Contractor must provide a web-based interface for the MCO and members to review information on the units of service authorized, utilized, and remaining balances;

b. Submit all claims for services rendered timely in accordance with requirements agreed to with the MCOs;

c. Track receipt of service funds in its financial information system;

d. Maintain a dedicated bank account for the deposit of service funds; and

e. Be reimbursed via ACH deposit and shall be provided a detailed electronic remittance advice.

A.75. For reimbursement for administrative services, the Contractor shall:

a. Submit an administrative invoice monthly per TennCare prescribed requirements, which includes at a minimum: number of current members and new members; number of current workers and new workers; names, member MCO ID and worker Provider Number for each member and worker;

b. Have a comprehensive information system in place for submitting the administrative invoice billing to TennCare electronically; and

c. Provide an accurate report of current enrollment/member activity.

19. The following is added as Contract section A.80.

A.80. The Contractor shall develop a process to work in conjunction with TennCare and/or the MCO (as applicable) to facilitate the enrollment of members who are only eligible for enrollment into CHOICES Group 2 through the receipt of Companion Care services. The

individual may not be enrolled into CHOICES Group 2 until a qualified companion has been identified, an adequate back-up plan has been developed, and the companion has completed all required paperwork and training, and is ready to begin delivering Companion Care services immediately upon the person enrollment into CHOICES.

20. Contract section B.1 is deleted in its entirety and replaced with the following:

B.1. This Contract shall be effective for the period beginning April 1, 2011, and ending on March 31, 2015. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

21. Contract section C.1 is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Twelve Million Ninety Thousand Dollars ($12,090,000.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. 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.

22. Contract 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 rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.

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

Service Description	Amount (per compensable increment)
Financial Administration	$105.00 Per Member Per Month* (PMPM)
Supports Brokerage	$155.00 Per Member Per Month* (PMPM)
Set-Up for New Consumer Direction Referral	$175.00 Per Member

Set-Up for New Consumer Directed Worker	$55.00 Per Worker

* The Per Member Per Month (PMPM) payment shall be based only on members enrolled in consumer direction of eligible CHOICES HCBS, defined as the number of CHOICES members with an active authorization for consumer direction services that are receiving consumer directed services.

The set up fee covers all applicable costs for processing paperwork, completing training, etc. for new CHOICES members (including persons specified by TennCare who are not enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services), representatives and their identified workers, including background checks. These fees may be billed only upon completion of all tasks associated with member or worker enrollment, and shall not be billed when a member withdraws from Consumer Direction prior to completion of these tasks, and/or when a worker decides not to proceed with employment prior to completion of these tasks, or is determined to not qualify for employment. Except for lapses in employment of a consumer directed worker which warrant a new background check as specified in Section A.27 above, the fee shall be applicable only once per lifetime for each member, representative, and/or worker, even if the worker is employed by multiple members/representatives, and regardless of any lapses in the member's participation in consumer direction.

"Money Follows the Person" Rebalancing Demonstration Incentive Payments	
Service Description	**Amount** (per compensable increment)
Successful enrollment of each member into consumer-directed HCBS within thirty (30) days of Contractor's receipt of referral	$100 per Member Enrolled (One-Time Payment)
Successful enrollment of each member into consumer-directed HCBS within forty five (45) days of Contractor's receipt of referral	$75 per Member Enrolled (One-Time Payment)
Successful enrollment of each member into consumer-directed HCBS within sixty (60) days of Contractor's receipt of referral	$50 per Member Enrolled (One-Time Payment)

Incentive payments pertaining to consumer direction shall be payable within thirty (30) days, following the end of each calendar quarter, subsequent to the member being successfully enrolled into consumer-directed services within the specified time-frame, as established in Section A.79.a.

23. Contract Attachment A is deleted in its entirety and replaced with the Revised Attachment A attached hereto.

24. Contract Attachment C is deleted in its entirety and replaced with Revised Attachment C.

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

Amendment Effective Date. The revisions set forth herein shall be effective March 31, 2014. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

PUBLIC PARTNERSHIPS, LLC:

2/26/2014

SIGNATURE DATE

Marc Fenton, President

PRINTED NAME AND TITLE OF SIGNATORY (above)

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

Larry B. Martin/CD 2/27/2014

LARRY B. MARTIN, COMMISSIONER DATE

ATTACHMENT A

DEFINITIONS

Adult Protective Services (APS) – An office within the Tennessee Department of Human Services that investigates reports of abuse, neglect (including self-neglect) or financial exploitation of vulnerable adults. APS staff assess the need for protective services and provide services to reduce the identified risk to the adult.

Back-up Plan – A written plan that is a required component of the plan of care for all CHOICES members receiving companion care or non-residential HCBS in their own home and which specifies unpaid persons as well as paid Consumer-Directed Workers and/or contract providers (as applicable) who are available, have agreed to serve as back-up, and who will be contacted to deliver needed care in situations when regularly scheduled HCBS providers or workers are unavailable or do not arrive as scheduled. The member/representative (as applicable) may not elect, as part of the back-up plan, to go without services. The back-up plan shall include the names and telephone numbers of persons and agencies to contact and the services to be provided by each of the listed contacts. The member and his/her representative (as applicable) shall have primary responsibility for the development and implementation of the back-up plan for Consumer Directed services.

Care Coordinator - For purposes of CHOICES, a person who is employed or contracted by an MCO to perform the continuous process of care coordination:

(a) Assessing a Member's physical, behavioral, functional, and psychosocial needs;
(b) Identifying the physical health, behavioral health, and LTC services and other social support services and assistance (e.g., housing or income assistance) necessary to meet identified needs;
(c) Ensuring timely access to and provision, coordination and monitoring of physical health, behavioral health, and LTC services needed to help the Member maintain or improve his physical or behavioral health status or functional abilities and maximize independence; and
(d) Facilitating access to other social support services and assistance needed in order to ensure the Member's health, safety and welfare, and as applicable, to delay or prevent the need for more expensive institutional placement.

Child Protective Services (CPS) – A program division of the Tennessee Department of Children's Services whose purpose is to investigate allegations of child abuse and neglect and provide and arrange preventive, supportive, and supplementary services.

CHOICES Member – A member who has been enrolled by TennCare into CHOICES.

Confidential Information – Any non-public, confidential or proprietary information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, which is created under this Agreement. Any such information relating to individuals enrolled in the TennCare program ("TennCare members") or relating to individuals who may be potentially enrolled in the TennCare program, which is provided to or obtained 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.

Consumer Direction of Eligible CHOICES HCBS (Consumer Direction) – The opportunity for a CHOICES member assessed to need specified types of CHOICES HCBS including attendant care, personal care, in-home respite, companion care and/or any other service specified in TennCare rules and regulations as available for Consumer Direction to elect to direct and manage (or to have a representative direct and manage) certain aspects of the provision of such services—primarily, the hiring, firing, and day-to-day supervision of Consumer-Directed Workers delivering the needed service(s).

Consumer-Directed Worker (Worker) – An individual who has been hired by a CHOICES member participating in consumer direction of eligible CHOICES HCBS or his/her representative to provide one or more eligible CHOICES HCBS to the member. Worker does not include an employee of an agency that is being paid by an MCO to provide HCBS to the member.

Contract Provider - A provider who is under contract with an Enrollee's MCO. Also called "Network Provider" or "In-Network provider."

Contractor Risk Agreement – The agreement between the MCO and TennCare regarding requirements for operation and administration of the TennCare managed care program, including CHOICES.

Electronic Visit Verification (EVV) System - An electronic system that caregivers use to check-in at the beginning and check-out at the end of each period of service delivery. The system is used to monitor Member receipt of HCBS and also to generate claims for submission by the provider.

Eligible CHOICES HCBS - Attendant care, personal care, in-home respite, companion care services and/or any other CHOICES HCBS specified in TennCare rules and regulations as eligible for consumer direction for which a CHOICES member is determined to need and elects to direct and manage (or have a representative direct and manage) certain aspects of the provision of such services – primarily the hiring, firing and day-to-day supervision of consumer-directed workers delivering the needed service(s). Eligible CHOICES HCBS do not include home health or private duty nursing services.

Employee – The worker hired by the CHOICES member to deliver eligible CHOICES HCBS.

Employer of Record – The member participating in consumer direction of eligible CHOICES HCBS or a representative designated by the member to assume the consumer direction of eligible CHOICES HCBS functions on the member's behalf.

Fiscal Employer Agent (Contractor) – An entity contracting with the State and/or an MCO that helps CHOICES members participating in consumer direction of eligible CHOICES HCBS. The Contractor provides both Financial Administration and Supports Brokerage functions for CHOICES members participating in consumer direction of eligible CHOICES HCBS. This term is used by the IRS to designate an entity operating under Section 3504 of the IRS code, Revenue Procedure 70-6 and Notice 2003-70 as the agent to members for the purpose of filing certain federal tax forms and paying federal income tax withholding, FICA and FUTA taxes. The Contractor also files state income tax withholding and unemployment insurance tax forms and pays the associated taxes and processes payroll based on the eligible CHOICES HCBS authorized and provided.

HIPAA – Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. Parts 160 and 164.

Home and Community-Based Services (HCBS) – Services that are provided pursuant to a Section 1915(c) waiver or the CHOICES program as an alternative to long-term care institutional services in a nursing facility or an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) or to delay or prevent placement in a nursing facility. HCBS may also include optional or mandatory services that are covered by Tennessee's Title XIX state plan or under the TennCare demonstration for all eligible enrollees, including home health or private duty nursing. However, only CHOICES HCBS are eligible for Consumer Direction. CHOICES HCBS do not include home health or private duty nursing services or any other HCBS that are covered by Tennessee's Title XIX state plan or under the TennCare demonstration for all eligible enrollees, although such services are subject to estate recovery and shall be counted for purposes of determining whether a CHOICES member's needs can be safely met in the community within his or her individual cost neutrality cap.

List of Excluded Individuals/Entities (LEIE) – List of Excluded Individuals/Entities is the database maintained by the Office of the Inspector General in the Department of Human Services containing the names of providers excluded from participation in federally financed healthcare programs by the authority granted in 42 USCA 1320a-7.

Managed Care Organization (MCO) – Managed Care Organization shall mean an appropriately licensed Health Maintenance Organization (HMO) approved by the Bureau of TennCare as capable of providing medical, behavioral, and long-term services and supports in the TennCare Program.

Member – Member shall mean a TennCare Medicaid- or TennCare Standard-eligible individual who is enrolled in a managed care organization.

Provider - Provider shall mean an appropriately licensed institution, facility, agency, person, corporation, partnership, or association that delivers health care services. Providers are categorized as either TennCare Providers or Non-TennCare Providers. TennCare Providers may be further categorized as being one of the following:

(a) Participating Providers or In-Network Providers
(b) Non-Participating Providers or Out-of-Network Providers
(c) Out-of-State Emergency Providers

Definitions of each of these terms are contained in TennCare Rule 1200-13-13-.01.
Provider does not include Consumer-Directed Workers (See Consumer-Directed Worker); nor does provider include the Contractor (Fiscal Employer Agent).

Provider Agreement – An agreement, using the provider agreement template approved by TDCI, between the MCO and a provider or between the MCO's subcontractor and a provider that describes the conditions under which the provider agrees to furnish covered services to the MCO's members.

Regulatory Requirements - Any requirements imposed by applicable federal, state or local laws, rules, regulations, court orders and consent decrees, a program contract, or otherwise imposed by TennCare in connection with the operation of the program or the performance required by either party under this agreement.

Representative – In general, for CHOICES members, a person who is at least eighteen (18) years of age and is authorized by the member to participate in care planning and implementation and to speak and make decisions on the member's behalf, including but not limited to identification of needs, preference regarding services and service delivery settings, and communication and resolution of complaints and concerns. As it relates to consumer direction of eligible CHOICES HCBS, a person who is authorized by the member to serve as the employer of record, and to direct and manage the member's worker(s), and signs a representative agreement. The representative for consumer direction of eligible CHOICES HCBS must also: be at least 18 years of age; have a personal relationship with the member and understand his/her support needs; know the members daily schedule and routine, medical and functional status, medication regimen, likes and dislikes, and strengths and weaknesses; and be physically present in the member's residence on a regular basis or at least at a frequency necessary to supervise and evaluate workers.

Representative Agreement – The agreement between a CHOICES member electing consumer direction of eligible CHOICES HCBS who has a representative direct and manage the consumer's worker(s) and the member's representative that specifies the roles and responsibilities of the member and the member's representative.

Risk Agreement – An agreement signed by a member who will receive HCBS (or his/her representative) that includes, at a minimum, identified risks to the member of residing in the community and receiving HCBS, the consequences of such risks, strategies to mitigate the identified risks, and the member's decision regarding his/her acceptance of risk. For members electing to participate in Consumer Direction, the Risk Agreement must include any additional risks associated with the member's decision to act as the employer of record, or to have a Representative act as the employer of record on his/her behalf.

Safeguarding Enrollee Information – To maintain reasonable and appropriate administrative, technical and physical safeguards, ensure the integrity and confidentiality, and protect against any reasonably anticipated threats or hazards to the security or integrity or unauthorized uses or disclosures of information regarding a TennCare member.

Self-Direction of Health Care Tasks – A decision by a CHOICES member participating in Consumer Direction to direct and supervise a paid worker delivering eligible CHOICES HCBS in the performance of health care tasks that would otherwise be performed by a licensed nurse. Self-direction of health care tasks is not a service, but rather, health care-related duties and functions (such as administration of medications) that a CHOICES member participating in Consumer Direction may elect to have performed by a Consumer-Directed Worker as part of the delivery of eligible CHOICES HCBS s/he is authorized to receive.

Service Agreement – The agreement between a CHOICES member electing consumer direction of eligible CHOICES HCBS (or the member's representative) and the member's Consumer-Directed Worker that specifies the roles and responsibilities of the member (or the member's representative) and the member's worker.

State – The State of Tennessee, including, but not limited to, any entity or agency of the state, such as the Tennessee Department of Finance and Administration, the Office of Inspector General, the Bureau of TennCare, the Tennessee Bureau of Investigation, Medicaid Fraud Control Unit, the Tennessee Department of Mental Health and Developmental Disabilities, the Tennessee Department of Children's Services, the Tennessee Department of Health, the Tennessee Department of Commerce and Insurance, and the Office of the Attorney General.

Supports Broker – An individual assigned by the Contractor to each CHOICES member referred for participation in consumer direction of eligible CHOICES HCBS who assists the member/representative as needed in performing certain employer functions as follows: developing job descriptions, locating, recruiting, interviewing, and scheduling workers; member and worker enrollment in consumer direction and consumer direction training; and developing (as part of the on boarding process for new workers) a schedule for the member's workers that comports with the schedule at which services are needed by the member as reflected in the plan of care. The supports broker shall also assist the member as needed with developing and verifying the initial back-up plan for consumer direction. The supports broker collaborates with the member's care coordinator, as appropriate. The supports broker does not have authority or responsibility for consumer direction. The member or member's representative must retain authority and responsibility for consumer direction.

TennCare or TennCare Program – The program administered by the single state agency, as designated by the state and CMS, pursuant to Title XIX of the Social Security Act and the Section 1115 research and demonstration waiver granted to the State of Tennessee and any successor programs.

TennCare CHOICES in Long-Term Services and Supports (CHOICES) – A program in which all nursing facility services and home and community based long-term care services for elders and/or adults with physical disabilities are integrated into TennCare's managed care delivery system.

Vital Documents – Vital Documents may include, but are not limited to, consent and complaint forms, intake and application forms with the potential for important consequences, notices pertaining to the reduction, denial, delay, suspension, or termination of services, certain critical outreach documents (i.e., case management and Population Health documents) and any other documents designated by the State. At a minimum, all vital documents shall be available in the Spanish language.

Warm Transfer – A telecommunications mechanism in which the person answering the call facilitates transfer to a third party, announces the caller and issue, and remains engaged as necessary to provide assistance.

Liquidated Damages

It is acknowledged by TennCare and the Contractor that in the event of failure to meet the requirements provided in this Contract and all documents incorporated herein, TennCare will be harmed. The actual damages which TennCare will sustain in the event of and by reason of such failure is uncertain, since it is extremely difficult and impractical to ascertain and determine. The parties, therefore, acknowledge that the Contractor shall be subject to damages and/or sanctions as described below. It is further agreed that the Contractor shall pay TennCare liquidated damages as directed by TennCare and not to exceed the fixed amount as stated below; provided however, that if it is finally determined that the Contractor would have been able to meet the Contract requirements listed below but for TennCare's failure to perform as provided in this Contract, the Contractor shall not be liable for damages resulting directly therefrom.

In addition to the specific liquidated damages listed below, TennCare shall have the right to assess a general liquidated damages claim of five hundred dollars ($500) per calendar day for each day that the Contractor fails to comply with the provisions and requirements of this Contract. The damage that may be assessed shall be $500 per calendar day for each separate failure to comply with the Contract.

	PROGRAM ISSUE	DAMAGE
A.1	Failure to obtain written approval of any written member materials including educational materials prior to using such materials as outlined in Sections A.4 and A.22. of this Contract.	$250 per member or educational material (i.e., per document, regardless of the number of persons to whom such document may have been disseminated) for which prior approval was not obtained.
A.2	Failure to complete and process all required employer paperwork, including but not limited to IRS Forms SS-4, 2678, and 8821, for the member or his/her representative, as applicable prior to initiating Consumer Direction of eligible CHOICES HCBS for the member as outlined in Section A.3. of this Contract.	$500 per member for which all required employer paperwork is not completed and processed prior to initiating Consumer Direction of eligible CHOICES HCBS for the member.
A.3	Failure to ensure that each Consumer Directed worker completes all required employee paperwork, including an abbreviated Medicaid agreement, and obtains a Medicaid provider ID number prior to authorizing the worker to deliver Consumer Directed services for a member, as outlined in Sections A.27 and A.30 of this Contract.	$500 per worker for which all required employee paperwork was not completed prior to authorizing the worker to deliver Consumer Directed services for a member.
A.4	Failure to ensure that each Consumer Directed worker completes all training requirements prior to authorizing the worker to deliver Consumer Directed services as outlined in Sections A.33, A.34, and A.35 of this Contract.	$500 per worker for which all training requirements were not completed prior to authorizing the worker to deliver Consumer Directed services for a member.

	PROGRAM ISSUE	DAMAGE
A.5	Failure to ensure that each Consumer Directed worker meets all qualifications specified in this Contract and in TennCare Rules and passes a background check as outlined in Section A.27 of this Contract (including all applicable registry and database checks); failure to maintain documentation of such qualifications and background (including registry and database) checks; or failure to allow a worker who has failed his/her background check to provide Consumer Directed services only as permitted pursuant to Section A.27 of this Contract.	$1,000 per worker for which qualifications were not verified, or a background check was not passed prior to authorizing the worker to deliver Consumer Directed services; for which documentation of such qualifications and background check was not maintained; or for each worker who failed a background check that was permitted to provide Consumer Directed services except as permitted pursuant to Section A.27 of this Contract.
A.6	Failure to obtain a signed Service Agreement for each Consumer Directed worker prior to such worker being authorized to deliver Consumer Directed services, and any time there is a change in the terms or conditions of a worker's employment or a change in the member's Representative as outlined in Sections A.15 and A.27 of this Contract.	$1,000 per worker for which a Service Agreement was not signed prior to authorizing the worker to deliver Consumer Directed services for a member, or for which a new Service Agreement is not signed when there is a change in the terms or conditions of a worker's employment or a change in the member's Representative.
A.7	Failure to confirm each back-up person and organization's willingness and availability to provide back-up care when needed prior to initiation of Consumer Direction of eligible CHOICES HCBS.	$500 per member for whom the Contractor failed to confirm each back-up person and organization's willingness and availability to provide back-up care when needed prior to initiation of Consumer Direction of eligible CHOICES HCBS.
A.8	Failure to report a critical incident within the timeframes specified in Section A.43 of this Contract.	$250 per critical incident not reported.
A.9	Failure to submit complete and accurate data or to comply with all data collection processes and timelines established by TENNCARE in policy or protocol in order to gather data required to comply with tracking and reporting requirements.	$500 per occurrence in which reported data was incomplete or inaccurate.
A.10	Failure to pay a Consumer Directed worker pursuant to the terms of this Contract, including but not limited to the timeliness of payment as defined in Section A.70 of this Contract.	$200 per instance in which a Consumer Directed worker is not paid pursuant to the terms of this Contract.

	PROGRAM ISSUE	DAMAGE
A.11	Failure to timely submit and pay a member or representative's Employer Payroll Taxes as defined in Section A.70 of this Contract.	$200 per member for which Employer Payroll Taxes were not timely submitted and paid in addition to all applicable IRS penalties and interest which may be assessed.

CONTRACT AMENDMENT

Agency Tracking #	Edison ID	Contract #	Amendment #
31865-00068	25010	FA1134502	01

Contractor Legal Entity Name	Edison Vendor ID
Public Partnerships, LLC	0000005040

Amendment Purpose & Effect(s)

Updates Scope – TennCare CHOICES in Long Term Care Program Group 3 and Money Follows the Person Rebalancing Demonstration Project

Amendment Changes Contract End Date: ☐ YES ☒ NO **End Date:** March 31, 2014

TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A): **$ 0.00**

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	$399,585.00	$399,585.00			$799,170.00
2012	$1,598,340.00	$1,598,340.00			$3,196,680.00
2013	$1,598,340.00	$1,598,340.00			$3,196,680.00
2014	$1,198,735.00	$1,198,735.00			$2,397,470.00
TOTAL:	**$4,795,000.00**	**$4,795,000.00**			**$9,590,000.00**

American Recovery and Reinvestment Act (ARRA) Funding: ☐ YES ☒ NO

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Speed Chart (optional)	Account Code (optional)
TN00000236	70803000

OCR USE

AMENDMENT #1
OF CONTRACT FA1134502
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
BUREAU OF TENNCARE
AND
PUBLIC PARTNERSHIPS, LLC

This Amendment is made and entered by and between the State of Tennessee, Department of Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare" and Public Partnerships, LLC, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract Section A.56.b.4 is deleted in its entirety and replaced with the following:

   4. Referral and Enrollment Report that provides the following information, at a minimum, by MCO and/or TennCare referral, as applicable, by month and cumulative for the quarter:

      (a) Total number of referrals received;
      (b) Total number of members enrolled in CD (defined as having an authorization in place for CD services and services initiated);
      (c) Total number of withdrawals from CD and indicate if withdrawal occurred prior or subsequent to service initiation, and
      (d) By service, the number of enrollees consumer directing attendant care, personal care, in-home respite, and companion care.

2. Contract Section A.70.a is deleted in its entirety and replaced with the following:

   a. Establish the accounting and information systems necessary for processing and paying workers as specified in the authorization of consumer directed services and establish the reporting functions and the internal controls necessary to track and manage these functions in an effective and timely manner. This includes ensuring that payment to workers is only made for eligible HCBS authorized by the MCO to a member enrolled in CHOICES Group 2 or Group 3 and in Consumer Direction at the time of service delivery, and for ensuring compliance with the Fair Labor Standards Act and all other applicable federal and state law and regulation , as well as TennCare policies and/or protocols regarding worker compensation, overtime and overtime pay, including services delivered in a back-up capacity;

3. Contract Section A.74.a is deleted in its entirety and replaced with the following:

   a. Only bill for services that have been authorized by the MCO for an eligible member enrolled in CHOICES Group 2 or Group 3 and in Consumer Direction at the time of service delivery. The Contractor must provide a web-based interface for the MCO and members to review information on the funds authorized, disbursed, and remaining balances.

4. The following is added as Contract Section A.79.

   "Money Follows the Person" Rebalancing Demonstration Incentive Payments

   A.79. As prescribed in the *"Money Follows the Person" Rebalancing Demonstration (MFP) Operational Protocol* the State shall increase the number of persons receiving Medicaid-reimbursed HCBS participating in consumer direction during each year of the demonstration. Therefore, the State shall offer incentive payments to the Contractor for each individual who successfully transitions to consumer-directed services within a specified time-frame.

a. The Contractor will receive incentive payments from the State for each individual who begins receiving consumer-directed HCBS within a specified time-frame:

(1) Upon successful enrollment of each member into consumer-directed HCBS within thirty (30) days of the Contractor's receipt of referral, the Contractor will receive a one-time payment as specified in Contract Section C.3.

(2) Upon successful enrollment of each member into consumer-directed HCBS within forty five (45) days of the Contractor's receipt of referral, the Contractor will receive a one-time payment as specified in Contract Section C.3.

(3) Upon successful enrollment of each member into consumer-directed HCBS within sixty (60) days of the Contractor's receipt of referral, the Contractor will receive a one-time payment as specified in Contract Section C.3.

b. The State projects the Contractor will receive incentive payments on 55% of total referrals who enroll in consumer-directed services:

Number of Days Between Referral Receipt and Enrollment into Consumer-Directed HCBS	Percentage of Referrals Who Enroll into Consumer-Directed HCBS
≤ 30 days	5%
31-45 days	10%
46-60 days	40%

c. In order to receive incentive payments, the Contractor shall submit to TennCare a quarterly consumer direction initiation of services report, due on the 15th day following the end of each calendar quarter. At a minimum, the report should provide the following information, using a format approved by TennCare:

Cumulative listing of consumer direction participants, referrals, and disenrollments including:

(1) Member's name;
(2) Social Security number;
(3) MCO;
(4) Region;
(5) Date of referral received by the member's MCO;
(6) Date of services initiated by the member's MCO; and
(7) Number of days from referral to service initiation.

5. Contract 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 rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.

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

Service Description	Amount (per compensable increment)
Financial Administration	$105.00 Per Member Per Month* (PMPM)
Supports Brokerage	$155.00 Per Member Per Month* (PMPM)
Set-Up for New Consumer Direction Referral	$175.00 Per Member
Set-Up for New Consumer Directed Worker	$55.00 Per Worker

* The Per Member Per Month (PMPM) payment shall be based only on members enrolled in consumer direction of HCBS, defined as the number of CHOICES members with an active authorization for consumer direction services that are receiving consumer directed services.

The set up fee covers all applicable costs for processing paperwork, completing training, etc. for new CHOICES members (including persons specified by TennCare who are not enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services), representatives and their identified workers, including background checks. These fees may be billed only upon completion of all tasks associated with member or worker enrollment, and shall not be billed when a member withdraws from Consumer Direction prior to completion of these tasks, and/or when a worker decides not to proceed with employment prior to completion of these tasks, or is determined to not qualify for employment. Except for lapses in employment of a consumer directed worker which warrant a new background check as specified in Section A.27 above, the fee shall be applicable only once per lifetime for each member, representative, and/or worker, even if the worker is employed by multiple members/representatives, and regardless of any lapses in the member's participation in consumer direction.

"Money Follows the Person" Rebalancing Demonstration Incentive Payments	
Service Description	**Amount** (per compensable increment)
Successful enrollment of each member into consumer-directed HCBS within thirty (30) days of Contractor's receipt of referral	$100 per Member Enrolled (One-Time Payment)
Successful enrollment of each member into consumer-directed HCBS within forty five (45) days of Contractor's receipt of referral	$75 per Member Enrolled (One-Time Payment)
Successful enrollment of each member into consumer-directed HCBS within sixty (60) days of Contractor's receipt of referral	$50 per Member Enrolled (One-Time Payment)

Incentive payments pertaining to consumer direction shall be payable within thirty (30) days, following the end of each calendar quarter, subsequent to the member being successfully enrolled into consumer-directed services within the specified time-frame, as established in Section A.79.a.

6. Contract Attachment A – Definitions is revised by deleting the following terms in their entirety and replacing with the following:

Consumer Direction of HCBS (Consumer Direction) – The opportunity for a CHOICES member assessed to need specified types of HCBS including attendant care, personal care, in-home respite, companion care and/or any other service specified in TennCare rules and regulations as available for Consumer Direction to elect to direct and manage (or to have a

representative direct and manage) certain aspects of the provision of such services—primarily, the hiring, firing, and day-to-day supervision of Consumer-Directed Workers delivering the needed service(s).

Eligible HCBS - For purposes of Consumer Direction, services that may be consumer-directed are limited to Attendant Care, Personal Care Visits,In-Home Respite Care, or Companion Care.

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

Amendment Effective Date. The revisions set forth herein shall be effective September 1, 2012. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

PUBLIC PARTNERSHIPS, LLC:

08/24/2012

SIGNATURE **DATE**

Marc Fenton, President

PRINTED NAME AND TITLE OF SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE:

Mark A. Emkes/CD 8/31/2012

MARK. A. EMKES, COMMISSIONER **DATE**

CONTRACT

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

Begin Date	End Date	Agency Tracking #	Edison Record ID
April 1, 2011	March 31, 2014	31865-00068	25010

Contractor Legal Entity Name	Edison Vendor ID
Public Partnerships, LLC	0000005040

Subrecipient or Vendor	CFDA #	FEIN or SSN (optional)
☐ Subrecipient ☒ Vendor	93.778 Dept of Health & Human Services/Title XIX	

Service Caption (one line only)

Financial Administration & Supports Brokerage functions for TennCare CHOICES in Long-Term Care Program

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	$399,585.00	$399,585.00			$799,170.00
2012	$1,598,340.00	$1,598,340.00			$3,196,680.00
2013	$1,598,340.00	$1,598,340.00			$3,196,680.00
2014	$1,198,735.00	$1,198,735.00			$2,397,470.00
TOTAL:	**$4,795,000.00**	**$4,795,000.00**			**$9,590,000.00**

American Recovery and Reinvestment Act (ARRA) Funding: ☐ YES ☒ NO

Ownership/Control

☐ African American ☐ Asian ☐ Hispanic ☐ Native American ☐ Female

☐ Person w/Disability ☐ Small Business ☐ Government ☒ NOT Minority/Disadvantaged

☐ Other:

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

☒ RFP	The procurement process was completed in accordance with the approved RFP document and associated regulations.
☐ Competitive Negotiation	The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.
☐ Alternative Competitive Method	The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.
☐ Non-Competitive Negotiation	The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.
☐ Other	The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with all interested parties or all parties in a predetermined "class."

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Speed Code	Account Code
TN00000236	70803000

Secured Document

FA1134502

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
BUREAU OF TENNCARE
AND
PUBLIC PARTNERSHIPS, LLC

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare" and Public Partnerships, LLC, hereinafter referred to as the "Contractor," is for the provision of Financial Administration and Supports Brokerage functions for consumer direction of Home and Community Based Services (HCBS) relevant to the TennCare CHOICES in Long-Term Care Program, as further defined in the "SCOPE OF SERVICES."

The Contractor is a Limited Liability Company.
Contractor Federal Employer Identification, Social Security, or Edison Registration ID#: 043468852
Contractor Place of Incorporation or Organization: Delaware

A. SCOPE OF SERVICES

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.

A.2. The Contractor shall provide the financial administration and supports brokerage functions for consumer direction of HCBS for all CHOICES Group 2 and 3 members assessed by a Managed Care Organization (MCO) to need eligible Home and Community Based Services (HCBS) and who choose to participate in consumer direction of HCBS for some or all needed eligible HCBS. In addition, the Contractor shall process referrals for persons specified by TennCare who are not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services, and shall perform functions necessary to facilitate such participation should the person ultimately be enrolled in CHOICES and in Consumer Direction. Such functions shall include (but are not limited to) member enrollment, education and training, assistance in developing back-up plans and executing Service Agreements, and worker enrollment, background checks and training, The Contractor shall not, however, initiate consumer direction of HCBS until the person is enrolled in CHOICES, and in accordance with the terms set forth in this Agreement and the TennCare Rules. References to "member" in this scope of services shall include "CHOICES Members" as defined in Attachment A, as well as persons specified by TennCare (which may include "Member" as defined in Attachment A or other persons) who are not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services.

a. Financial administration functions are functions related to the performance of payroll and related tasks.

b. Supports brokerage functions are those functions that assist the member (or his/her representative, as applicable) with non-payroll-related employer tasks such as recruiting and training workers.

c. The Contractor's financial administration and support brokerage functions are available only to CHOICES members who elect to participate in consumer direction or to persons specified by TennCare who are not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services. The use of the Contractor's financial administration and supports brokerage functions shall be mandatory for all members electing to participate in consumer direction.

d. Definitions relative to this Contract are included as Attachment A. All uses herein of the defined terms included on Attachment A shall be construed in accordance therewith whether such defined terms are capitalized or appear in lowercase in this Contract.

e. The Contractor must maintain a physical office in Metropolitan-Davidson County, Tennessee, or counties contiguous to Metropolitan-Davidson County. All staff (employed or subcontracted) providing supports brokerage functions, as well as the Project Lead, must be physically located within the State of Tennessee. Staff providing customer service and financial administration functions are permitted to be located outside of Tennessee, so long as the Contractor remains compliant with all contractual (including payment) time lines and requirements.

Federal and State Approval to be a Fiscal Employer Agent (FEA)

A.3. Before the Contractor may begin performing financial administration and supports brokerage functions as specified in this Contract for a member participating in the CHOICES Program (or their designated representative, as applicable) or persons specified by TennCare who are not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services, the Contractor must have received federal and State approval to be the Fiscal Employer Agent (FEA) for that member. This shall include the following tasks and/or any others required by federal or State law or policy:

a. File a Form SS-4 in order to obtain a separate federal employer identification number (FEIN) from the Internal Revenue Service (IRS) for the sole purpose of withholding, filing, and depositing certain federal employment tax forms and making federal tax payments. This FEIN should only be used for processing wages and federal forms and taxes for the individual employers (members) it represents as agent. The FEIN shall not be used for processing wages and related federal forms and taxes for workers of a parent organization or sub-entity. A reporting agent uses this separate FEIN when performing FEA services on behalf of a member;

b. Have a system in place for obtaining and retiring a FEIN for each member it represents. The Contractor shall maintain the member's FEIN in the member's file;

c. Have a system in place for preparing and submitting a signed IRS Form 2678: Employer Appointment of Agent for each member it represents and for each maintaining all relevant documentation (copy of IRS Form 2678, Request for Approval Letter and IRS Notification of FEA Approval) on file;

d. Have a system in place for revoking IRS Form 2678 for each member it no longer represents in accordance with IRS requirements and for maintaining the relevant documentation in each member's file;

e. Have a system in place for filing, renewing and revoking an IRS Form 8821, Tax Information Authorization for each member it represents and for maintaining copies of the Form in each member's file;

f. Have a system in place for revoking IRS Form 8821 for each member it no longer represents in accordance with IRS requirements and for maintaining the relevant documentation in each member's file, and

g. Have a system in place for obtaining and revoking state power of attorney (for state income tax, unemployment tax or both, as required by the State) from each member it represents, and for maintaining the relevant documentation in each member's file.

Educational Materials

A.4. The Contractor shall coordinate with the TennCare MCOs to conduct consumer direction educational activities for CHOICES members, as specified herein. The educational activities shall be targeted to CHOICES members for whom, through an assessment, a care coordinator has determined eligible HCBS are needed, but the members have not yet chosen to participate in consumer direction of HCBS. The Contractor's educational activities shall focus on providing information about the CHOICES consumer direction of HCBS option (e.g., how it works, using a representative, roles and responsibilities, program requirements, how to enroll in consumer direction, assistance provided by to a member/representative by the Contractor, coordination between the Contractor and the MCO, etc.).

a. All educational materials must be prior approved by TennCare. TennCare shall review the submitted educational materials and either approve or deny them within fifteen (15) calendar days from the date of submission. In the event TennCare does not approve the materials, TennCare may provide written comments, and the Contractor shall resubmit the materials. No educational materials shall be utilized until receipt of written approval from TennCare

b. Prior to modifying any approved educational materials, the Contractor shall submit for written approval by TennCare a detailed description of the proposed modification; TennCare reserves the right to notify the Contractor to discontinue or modify educational materials after approval.

A.5. The Contractor shall ensure that all member materials, including educational materials, meet the following TennCare specifications:

a. All member materials educational materials shall be worded at a sixth (6th) grade reading level, unless approved otherwise by TennCare;

b. Unless otherwise approved in writing by TennCare, all written member materials shall be clearly legible with a minimum font size of 12pt;

c. All written member materials shall be printed with the assurance of non-discrimination on the grounds of handicap, and/or disability, age, race, color, religion, sex or national origin;

d. All Contractor member materials shall be translated and available in Spanish. Within ninety (90) calendar days of notification by TennCare, all vital Contractor documents shall be translated and available to each Limited English Proficiency group identified by TennCare that constitutes five percent (5%) of the TennCare population or one-thousand (1,000) enrollees, whichever is less;

e. All written member materials shall notify enrollees that oral interpretation is available for any language at no expense to them and how to access those services, and

f. All written member materials shall be made available in alternative formats for persons with special needs at no expense to the member.

A.6. The Contractor shall provide written notice to members of any changes in the Contractor's policies or procedures described in written materials previously sent to members. These written notices shall be provided at least thirty (30) days prior to the effective date of the change.

A.7. The Contractor shall not include the following on any written materials, including but not limited to educational materials, without the written approval of TennCare:

a. The Seal of the State of Tennessee;

b. The TennCare name unless the initials "SM" denoting a service mark, is superscripted to the right of the name (TennCare[sm]); or

c. The word "free" unless the service is at no cost to all members. If members have cost sharing or patient liability responsibilities, the service is not free. Any conditions of payments shall be clearly and conspicuously disclosed in close proximity to the "free" good or service offer.

MCO Staff Training

A.8. Prior to the implementation of this Contract and at least annually upon request by the MCO, the Contractor shall provide standardized training to care coordinators employed by each at-risk TennCare MCO regarding consumer direction of HCBS and the role and responsibilities of the Contractor (including financial administration and supports brokerage functions);

Referrals for Consumer Direction of HCBS

A.9. The Contractor shall, within two (2) business days of receipt of a referral from the MCO or within two (2) business days of receipt of a referral from TennCare for a person not yet enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services, assign a supports broker to the member, notify the care coordinator of the assignment (as applicable) and provide the name and contact information of the supports broker. Within five (5) days of receipt of the referral, the Contractor shall contact the member to inform the member of his/her assigned supports broker, provide contact information for the supports broker, and begin the process of initiating consumer direction of HCBS.

A.10. The Contractor shall assist the MCO in identifying and addressing in the risk assessment and plan of care processes any additional risk associated with the member participating in consumer direction.

A.11. The Contractor shall assist the member/representative as needed in developing a back-up plan for consumer direction that adequately identifies how the member/representative will address situations when a scheduled worker is not available or fails to show up as scheduled. The member/representative (as applicable) shall have primary responsibility for the development of the back-up plan for consumer directed services. The member/representative (as applicable) may not elect, as part of a back-up plan, to go without services.

a. The back-up plan for consumer direction shall be integrated into the member's back-up plan for services provided by contracted providers, as applicable, and the member's plan of care.

b. The back-up plan for consumer direction shall include the names and telephone numbers of contacts (workers, agency staff, organizations, supports) for alternate care, the order in which each shall be notified and the services to be provided by each contact. Back-up contacts may include paid and unpaid supports; however, it is the responsibility of the member electing consumer direction and/or his/her representative to secure paid (as well as unpaid) back-up contacts who are willing and available to serve in this capacity. The MCO shall not be expected or required to maintain contract providers "on standby" to serve in a back-up capacity for services a member has elected to receive through consumer direction.

c. All persons and/or organizations noted in the back-up plan for consumer directed services shall be contacted by the member/representative to determine their willingness and availability to serve as back-up contacts. The Contractor shall confirm with these

persons and/or organizations their willingness and availability to provide care when needed, document confirmation in the member's file and forward a copy of the documentation to the MCO.

d. The Contractor shall assist the member or his/her representative (as applicable) in implementing the back-up plan for consumer direction as needed, monitor to ensure that the back-up plan is implemented and effectively working to address the member's needs, and notify the care coordinator immediately regarding any concerns with the back-up plan or the member's care.

e. The Contractor shall assist the member or his/her representative (as applicable) in reviewing and updating the back-up plan for consumer direction at least annually and as frequently as necessary, including any time there are changes in the type, amount, duration, or scope of eligible HCBS or the schedule at which such services are needed, changes to consumer-directed workers (when such workers also serve as back-up to other workers), and changes in the availability of paid or unpaid back-up workers to deliver needed care. As part of the annual review of the back-up plan, the member or his/her representative and the Contractor shall confirm that each person specified in the back-up plan continues to be willing and available to serve as back-up workers to deliver needed care and to perform the tasks and functions needed by the member. Any updates to the back-up plan for consumer direction shall be provided to the member's care coordinator.

f. The Contractor and the MCO shall each file a copy of the back-up plan for consumer direction in the member's file.

A.12. The care coordinator shall develop and/or update, as applicable, a risk agreement which takes into account the member's decision to participate in consumer direction, and which identifies any additional risks associated with the member's decision to direct his/her services, the potential consequences of such risk, as well as measures to mitigate these risks. The member and his/her representative (if applicable) shall participate in the risk assessment process. Once a referral has been made to the Contractor for consumer direction, the member's supports broker should be involved in risk assessment and risk planning activities whenever possible. The new or updated risk agreement, as applicable, shall be signed by the care coordinator and the member (or the member's representative, as applicable). The MCO, member/representative and Contractor shall receive a copy of the risk agreement.

A.13. The Contractor shall notify the member's care coordinator immediately when there are changes in the member's needs and/or circumstances which warrant a reassessment of needs and/or risk, or changes to the plan of care or risk agreement.

A.14. The Contractor shall work with the MCOs to develop mutually acceptable specifications regarding the medium, periodicity and format for program referral transmissions.

Service Authorization and Initiation

A.15. The Contractor shall:

a. Ensure that consumer directed services begin as soon as possible but no later than sixty (60) days from the date of the MCO's referral to the Contractor, except due to circumstances beyond the Contractor's control, which must be documented in writing;

b. Work with the member/representative to determine the appropriate level of assistance necessary to recruit, interview and hire workers, and provide the required level of assistance;

c. As needed, assist the member/representative in developing job descriptions;

d. As needed, assist the member/representative in locating and recruiting workers;

e. As needed, assist the member/representative in interviewing workers (developing questions, evaluating responses);

f. As needed, assist the member/representative with hiring workers;

g. Periodically update the member's care coordinator of the status of completing required functions necessary to initiate consumer direction, including obtaining completed paperwork from the member/representative, obtaining workers for each identified consumer directed service, completing worker paperwork and training, and any anticipated timeframes by which qualified workers will be secured and consumer directed services may begin;

h. Once potential workers are identified, verify that a potential worker meets all applicable qualifications;

i. Ensure that a service agreement, using the TennCare template, is signed between the member or member's representative and his/her worker within five (5) business days following the Contractor's verification that a worker meets all qualifications, except due to circumstances beyond the Contractor's control and are documented in writing;

j. Ensure that a service agreement is updated anytime there is a change in any of the terms or conditions specified in the agreement, including a change in the eligible HCBS provided by a worker;

k. Ensure that new representatives sign all service agreements;

l. Provide a copy of each service agreement to the member/representative and worker and maintain a copy in the Contractor's files;

m. Notify the MCO when all requirements have been fulfilled and the date that the member is ready to begin consumer direction of specified eligible HCBS;

n. Input the member and/or representative's assignment of individual consumer directed workers into the EVV system in accordance with MCO guidelines and the schedule at which services are needed by the member, based on the member's plan of care and the MCO's service authorization;

o. Ensure that services provided via consumer direction of HCBS are not initiated for a CHOICES member until the following activities at a minimum are completed: (1) the Contractor verifies that the member's enrollment (including employer) paperwork and related documentation is in order; (2) the Contractor verifies that workers meet all qualifications, including participation in required training and completion of required paperwork; (3) the Contractor secures a signed service agreement, specific to each worker as applicable, between the member/representative and each worker; and (4) the MCO issues to the Contractor an authorization for each service to be delivered through consumer direction. and

p. If initiation of consumer directed services does not begin within sixty (60) days from the date of the MCO's referral to the Contractor, contact the MCO regarding the cause of the delay and provide appropriate documentation to demonstrate efforts to meet timeframe.

A.16. The Contractor shall have a system in place for receiving and maintaining member specific information received from an MCO, including a member's plan of care for the authorized consumer direction services, via the format agreed to with the MCO.

A.17. The Contractor shall have a comprehensive information system in place to receive and disburse consumer directed funds and track funds disbursed. The Contractor will only submit claims to the MCO and pay workers for those services that have been authorized by the MCO.

A.18. The Contractor shall provide a web-based interface for MCOs and members/representatives to review information on the services authorized and reimbursed.

A.19. The Contractor, in conjunction with the MCOs, shall facilitate a seamless transition between contract providers and workers with no interruptions or gaps in services.

Member Enrollment Packet

A.20. The Contractor shall develop and distribute an enrollment packet to each CHOICES member referred by an MCO for enrollment into consumer direction of HCBS. The enrollment packet shall be pre-populated with required data and made available for the MCO and members/representatives to access on-line; however it shall also be available in hard copy format. The enrollment packet shall contain, at a minimum, the following:

a. An introductory letter;

b. Information about the Contractor's services and operations (e.g., roles and responsibilities of the Contractor, hours of operation, contact information, customer service toll-free number, and complaint system);

c. Information regarding the role of the supports broker;

d. Federal forms that the member/representative must complete, sign and return (e.g., IRS Forms SS-4, 2678, 8821);

e. Any applicable State forms the member/representative must complete, sign and return;

f. Instructions regarding the process for completing and submitting the required forms to the Contractor; and

g. State power of attorney form(s) as applicable.

A.21. The Contractor shall assist the member/representative, as appropriate, in completing the enrollment packet. The Contractor shall have a system in place for collecting and processing all required forms and information contained in the enrollment packet and for maintaining copies in each member's file. Sufficient copies of enrollment packet materials shall be available and provided to the State upon request.

Member Education and Training

A.22. The Contractor shall provide education and training activities for CHOICES members, as specified herein. The education and training activities shall be limited to CHOICES members who have chosen to participate in consumer direction of HCBS and for whom the Contractor has received a referral from an MCO. All member education and training materials shall meet TennCare specifications and be prior approved by TennCare (refer to Sections A.4, A.5 and A.7).

A.23. The Contractor shall be responsible for providing or arranging for initial and ongoing training of members/representatives. Ongoing training shall be provided upon request of the

member/representative or if a care coordinator or supports broker determine that additional training is warranted. When training is not directly provided by the Contractor, the Contractor shall validate completion of training. Initial training must be completed prior to initiation of consumer directed services. At a minimum, consumer direction training for members and/or representatives shall address the following issues:

a. Understanding the role of members and/or representatives in consumer direction;

b. Understanding the role of the FEA, including as it relates to the care coordinator;

c. Selecting workers;

d. Abuse and neglect prevention and reporting;

e. Being an employer, evaluating worker performance and managing workers;

f. Fraud and abuse prevention and reporting;

g. Performing administrative tasks such as reviewing and approving electronically captured visit information; and

h. Scheduling workers and back-up planning.

A.24. The Contractor shall assist the member/representative in determining to what extent the member/representative shall be involved in training referenced in A.25. The member/representative shall provide additional training to the worker regarding the member's individualized service needs and preferences and specific health care tasks the member elects to self-direct (as applicable).

A.25. The Contractor shall train all consumer directed workers on how to use the MCO's EVV system and MCO guidelines regarding scheduling.

A.26. The Contractor and TennCare shall develop mutually acceptable specifications for education and training concerning consumer direction of HCBS, including definition of roles and responsibilities.

Worker Qualifications and Enrollment

A.27. The Contractor shall ensure that workers meet all of the requirements specified herein or in TennCare rules or policies prior to delivering consumer directed services.

a. Be at least eighteen (18) years of age or older;.

b. Pass a background check which includes criminal background check (including fingerprinting), or, as an alternative, a background check from a licensed private investigation company, verification that the person's name does not appear on the State abuse registry, verification that the person's name does not appear on the State and national sexual offender registries, and verification that the person has not been excluded from participation in Medicare, Medicaid, SCHIP, or any Federal health care programs (as defined in Section 1128B(f) of the Social Security Act). Except for lapses in employment (i.e., when a worker is not employed by *any* CHOICES member participating in consumer direction or his/her representative) which exceed 365 days, a background check is required only once prior to the person's initial employment as a consumer directed worker in the CHOICES program, even if s/he is subsequently employed by multiple members and/or representatives participating in consumer direction. If a worker's background check reveals a disqualifying offense, the Contractor shall make the decision regarding exceptions to disqualification when a member chooses to hire a worker who fails a background check in accordance with TennCare policy. In the event a

member chooses to hire a worker that has failed a background check but has met all of the conditions for an exception to disqualification, as prescribed by TennCare, and the Contractor has granted the exception, the Contractor shall notify the care coordinator prior to initiation of services provided by that worker.

A Member cannot waive a background check for a potential Worker. The following findings shall disqualify a person from serving as a Worker:

1. Conviction of an offense involving physical, sexual or emotional abuse, neglect, financial exploitation or misuse of funds, misappropriation of property, theft from any person, violence against any person, or manufacture, sale, possession or distribution of any drug.
2. Entering of a plea of nolo contendere or when a jury verdict of guilty is rendered but adjudication of guilt is withheld with respect to a crime reasonably related to the nature of the position sought or held.
3. Identification on the abuse registry
4. Identification on the State or national sexual offender registry.
5. Failure to have a required license.
6. Refusal to cooperate with a background check.

Exceptions to disqualifications may be granted at the member's discretion and only if all of the following conditions are met:

1. Offense is a misdemeanor;
2. Offense occurred more than five (5) years ago;
3. Offense is not related to physical or sexual or emotional abuse of another person;
4. Offense does not involve violence against another person or the manufacture, sale, or distribution of drugs; and
5. There is only one disqualifying offense.

c. Complete all required training (refer to Section A.35);

d. Complete all applicable required applications to become a TennCare provider;

e. Sign an abbreviated Medicaid agreement;

f. Are assigned a Medicaid provider ID number;

g. Sign a service agreement, using the TennCare template, and

h. If the Worker will be transporting the Member as specified in the Service Agreement, a valid driver's license and proof of insurance must also be provided.

A.28. The Contractor shall have a system in place to process criminal background checks on prospective workers (selected by a CHOICES member), and for maintaining copies of the documentation in the worker's file.

A.29. The Contractor shall provide a copy of the service agreement to the member/representative and worker, and maintain a copy in the Contractor's files.

A.30. The Contractor shall develop and produce for workers an employment packet that shall be partially populated in advance, where appropriate, in order to assist in accurate completion, and for obtaining signatures on all relevant forms and documents (including required IRS forms). The Contractor shall assist workers in completing the forms (as appropriate), collect and process all required information contained in the worker employment packet, and maintain copies in each

worker's file. The Contractor shall notify the member/representative within five (5) business days of receiving a portion of the worker's employment packet if a worker's employment packet is not correct or is incomplete. The Contractor shall notify the member/representative when the worker has completed the enrollment packet. The employment packet should include at a minimum:

a. Form that collects worker information (e.g. name, social security number);

b. U.S. Citizenship and Immigration and Naturalization Services (USCIS) Form I-9: Employment Eligibility Verification Form;

c. IRS Form W-4: Employee's Withholding Allowance Certificate;

d. IRS Notice 797: Possible Federal Tax Refund Due to the Earned Income Credit (EIC);

e. Worker payroll schedule;

f. Notice about option for direct deposit and instructions for how to request direct deposit;

g. Change of Address/Contact Form;

h. Information about how to receive assistance, including the Contractor's toll-free number; and

i. Information about the customer service and complaint systems.

A.31. The Contractor shall develop a process to submit to TennCare worker Medicaid provider ID numbers, using the TennCare prescribed format, and shall include Medicaid provider ID numbers on all submitted claims.

A.32. The Contractor shall screen monthly to determine if workers have been excluded from participation in Medicare, Medicaid, SCHIP, or any Federal health care programs (as defined in Section 1128B(f) of the Social Security Act) and not employ or contract with an individual or entity that has been excluded. If a worker has been excluded, the Contractor shall notify the member regarding the worker's status and work with the member to find a replacement worker. The Contractor shall notify the MCO regarding the worker status. The MCO shall work with the member to obtain a replacement contract provider until a replacement worker can be found and all worker requirements are fulfilled and verified.

A.33. The Contractor shall be responsible for providing or arranging for initial and ongoing training of all workers, except that the member or his/her representative shall be responsible for training the worker(s) regarding individualized service needs and preferences and for specific training regarding health care tasks the member or his/her representative elects to self-direct (as applicable). When training is not directly provided by the Contractor, the Contractor shall validate completion of training. Initial training must be completed prior to initiation of services and payment for services. At a minimum, training shall consist of the following required elements:

a. Overview of the CHOICES program and consumer direction of HCBS;

b. Caring for elderly and disabled populations;

c. Abuse and neglect identification and reporting;

d. CPR and first aid certification;

e. Critical incident reporting;

f. Submission of required documentation and withholdings;

g. Use of EVV system; and

h. General training regarding administration of self-directed health care task(s) and bloodborne pathogens training (the member or his/her representative shall be responsible for specific training regarding health care tasks s/he elects to self-direct).

A.34. Verify that workers have successfully completed all required training prior to service initiation and payment for services.

A.35. The Contractor shall ensure that workers maintain CPR and first aid certification and receive required refresher training as a condition of continued employment and shall arrange for the appropriate training. Additional training components may be provided to a worker to address issues identified by the supports broker, care coordinator, member and/or the representative or at the request of the worker. Refresher training may be provided more frequently if determined necessary by the supports broker, care coordinator, member/representative or at the request of the worker.

Supports Brokerage Functions

A.36. The Contractor shall provide directly, or through a subcontractor, supports brokerage functions. The Contractor shall assign a supports broker to each CHOICES member referred by the MCO for consumer direction of HCBS and ensure that each supports broker provides the following:

a. Facilitate the linkage between the member/representative and his/her workers and the Contractor;

b. Collaborate with, but not duplicate, the functions of the member's care coordinator;

c. Maintain contact with the member or the member's representative to ensure that needed services are being provided, and

d. Participate in development of the member's plan of care and the risk assessment upon notification by the care coordinator.

A.37. The Contractor shall provide access for supports brokers to the Contractor's financial management system for review of member transactions, ensure that an adequate number of supports brokers are available and that sufficient supports broker-to-member ratios are maintained to address the needs of members and to meet all requirements specified in this contract. Support broker ratios shall be monitored and ratios adjusted as necessary to ensure that supports brokers are able to meet the requirements of this contract and address members' needs.

Monitoring and Oversight

A.38. The Contractor shall:

a. Monitor the quality of services provided by workers;

b. Monitor assignment of workers by the member/representative including the Contractor's entry of such assignment into the EVV to ensure adherence to the schedule for consumer directed services specified in the plan of care and in the service authorization, and notify the member's care coordinator when a member's scheduling needs have changed, such that a new authorization is needed;

c. Monitor timeliness of service delivery;

d. Monitor service utilization and worker payments;

e. Monitor to ensure compliance with the Fair Labor Standards Act and all other applicable federal and state law and regulation, as well as TennCare policies and/or protocols regarding worker compensation, overtime, and overtime pay, including services delivered in a back-up capacity. The Contractor shall work with the member and/or representative to develop an adequate supply of reliable workers;

f. Adhere to the quality requirements for service delivery that are required by the MCO for the CHOICES program;

g. Provide a web portal for MCOs to review and monitor member status at any time;

h. Establish and maintain a system for tracking and monitoring all information including but not limited to: adherence to timeframes for initiation of services; name of care coordinator and contact information; authorizations for consumer direction of HCBS; supports broker visits and outcomes; results of monitoring activities; service agreements; supports broker assignments; notification to MCO of supports broker assignment; information received from MCO and information transmitted to MCO; and service utilization;

i. Assist the member/representative in monitoring and evaluating the performance of workers;

j. Assist the member/representative in managing and monitoring payments to workers;

k. Work with the member/representative to help identify and find replacement workers;

l. Ensure that new representatives sign service agreements;

m. Communicate with the MCO any concerns regarding member health, safety and welfare and/or change in condition and concerns regarding workers, and

n. Within three (3) business days of becoming aware, notify the MCO of changes to representative contact information.

A.39. The Contractor shall conduct at least semi-annual face-to-face visits in the member's place of residence and conduct at least monthly phone contacts. These visits and contacts shall supplement and not supplant the minimum care coordinator contacts. The Contractor shall document the dates of each visit, the purpose and outcome in the member's files and shall use these visits to monitor the quality of service delivery including, at a minimum:

a. Identifying any service delivery issues regarding services provided via consumer direction;

b. Determining the adequacy and appropriateness of documentation of service delivery; and

c. Determining if back-up plans are implemented when needed, work as intended and the efficacy of the plans and processes.

A.40. The Contractor shall, at a minimum, conduct quarterly reports of expenditures for each member and monthly reviews and reports of hours billed for services across all members, by each worker.

A.41. The Contractor shall establish and maintain a system for responding to and tracking complaints from members, representatives and workers regarding the Contractor. The Contractor shall:

a. Within five (5) business days of receipt of the complaint, provide written notice to the member that the complaint has been received and the expected date of resolution. However, if the Contractor resolved the complaint and verbally informed the member of the resolution within five (5) business days of receipt of the complaint, the Contractor shall not be required to provide written acknowledgement of the complaint. Both verbal and written responses to complaints shall be documented in its system;

b. Resolve and notify the member in writing of the resolution of each complaint as expeditiously as possible but no later than thirty (30) days from the date the complaint is received by the Contractor; the notice shall include the resolution and the basis for the resolution. However, if the Contractor resolved the complaint and verbally informed the member of the resolution within five (5) business days of receipt of the complaint, the Contractor shall not be required to provide written notice of resolution;

c. Assist members with the complaint process, including but not limited to completing forms.

A.42. The Contractor shall identify, report, investigate and participate in the investigation of, as appropriate, abuse and neglect and critical incidents.

A.43 The Contractor shall, within 24 hours, report to the MCO on worker and/or staff identification of critical incidents in accordance with the MCO's critical incident reporting process, including the form to be used to report critical incidents and reporting timeframes. Critical incidents shall include but not be limited to the following incidents when they occur in a home and community-based long-term care service delivery setting:

a. Unexpected death of a CHOICES member;

b. Suspected physical or mental abuse of a CHOICES member;

c. Theft or financial exploitation of a CHOICES member;

d. Severe injury sustained by a CHOICES member;

e. Medication error involving a CHOICES member self-directing medication administration; and

f. Sexual abuse and/or suspected abuse and neglect of a CHOICES member.

A.44. The notification of a critical incident shall include at a minimum: the member name; date of allegation reported and/or identified; description of issue; measures taken to mitigate risk; status of reporting to CPS or APS, as appropriate.

A.45. If the allegation is in reference to a worker or representative, the Contractor shall contact the member/representative to request immediate release from his/her duties until the investigation is complete. The Contractor shall notify the MCO regarding this communication with the member/representative and the member or representative's decision. The care coordinator shall work with the member to find a new representative and the Contractor shall work with the member/representative to find a suitable replacement worker, if applicable.

A.46. Supports brokers shall refer all instances of suspected abuse, neglect or exploitation as defined in TCA 71-6-103 to Adult Protective Services for investigation.

A.47. Supports brokers shall conduct investigations of all other critical incidents regarding CHOICES members participating in consumer direction and shall review the results of such investigations with the member and/or his/her representative (as applicable). As the employer of record, the

member and/or his/her representative (as applicable) shall determine the appropriate corrective action when an incident has occurred; however, the supports broker may offer recommendations and/or assistance to the member and/or his/her representative in making the determination. The supports broker shall report to the MCO all critical incidents identified, including incidents referred to APS, the results of all incident investigations conducted by the supports broker, including corrective actions determined by the member or his/her representative (as applicable), and any concerns regarding the member's health and safety, including updates to the plan of care or risk assessment and/or risk agreement, as appropriate.

A.48. If the allegations are substantiated as a result of the investigation, the representative and/or worker shall no longer be allowed to participate in the CHOICES program in any capacity. If the investigation is inconclusive, the member may elect to retain the worker or representative. The MCO, with appropriate assistance from the Contractor, shall make any updates to the plan of care and/or risk assessment/risk agreement deemed necessary to help ensure the member's health and safety, and may initiate action to involuntary disenroll the member from consumer direction at any time the MCO feels that the member's decisions or actions constitute unreasonable risk such that the member's needs can no longer be safely and effectively met in the community while participating in consumer direction.

A.49. The Contractor shall develop and implement a fraud and abuse compliance plan that tracks suspected and/or confirmed fraud and abuse. An electronic copy of the plan shall be provided to the TennCare Program Integrity Unit within ninety (90) calendar days of contract execution and annually thereafter. TennCare shall provide notice of approval, denial, or modification to the Contractor within thirty (30) calendar days of receipt.

A.50. The Contractor shall report any concerns regarding health, safety and welfare and the member's ability to participate in consumer direction of HCBS to the MCO as well as concerns regarding representatives.

A.51. On an annual basis, the Contractor shall conduct a survey of participating members/ representatives to determine satisfaction with the Contractor and participation in consumer direction of HCBS. This survey shall represent a statistically valid sample size of the existing CHOICES members enrolled in consumer direction of HCBS. The survey instrument shall be prior approved by TennCare. A comprehensive report of results shall be provided to TennCare and MCOs using the TennCare specified process and format; copies of survey results shall be provided to the MCOs and to TennCare.

A.52. The Contractor shall maintain an active registry of supports brokers and their assigned members and report to MCO periodically or upon the request of the MCO.

A.53. The Contractor shall make available to TennCare or its representative and other authorized State and federal personnel, all records, books documents, and other evidence pertaining to this contract, as well as appropriate administrative and/or management personnel who administer the services provided by the Contractor. The monitoring shall occur periodically during the subcontract period and may include announced or unannounced visits, or both.

A.54. The Contractor shall prepare and maintain a policies and procedures manual that describes the policies, procedures and internal controls for all tasks related to the requirements of this contract. The policies and procedures manual should also address how the Contractor shall stay up to date with federal and State tax, labor, workers compensation insurance and program rules and regulations. The manual shall be updated at least annually and made available to TennCare upon request.

A.55. The Contractor shall implement internal auditing processes to demonstrate compliance with requirements of this contract and keep current with all federal and State laws and regulations

related to fiscal employer agents. The Contractor shall be subject to scheduled audits by the State.

Reporting

A.56. The Contractor shall develop and submit reports as specified below, using a format prescribed by TennCare. All reports shall be made available to TennCare via a web portal that provides the current detail on authorized services and expenditures. The reports shall be capable of sorting by selected date ranges as specified by the requestor.

a. Submit to TennCare a monthly supports broker report (electronic copy), due on the 20th of the following month. At a minimum, the report should include the turnover rate for supports brokers, the supports broker-to-member ratio, number of members reassigned to a different supports broker (broken down by those changes requested by the member, and those initiated by the Contractor/subcontractor), and, per member, the type and frequency of supports broker contacts.

b. Quarterly reports, due on the 30th of the following month, using a format prescribed by TennCare:

1. A member utilization report that provides the following information, at a minimum, by month and for the cumulative quarter:

   (a) Name and identification number of each CHOICES member participating in consumer direction of HCBS;

   (b) Services authorized and rate per service for each worker;

   (c) Units of services provided, amount of payments made on each member's behalf;

   (d) Total units of each service and payments made on each member's behalf; and

   (e) Identification of members enrolled in consumer direction who incur no utilization of consumer directed services for a period of at least thirty (30) consecutive days.

   (f) Name and identification number of each CHOICES member electing to self-direct health care tasks, and the type of health care task self-directed..

2. Report by month and cumulative for the quarter, on the complaints received from members/representatives, workers and care coordinators regarding the Contractor, workers or representatives, and the resolution and timeframe for resolution of reported incidents.

3. Report by month and cumulative for the quarter, on the issues identified and tracked through the Contractor's fraud and abuse system and the resolution and timeframes for resolution of identified issues.

4. Referral and Enrollment Report that provides the following information, at a minimum, by MCO and/or TennCare referral, as applicable, by month and cumulative for the quarter:
   (a) Total number of referrals received;
   (b) Total number of members enrolled in CD (defined as having an authorization in place for CD services and services initiated);

(c) Total number of withdrawals from CD and indicate if withdrawal occurred prior or subsequent to service initiation, and
(d) By service, the number of enrollees consumer directing attendant care, personal care, homemaker, in-home respite, and companion care

5. Companion Care referral report that provides that following information, at a minimum, by MCO and/or TennCare referral, as applicable, by month and cumulative for the quarter:
   (a) Total number of referrals received for receipt of Companion Care services, and
   (b) Number of referrals receiving Companion Care services following completion of the process.

c. Develop and submit an annual member utilization report, due ninety (90) days after the end of the calendar year, using a format prescribed and approved by TennCare:

1. Name and identification number of each CHOICES member participating in consumer action of HCBS during the reporting period and indicating , if appropriate, the date of withdrawal from CD and participation in self-direction;

2. Services authorized and rate per service for each worker;

3. Names of each member's worker(s) and identifying number, units of services provided, amount of payments made on each member's behalf;

4. Total units of each service and payments made on each member's behalf;

5. Total authorized units of services remaining for each member; and

6. Identification of members who incur no service utilization for a period of thirty (30) consecutive days.

d. Additional ad hoc reports shall be prepared and submitted as directed by TennCare within ten (10) business days from the date of the request unless otherwise specified by TennCare.

Withdrawal from Consumer Direction of HCBS

A.57. In the event that the Contractor has concerns that a worker is unable to deliver appropriate care as prescribed in the service agreement and the plan of care, the Contractor shall notify the care coordinator regarding those concerns within one (1) business day of identifying issue(s) as well as inform the member and/or representative of any potential risks associated with continuing to use the worker, and in conjunction with the MCOs shall:

a. Collaborate to develop strategies to address identified issues and concerns;

b. Abide by TennCare's decision regarding disenrollment of a member from consumer direction;

c. Facilitate a seamless transition from workers to contract providers and ensure there are no interruptions or gaps in services, and

d. For members who have been involuntarily withdrawn and choose to be reinstated in consumer direction of HCBS, ensure that the issues previously identified as reasons for withdrawal have been adequately addressed prior to reinstatement. All members shall be

required to participate in consumer direction training programs prior to re-instatement in consumer direction of HCBS.

A.58. When TennCare disenrolls a member from consumer direction, either voluntarily or involuntarily, the Contractor shall retire the member's IRS Forms 2678 and 8821 and the member's FEIN, and adhere to State processes including final filings of state income and unemployment taxes and retirement of member's state income and unemployment registration numbers.

Data Exchange and Sharing of Information

A.59. The Contractor shall have the capability to accept all relevant MCO data files in accordance with agreed upon standards, have a comprehensive information system in place to receive and disburse funds and track funds authorized and disbursed for each member, by worker, individually and in the aggregate.

A.60. The Contractor shall have a system in place for collecting and processing all required forms and information contained in member enrollment packets and worker employment packets for each member and worker and for maintaining copies in each member's file, and shall adhere to all applicable HIPAA requirements for transmission, protection and identification of health information.

A.61. The Contractor shall establish with the MCOs a process that allows for the efficient exchange of all relevant member information between entities (e.g. information is submitted timely and using appropriate format).

Customer Service

A.62. The Contractor shall operate a toll free telephone line for members/representatives and workers to use to contact the Contractor for questions on administrative and support functions. The toll free telephone line shall handle calls from callers with Limited English Proficiency as well as calls from callers who are hearing impaired. The Contractor shall:

a. Ensure that the toll free telephone line is staffed adequately to respond to members'/representatives' questions during normal business hours, defined as 8 a.m. to 5 p.m. in the time zone applicable to the Grand Region being served by the MCO, Monday through Friday, except State of Tennessee holidays. At all other times, the Contractor shall have an answering service available. Calls shall be returned within one (1) business day from the time the message is recorded;

b. Provide a toll free facsimile number for members/representatives to use as needed for communication and sharing relevant information and documentation;

c. Have a secured HIPAA compliant e-mail address to use as needed for communication and sharing of relevant information and documentation with members/representatives. The parties acknowledge that Contractor cannot be responsible for the HIPAA compliance of messages prior to their receipt at the HIPAA-compliant e-mail address. The Contractor shall also provide general information regarding the Contractor's services and program materials;

d. Establish and maintain a system for receiving, returning, and tracking calls from individuals during and after regular business hours This system should capture, at a minimum: the name of the caller; date and time call received; purpose of the call; name of person who received the call; if after business hours, when the call was returned (date and time) and by whom; and if the call required additional time to resolve, when the caller was contacted with the additional information (date and time) and by whom;

e. Provide assistance to members/representatives over the phone, via e-mail, facsimile, or in-person, as necessary to complete required forms;

f. Communicate effectively with all members/representatives including those who are culturally diverse and have a variety of disabilities. The Contractor shall use telecommunication devices for members/representatives who are hearing and speech impaired and shall hire bilingual customer service representatives. Members/representatives and customer service representatives shall have the ability to access interpreter services when needed. The Contractor shall have the capacity to access translation services when needed, and

g. Respond to telephone inquires and requests for information regarding consumer direction and transfer calls as appropriate, using a warm transfer whenever possible, to the MCO.

A.63. Information regarding the Contractor's customer service system (as noted above in Section A.61), including the hours of operation, the response time for returning messages and responding to mail inquiries shall be provided to members/representatives as part of the enrollment packet and workers as part of the employment packet.

A.64. The Contractor shall work with the MCOs to develop a protocol for interfaces and transfers of customer service inquiries that ensures that all calls are transferred and referred appropriately in and in a timely manner.

Staffing Requirements

A.65. The Contractor shall have sufficient staff with relevant experience and qualifications to fulfill all specified requirements per the terms of this contract, and implement a policy to ensure service coverage for all CHOICES members participating in consumer direction of HCBS during the absence of staff and vacated positions. All supports brokers and other staff, including subcontractors, whose job functions include direct contact with or responsibility for CHOICES members must pass a background check which includes criminal background check (including fingerprinting), or, as an alternative, a background check from a licensed private investigation company, verification that the person's name does not appear on the State abuse registry, verification that the person's name does not appear on the State and national sexual offender registries, the federal government's LEIE excluded provider database, and licensure verification, as applicable.

A.66. The Contractor shall verify the qualifications of all staff and employees prior to hire.

A.67. The Contractor shall possess and maintain applicable State of Tennessee business license, be approved by the IRS to be an FEA and carry out financial administration activities under the supervision of a certified public accountant licensed by the State of Tennessee. Additionally, the Contractor shall ensure that staff providing support brokerage functions meet the following minimum qualifications:

a. Four (4) year degree in Human Services (psychology, sociology, social work, recreational therapy, education, nursing, PT, OT, speech, etc.) and at least one year professional experience working with elderly and disabled persons; a four (4) year degree in any other subject and two (2) years experience working with elderly and disabled persons; or a two (2) year degree in Human Services (psychology, sociology, social work, recreational therapy, education, nursing, PT, OT, speech, etc.) and at least five (5) years professional experience working with elderly and disabled persons; and

b. Must satisfactorily complete a TennCare approved orientation and training program on participant-managed services and the role of the supports broker. The program must be prior approved by TennCare before staff can participate.

A.68. The Contractor shall provide staff training including;

a. Customer service training for Contractor staff;

b. As appropriate, train staff on how to use the EVV system and MCO scheduling requirements;

c. On MCOs' requirements for; critical incident identification, reporting and investigation; and identification, reporting and investigation of abuse and neglect, and

d. On MCO's complaint system.

Record Management and Retention

A.69. The Contractor shall have in place the following Record Management and Retention process:

a. Establish and maintain a recordkeeping system for managing member/representative and worker files in a secure and confidential manner as required by Federal and State statutes and regulations, including meeting all HIPAA requirements;

b. Maintain current and archived member/representative, worker and Contractor files including the maintenance of original and file copies of all forms and documents needed to comply with Federal, State and local (if applicable) payments of income, FICA and unemployment tax, and workers' compensation insurance payments, if applicable, and all other reporting requirements of employers and for the required period of time;

c. Maintain current and archived member/representative, worker and Contractor files in a secure and confidential manner and for the prescribed period of time as required by Federal and State statutes and regulations, including Federal and State record retention rules and applicable HIPAA requirements, and

d. Establish and maintain a documented disaster recovery plan for electronic and hard copy files including a disaster recovery plan for restoring software and master files and hardware back-up if management information systems are disabled and for continuation of payment of worker, independent contractors and other entities as applicable.

Payroll Processing

A.70. The Contractor shall have in place the following procedures and policies for payroll processing:

a. Establish the accounting and information systems necessary for processing and paying workers as specified in the authorization of consumer directed services and establish the reporting functions and the internal controls necessary to track and manage these functions in an effective and timely manner. This includes ensuring that payment to workers is only made for eligible HCBS authorized by the MCO to a member enrolled in CHOICES Group 2 and in Consumer Direction at the time of service delivery, and for ensuring compliance with the Fair Labor Standards Act and all other applicable federal and state law and regulation , as well as TennCare policies and/or protocols regarding worker compensation, overtime and overtime pay, including services delivered in a back-up capacity;

b. Develop and implement a twice-monthly payment schedule for workers or as otherwise agreed upon with TennCare and the MCOs;

c. Review electronically captured visit information in the EVV and adjudicated time data to verify amounts that should be paid to the worker(s);

d. Develop a process for resolving errors or omissions in electronically captured visit information, including instances when a worker fails to log in or out of a consumer direction service visit;

e. Timely resolve exceptions in electronically captured visit information for purposes of paying workers and generating claims for submission (in this context, "timely" means that the FEA shall initiate action and shall make all reasonable efforts to resolve such exceptions on at least a weekly basis and within the current payroll processing period during which payment to the worker should be processed, and prior to submission of claims to the MCO and payment of workers by the Contractor).

f. Reconcile and document, pursuant to business rules developed in collaboration with the MCO, any discrepancies between electronically captured visit information in the EVV system, payments made to a consumer directed worker, and claims submitted for reimbursement to the MCO. Such reconciliation shall be conducted on at least a weekly basis and completed within any applicable MCO reporting timelines to TennCare in order to ensure the accuracy of MCO reports regarding missed and late visits;

g. Develop and implement a process for immediately notifying the member and his/her worker when an exception cannot be resolved and the worker will not be reimbursed for services delivered and electronically captured in the EVV system.

h. Obtain necessary documentation from the member/representative to ensure that services were provided prior to paying workers, which may be obtained via the EVV system.

i. Periodically review, during visits to the member's home, detailed documentation of service delivery including but not limited to the specific tasks and functions performed for the member to help ensure that services are being provided and that the member's needs are being met.

j. Facilitate resolution of any disputes regarding payment to workers for services rendered;

k. Compute, withhold, and file federal and state income tax withholding, FICA, FUTA and Tennessee unemployment insurance taxes per State and federal periodicity requirements;

l. Have a system in place for determining if the member's workers are family members who might be exempt from FICA, FUTA, and SUTA and for processing them accordingly;

m. Deposit FICA and federal income tax withholding in the aggregate for all members it represents using the Contractor's separate FEIN, in accordance with IRS depositing rules and maintain relevant documentation in the Contractor's files;

n. Deposit FUTA in the aggregate using its separate FEIN quarterly for all members it represents and maintain the relevant documentation in the Contractor's files;

o. Pay unemployment taxes individually for each member it represents per the State's payment schedule and maintain the relevant documentation in the Contractor's files;

p. Obtain each member's employer number for State unemployment tax filing and payment purposes for each member it represents and maintain the relevant documentation in the Contractor's files;

q. Retire a member's State unemployment tax registration number when the member is no longer the employer of workers (permanently);

r. Ensure that workers are paid in compliance with federal and State Department of Labor wage and hour rules for regular and overtime pay (if program permits a worker working more than forty (40) hours in a work week) for all electronically captured electronic visit data submitted in accordance with specified requirements as well as any adjustments thereto (i.e., resolution of exceptions) which are determined appropriate based on program business rules. The Contractor is not responsible for paying the worker prior to completion of all required paperwork or for wages that exceed the authorized number of hours or funding amount approved for the member. The Contractor has the right to charge an administrative fee to workers for issuing stop payments or reissuing checks. The Contractor will provide workers with the option to receive payment via either mailed check or Electronic Funds Transfer (once total enrollment has exceeded 100 members).

s. Manage the application of all garnishments, levies and liens on workers' payroll checks in an accurate and timely manner and maintain the relevant documentation in the Contractor's files. The Contractor has the right to charge an administrative fee to workers for these services;

t. Report new hires per State requirements;

u. Submit to TennCare a list of checks reportable under the State's Unclaimed Property Act each year. TennCare will designate a staff person who is authorized to receive and approve the list of abandoned checks from the Contractor. TennCare will receive a remittance check from the Contractor that is equal to the face value of checks reported on the abandoned property report. The Contractor will void all items on the abandoned property report, providing an internal control to prevent re-issuance. TennCare shall assume responsibility for managing the abandoned property filing and for performing any reconciliation related to Medicaid escheatment or CMS-64 reporting. When a check that was previously reported as abandoned by the Contractor is presented for payment, TennCare shall remit the funds to the holder in due course;

v. Refund over-collected FICA to applicable individual-employers (or State or county government) and workers in accordance with the December 18, 2000 IRS letter and maintain the relevant documentation in the Contractor's files;

w. Prepare, file, and distribute IRS Forms W-2 for member's workers per IRS instructions for agents, for electronic filing when processing 250 or more IRS Forms W-2 and maintain the relevant documentation in the Contractor's files. The Contractor has the right to charge an administrative fee to workers for the replacement of lost W-2s;

x. Prepare, file, and distribute IRS Forms W-3 in the aggregate for all members the agent represents per IRS instructions and maintain the relevant documentation in the Contractor's files;

y. Have a system in place for managing Federal Advanced Earned Income Credit (EIC) for each eligible worker in an accurate and timely manner and for maintaining the relevant documentation in the Contractor's files, and

z. Pay workers for authorized services rendered within authorized timeframes and have a system in place for processing workers' direct deposit and for maintaining the relevant documentation in the Contractor's files.

A.71. The Contractor shall work with the MCOs to develop mutually acceptable specifications regarding Contractor access to the EVV system.

Claims Submission

A.72. The Contractor shall review and resolve exceptions and shall submit an electronic claims submission file in the 837 format to the MCO at the appropriate frequency. In this context, "timely" means that the FEA shall initiate action and shall make all reasonable actions to resolve such exceptions on at least a weekly basis and within the current payroll processing period during which payment to the worker should be processed, and prior to submission of claims to the MCO and payment of workers by the Contractor.

A.73. To the extent that the Contractor opts not to use the electronic claims submission file provided by the EVV, the Contractor shall electronically submit claims to the MCO in the 837 format and shall reconcile and document, pursuant to business rules developed in collaboration with the MCO, any discrepancies between electronically captured visit information in the EVV system, payments made to a consumer directed worker, and claims submitted for reimbursement to the MCO. Such reconciliation shall be conducted on at least a weekly basis and completed within any applicable MCO reporting timelines to TennCare in order to ensure the accuracy of MCO reports regarding missed and late visits.

Claiming and Payment for Consumer Directed Services

A.74. For reimbursement for authorized services, the Contractor shall:

a. Only bill for services that have been authorized by the MCO for an eligible member enrolled in CHOICES Group 2 and in Consumer Direction at the time of service delivery. The Contractor must provide a web-based interface for the MCO and members to review information on the funds authorized, disbursed, and remaining balances.

b. Submit all claims for services rendered timely in accordance with requirements agreed to with the MCOs.

c. Track receipt of service funds in its financial information system.

d. Maintain a dedicated bank account for the deposit of service funds.

e. Be reimbursed via ACH deposit and shall be provided a detailed electronic remittance advice.

A.75. For reimbursement for administrative services, the Contractor shall:

a. Submit an administrative invoice monthly per TennCare prescribed requirements, which includes at a minimum: number of current members and new members; number of current workers and new workers; names, social security numbers and IDs for each member and worker.

b. Have a comprehensive information system in place for submitting the administrative invoice billing to TennCare electronically.

c. Provide an accurate report of current enrollment/member activity.

Ownership and Financial Disclosure

A.76. The Contractor shall:

a. Disclose to TennCare, and the Comptroller General of the United States or CMS full and complete information regarding ownership, financial transactions and persons convicted of criminal activity related to Medicare, Medicaid, or the federal Title XX programs in accordance with federal and state requirements, including Public Chapter 379 of the Acts of 1999. The Contractor shall screen its employees and any subcontractors initially and on an ongoing monthly basis to determine whether any of them has been excluded from participation in Medicare, Medicaid, SCHIP, or any Federal health care programs (as defined in Section 1128B (f) of the Social Security Act) and not employ or contract with an individual or entity that has been excluded, as listed in the LEIE database. The following information shall be disclosed on the form referenced in Section E.22 of this document.

1. The name and address of each person with an ownership or control interest in the disclosing entity or in any provider or subcontractor in which the disclosing entity has direct or indirect ownership of five percent (5%) or more and whether any of the persons named pursuant to this requirement is related to another as spouse, parent, child, or sibling. This disclosure shall include the name of any other disclosing entity in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest;

2. The identity of any provider or subcontractor with whom the Contractor has had significant business transactions, defined as those totaling more than twenty-five thousand dollars ($25,000) during the twelve (12) month period ending on the date of the disclosure, and any significant business transactions between the Contractor, any wholly owned supplier, or between the Contractor and any provider or subcontractor, during the five (5) year period ending on the date of the disclosure;

3. The identity of any person who has an ownership or control interest in the Contractor, or is an agent or managing employee of the Contractor and who has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the federal Title XX services program since the inception of those programs; and

4. Disclosure from officials in legislative and executive branches of government as to possible conflicts of interest.

Administrative Requirements

A.77. The Contractor shall be responsible for the following:

a. Accounting System

The Contractor shall establish and maintain an accounting system in accordance with generally accepted accounting principles. The accounting system shall maintain records pertaining to the tasks defined in the contract and any other costs and expenditures made under the contract. Accounting records and procedures are subject to TennCare and federal approval. Accounting procedures, policies, and records shall be completely open to state and federal personnel at any time during the contract period and for five (5) years thereafter.

b. Availability of Records

1. Ensure within its own organization and pursuant to any agreement the Contractor may have with any other providers of service, including, but not limited to providers, subcontractors or any person or entity receiving monies directly or indirectly by or through TennCare, that TennCare representatives and authorized federal, state and Office of the Comptroller of the Treasury personnel, including, but not limited to TennCare, the Office of the Inspector General (OIG), the Tennessee Bureau of Investigations, Medicaid Fraud Control Unit (TBI MFCU), the Department of Health and Human Services, Office of Inspector General (DHHS OIG) and the Department of Justice (DOJ), and any other duly authorized state or federal agency shall have immediate and complete access to all records pertaining to services provided to TennCare enrollees.

2. Ensure that it and any of its subcontractors and any providers of service, including, but not limited to providers or any person or entity receiving monies directly or indirectly by or through TennCare shall make all records (including but not limited to, financial and medical records) available at the Contractor's, provider's, and/or the subcontractor's expense for administrative, civil and/or criminal review, audit, or evaluation, inspection, investigation and/or prosecution by authorized federal, state, and Office of the Comptroller of the Treasury personnel, including representatives from the OIG, the TBI MFCU, DOJ and the DHHS OIG, TennCare or any duly authorized state or federal agency. Access will be either through on-site review of records or through the mail at the government agency's discretion and during normal business hours, unless there are exigent circumstances, in which case access will be at any time. The Contractor shall send all records to be sent by mail to TennCare within twenty (20) business days of request unless otherwise specified by TennCare or TennCare rules and regulations. Requested records shall be provided at no expense to TennCare, authorized federal, state, and Office of the Comptroller of the Treasury personnel, including representatives from the OIG, the TBI MFCU, DOJ and the DHHS OIG, or any duly authorized state or federal agency. Records related to appeals shall be forwarded within the timeframes specified in the appeal process portion of this contract. Such requests made by TennCare shall not be unreasonable.

3. Ensure that it as well as any of its subcontractors, providers or any entity or person directly or indirectly receiving monies originating from TennCare, shall make all records, including, but not limited to, financial, administrative and medical records available to any duly authorized government agency, including but not limited to TennCare, OIG, TBI MFCU, DHHS OIG and DOJ, upon any authorized government agency's request. Any authorized government agency, including but not limited to OIG, TBI MFCU, DHHS OIG and DOJ, may use these records to carry out their authorized duties, reviews, audits, administrative, civil and/or criminal investigations and/or prosecutions.

4. Ensure that it as well as any of its management company and any subcontractor shall cooperate with the State, or any of the State's contractors and agents, including, but not limited to TennCare, OIG, TBI MFCU, DOJ and the DHHS OIG, and the Office of the Comptroller of the Treasury, and any duly authorized governmental agency, during the course of any financial or operational examinations or during any administrative, civil or criminal investigation, hearing or prosecution. This cooperation shall include, but shall not be limited to the following:

(a) Provide full cooperation and direct and unrestricted access to facilities, information, and staff, including facilities, information and staff of any management company or subcontractor, to the State or any of the State's contractors and agents, which includes, but is not limited to TennCare, OIG, TBI MFCU, DOJ and the DHHS OIG, and the Office of the Comptroller of the Treasury and any duly authorized governmental agency, including federal agencies; and

(b) Maintain full cooperation and open authority for claims processing systems access and mailroom visits by TDCI or designated representatives or any authorized entity of the state or federal government, and to cooperate fully with detail claims testing for claims processing system compliance.

5. Cooperate fully with audits the State may conduct of medical management to include clinical processes and outcomes, internal audits, provider networks, and any other aspect of the program the State deems appropriate. The State may select any qualified person or organization to conduct the audits.

6. In the event of termination of the contract between TennCare and the Contractor for any reason, the Contractor shall immediately make available, to TennCare, or its designated representative, in a usable form, any or all records related to the Contractor's activities undertaken pursuant to the contract. The provision of such records shall be at no expense to TennCare.

c. Auditing Requirements/Records Maintained for 5 Years

The Contractor and its providers, subcontractors and other entities receiving monies originating by or through TennCare shall maintain books, records, documents, and other evidence pertaining to services rendered, equipment, staff, financial records, medical records, and the administrative costs and expenses incurred pursuant to this contract as well as medical information relating to the individual enrollees as required for the purposes of audit, or administrative, civil and/or criminal investigations and/or prosecution or for the purposes of complying with the requirements set forth in Section 2.20 of the Contractor Risk Agreement. Records other than medical records may be kept in an original paper state or preserved on micromedia or electronic format. Medical records shall be maintained in their original form or may be converted to electronic format as long as the records are readable and/or legible. These records, books, documents, etc., shall be available for any authorized federal, state, including, but not limited to TENNCARE, OIG, TBI MFCU, DOJ and the DHHS OIG, and Office of the Comptroller of the Treasury personnel during the contract period and five (5) years thereafter, unless an audit, administrative, civil or criminal investigation or prosecution is in progress or audit findings or administrative, civil or criminal investigations or prosecutions are yet unresolved in which case records shall be kept until all tasks or proceedings are completed. During the contract period, these records shall be available at the Contractor's chosen location in Tennessee subject to the written approval of TENNCARE. If the records need to be sent to TENNCARE, the Contractor shall bear the expense of delivery. Prior approval of the disposition of Contractor, subcontractor or provider records must be requested and approved by TENNCARE in writing.

d. Safeguarding Member Information

The Contractor shall ensure that all material and information, in particular Information relating to members or potential members, which is provided to or obtained by or through the Contractor's performance under this contract, whether verbal, written, tape, or otherwise, shall be treated as confidential information to the extent confidential treatment

is provided under state and federal laws. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the MCO or State or acquired by the Contractor pursuant to this contract shall be regarded as confidential information in accordance with the provisions of state and federal law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with state and federal law and ethical standards. The Contractor shall comply with all state and federal law regarding information security and confidentiality of information. In the event of a conflict among these requirements, the Contractor shall comply with the most restrictive requirement. The use or disclosure of information concerning members/potential members shall be limited to purposes directly connected with the administration of this contract and shall be in compliance with federal and state law.

Readiness Review

A.78. Prior to CHOICES implementation, TennCare shall verify that the Contractor is ready to begin operations. TennCare shall conduct a readiness review that consists of a desk audit of requested deliverables, one or more onsite reviews and any necessary follow-up regarding issues stemming from an onsite review or that are not adequately addressed during an onsite review.

The requested deliverables may include, but shall not be limited to: policies and procedures regarding supports broker roles and responsibilities, qualifications, staffing ratios, and management of staffing ratios and turnover; communication with MCOs and care coordinators; payroll and claims processing, data and information exchange, customer service, records management, incident management, investigation and reporting, fraud and abuse plan, and program materials such as copies of worker employment and member enrollment packets and program manuals.

Onsite reviews will consist of, at a minimum, follow-up on items identified in desk audit, participation in training activities, system testing and a walk-through of the Contractor's operations, system demonstrations (including systems connectivity testing), and interviews with Contractor's staff. The scope of the review may include any and all requirements of the Agreement related to the CHOICES program, as determined by TennCare. Based on the results of the review activities, TennCare will issue a letter of findings and, if needed, will request a corrective action plan from the Contractor. TennCare will not enroll members into the Contractor's CHOICES program until TennCare has determined that the Contractor is able to meet all requirements related to the CHOICES program.

a. TennCare shall notify the Contractor in advance of the specific deliverables to be submitted for the desk audit, timeframes for submission, and general requirements for submitting materials.

b. TennCare shall work with the Contractor to determine appropriate dates for onsite reviews and shall notify the Contractor in advance regarding dates for scheduled onsite reviews and expectations.

B. CONTRACT TERM:

B.1. This Contract shall be effective for the period beginning April 1, 2011, and ending on March 31, 2014. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract, and shall be based upon payment rates provided for in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Nine Million Five Hundred Ninety Thousand Dollars ($9,590,000.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. 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.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.

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

Service Description	Amount (per compensable increment)
Financial Administration	$105.00 Per Member Per Month* (PMPM)
Supports Brokerage	$155.00 Per Member Per Month* (PMPM)
Set-Up for New Consumer Direction Referral	$175.00 Per Member
Set-Up for New Consumer Directed Worker	$55.00 Per Worker

* The Per Member Per Month (PMPM) payment shall be based only on members enrolled in consumer direction of HCBS, defined as the number of CHOICES members with an active authorization for consumer direction services that are receiving consumer directed services.

The set up fee covers all applicable costs for processing paperwork, completing training, etc. for new CHOICES members (including persons specified by TennCare who are not enrolled in CHOICES, but who may qualify for CHOICES only through receipt of consumer directed services), representatives and their identified workers, including background checks. These fees may be billed only upon completion of all tasks associated with member or worker enrollment, and shall not be billed when a member withdraws from Consumer Direction prior to completion of these tasks, and/or when a worker decides not to proceed with employment prior to completion of these tasks, or is determined to not qualify for employment. Except for lapses in employment of a consumer directed worker which warrant a new background check as specified in Section A.27 above, the fee shall be applicable only once per lifetime for each member, representative, and/or worker, even if the worker is employed by multiple members/representatives, and regardless of any lapses in the member's participation in consumer direction.

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Bureau of TennCare
310 Great Circle Road
Nashville, Tennessee 37243

a. Each invoice shall clearly and accurately detail all of the following required 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, Bureau of TennCare
(5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
(6) Contractor Name
(7) Contractor Federal Employer Identification, Social Security, or Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
(8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
(9) Contractor Remittance Address
(10) Description of Delivered Service
(11) Complete Itemization of Charges, which shall detail the following:

i. Service or Milestone Description (including name & title as applicable) of each service invoiced
ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
iv. Amount Due by Service
v. Total Amount Due for the invoice period

b. The Contractor understands and agrees that an invoice under this Contract shall:

(1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;

(2) only be submitted for completed service and shall not include any charge for future work;
(3) not include sales tax or shipping charges; and
(4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

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 which 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 documentation properly completed.

a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).

b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Personnel, and the Comptroller of the Treasury).

D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Personnel, and the Comptroller of the Treasury).

D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for

compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.4. 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 violates any terms of this Contract, the State shall have the right to terminate the Contract and withhold payments in excess of fair compensation for completed services.

a. The State will provide notification of termination for cause in writing. This notice will: (1) specify in reasonable detail the nature of the breach; (2) provide the Contractor with an opportunity to cure, which must be requested in writing no less than ten (10) days from the date of the Termination Notice; and (3) shall specify the effective date of termination in the event the Contractor fails to correct the breach. The Contractor must present the State with a written request detailing the efforts it will take to resolve the problem and the time period for such resolution. This opportunity to "cure" shall not apply to circumstances in which the Contractor intentionally withholds its services or otherwise refuses to perform. The State will not consider a request to cure contract performance where there have been repeated problems with respect to identical or similar issues, or if a cure period would cause a delay that would impair the effectiveness of State operations. In circumstances where an opportunity to cure is not available, termination will be effective immediately.

b. Notwithstanding the foregoing, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.

D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract 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 Contractor in connection with any work contemplated or performed relative to 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 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 months has been, an employee of the State of Tennessee.

D.7. 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 disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, 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 hereby attests, certifies, warrants, and assures 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 B, hereto, semi-annually during the period of this Contract. Such 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 period of this Contract, 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 relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such 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. Said 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 Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.

e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) 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.10. 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.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon 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 such 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 hereto.

D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either 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 shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.

D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.

D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.

D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, 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 relating hereto, whether written or oral.

D.19. 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 hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of 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, these special terms and conditions shall control.

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract 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. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Deputy Commissioner
Department of Finance and Administration
Bureau of TennCare
310 Great Circle Road
Nashville TN 37243
(615) 507-6443 (Phone)
(615) 253-5607 (FAX)
Darin.j.gordon@tn.gov

The Contractor:

Marc Fenton, President
Public Partnerships, LLC
148 State Street, 10th Floor
Boston, MA 02109
(617) 426-2026 (Phone)
(617) 426-4069 (Fax)
mfenton@pcgus.com

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

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:

— failure to perform in accordance with any term or provision of the Contract;
— partial performance of any term or provision of the Contract;
— any act prohibited or restricted by the Contract, or
— violation of any warranty.

For purposes of this Contract, these items shall hereinafter be referred to as a "Breach."

a. Contractor Breach— The State shall notify Contractor in writing of a Breach.

(1) In event of a Breach by Contractor, the State shall have available the remedy of Actual Damages and any other remedy available at law or equity.

(2) Liquidated Damages— In the event of a Breach, the State may assess 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 a Breach by Contractor as said amounts are likely to be uncertain and not easily proven. Contractor hereby represents and covenants it has carefully reviewed the Liquidated Damages contained in Attachment C, and agree that said amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of Breach, and are a reasonable estimate of the damages that would occur from a Breach. It is hereby agreed between the parties that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the liquidated damage amount is in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or other section of this Contract.

The State may continue to withhold the Liquidated Damages or a portion thereof until the Contractor cures the Breach, the State exercises its option to declare a Partial Default, or the State terminates the Contract. The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity; provided, however, Contractor shall receive a credit for said Liquidated Damages previously withheld except in the event of a Partial Default.

(3) Partial Default— In the event of a Breach, the State may declare a Partial Default. In which case, the State shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the State will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the State may revise the time periods contained in the notice written to the Contractor.

In the event the State declares a Partial Default, the State may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the State of providing the defaulted service, whether said service is provided by the State or a third party. To determine the amount the Contractor is being paid for any particular service, the Department shall be entitled to receive within five (5) days any requested material from Contractor. The State shall make the final and binding determination of said amount.

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken.

(4) Contract Termination— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the

termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

b. State Breach— In the event of a Breach of Contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of Contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

E.5. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 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 pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 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 may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

E.6. 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 shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, 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.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

E.7. HIPAA and HITECH Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH) under the American Recovery and Reinvestment Act of 2009 (ARRA) and their accompanying regulations.

a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and HITECH and their accompanying regulations, and shall comply with all applicable HIPAA and HITECH requirements in the course of this Contract including but not limited to the following:

1. Compliance with the Privacy Rule, Security Rule, Notification Rule;
2. The creation of and adherence to sufficient Privacy and Security Safeguards and Policies;
3. Timely Reporting of Violations in Use and Disclosure of PHI; and
4. Timely Reporting of Security Incidents.

Failure to comply may result in actual damages that the State incurs as a result of the breach and liquidated damages as listed in Attachment C.

b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and HITECH and their regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA and HITECH.

c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and HITECH and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA and HITECH.

E.8. State and Federal Compliance. The Contractor agrees to comply with all applicable federal and state laws and regulations, and court orders, including Constitutional provisions regarding due process and equal protection of the laws and including but not limited to:

a. Title 42 Code of Federal Regulations (CFR) Chapter IV, Subchapter C (with the exception of those parts waived under the TennCare Section 1115(a) waiver).

b. Title 45 CFR, Part 74, General Grants Administration Requirements.

c. All applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 as amended (42 U.S.C. 7401, et seq.).

d. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations issued pursuant thereto, 45 C.F.R. Part 80.

e. Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) in regard to employees or applicants for employment.

f. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap in programs and activities receiving or benefiting from federal financial assistance, and regulations issued pursuant thereto, 45 C.F.R. Part 84.

g. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age in programs or activities receiving or benefiting from federal financial assistance.

h. Omnibus Budget Reconciliation Act of 1981, P.E. 97-35, which prohibits discrimination on the basis of sex and religion in programs and activities receiving or benefiting from federal financial assistance.

i. Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq., and regulations issued pursuant thereto, 28 C.F.R. Parts 35, 36.

j. Sections 1128 and 1156 of the Social Security Act relating to exclusion of providers for fraudulent or abusive activities involving the Medicare and/or Medicaid program.

k. Tennessee Consumer Protection Act, T.C.A. Section 47-18-101 et seq.

l. The CMS waiver and all Special Terms and Conditions which relate to the waiver.

m Executive Orders, including Executive Order 1 effective January 26, 1995.

n. The Clinical Laboratory Improvement Act (CLIA) of 1988.

o. Requests for approval of material modification as provided at TCA 56-32-101 etc. seq.

p. Title IX of the Education Amendments of 1972 (regarding education programs and activities)

q. The Rehabilitation Act of 1973

r. The Balanced Budget Act of 1997 Section 422.208 and 422.210

s. EEO Provisions

t. Copeland Anti-Kickback Act

u. Davis-Bacon Act

v. Contract Work Hours and Safety Standards

w. Rights to Inventions Made Under a Contract or Agreement

x. Byrd Anti-Lobbying Amendment

y. Debarment and Suspension

z. The Church Amendments, 42 U.S.C. 300a-7.

aa. Public Health Service Act (PHS Act) Section 245, 42 U.S.C. 238n.

bb. Weldon Amendment, originally adopted as section 508(d) of the Labor-HHS Division (Division F) of the 2005 Consolidated Appropriations Act, Public Law 108-447, 118 Stat. 2809, 3163 (Dec. 8, 2004), has been readopted (or incorporated by reference) in each subsequent HHS appropriations act. (Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110-329, Div. A, Sec. 101, 122 Stat. 3574, 3575 (Sept. 30, 2008).

E.9. 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. this Contract document with any attachments or exhibits (excluding the items listed at subsections b. through e., below);

b. any clarifications of or addenda to the Contractor's proposal seeking this Contract;

c. the State solicitation, as may be amended, requesting proposals in competition for this Contract;

d. any technical specifications provided to proposers during the procurement process to award this Contract;

e. the Contractor's proposal seeking this Contract.

E.10. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, 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.11. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.

E.12. 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 undersigned, 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 this 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 section 1352, title 31, *U.S. Code*.

E.13. 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 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. 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.

E.14. 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 proposal responding to RFP-31865-00068 (Attachment 6.2) 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 persons with a disability. Such reports shall be provided to the state of Tennessee Governor's Office of Diversity Business Enterprise in form and substance as required by said office.

E.15. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.

a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.

b. The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.

c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.

d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.

E.16. Annual Report and Audit. The Contractor shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Contract to the commissioner or head of the contracting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Contractor that receives five hundred thousand dollars ($500,000) or more in aggregate federal and state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Contractor may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Contractor and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Contractor shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Contractor shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Contracting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

E.17. 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 in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

E.18. Partial Takeover. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.19. 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 TennCare as provided in Section D.4, 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.20. SubContract – If the Contractor delegates responsibilities to a subcontractor, the Contractor shall assure that the subcontracting relationship and subcontracting document(s) comply with federal requirements, including, but not limited to, compliance with the applicable provisions of 42 CFR 438.230(b) and 42 CFR 434.6 as described below:

a. evaluate the prospective subcontractor's ability to perform the activities to be delegated;

b. ensure that the agreement be in writing and specify the activities and report responsibilities delegated to the subcontractor; and provide for revoking delegation or imposing other sanction if the subcontractor's performance is inadequate;

c. monitor the subcontractor's performance on an ongoing basis;

d. identify deficiencies or areas for improvement and the Contractor and the subcontractor shall take corrective action as necessary;

e. not enter into any subsequent agreements or subcontracts for any of the work contemplated under the contract without prior approval of the state;

f. provide instruction for all subcontractors who will be interacting directly with TennCare members (including supports brokers, as applicable) regarding the Contractor's written procedure for the provision of language interpretation and translation services for any enrollee who needs such services, including but not limited to, enrollees with Limited English Proficiency, and

g. shall not delegate Financial Administration functions.

E.21. The State and Contractor recognize that TennCare operates subject to several Federal Class Action Consent Decrees. During the term of this Contract there may be litigation in Federal Court concerning the implementation or modification of these decrees. In addition, the possibility exists that new litigation of this same type may commence during the course of the Contract. Therefore, in addition to the records requirements contained in Contract Section A and Section D.9., the Contractor shall make available as required, all records of whatever type, [correspondence,

memo, databases, worksheets, training material, etc.], in their original form, be it electronic or paper, including emails with metadata preserved. These records will be produced at no cost to the State, as required to satisfy the discovery demands of any of the class action litigation affecting TennCare. The State will endeavor to keep the discovery requests as reasonable in extent as possible. The Contractor retains the right to object in Court to any discovery request it feels is too broad or otherwise unduly burdensome.

E.22. Disclosure of Ownership, Control, or Relationship Information: In the time and manner set forth in 42 CFR § 455.104, TennCare's Managed Care Contractors and/or TennCare's Benefit Administrators must disclose to the State agency the name and address of each person with an ownership or controlling interest in any Provider, fiscal agent, disclosing entity (collectively, "the aforementioned") who are authorized to provide and receive payment for any covered service furnished to TennCare enrollees. In addition, the State must be provided the name and address of any subcontractor in which the aforementioned have a direct or indirect ownership interest of 5 percent or more. TennCare's Managed Care Contractors and/or TennCare's Benefit Administrators must disclose whether any of the aforementioned is related to him/her as spouse, parent, child, or sibling. Moreover, the aforementioned must disclose the name of any other Provider, fiscal agent, disclosing entity or subcontractor in which a person with an ownership or controlling interest in the aforementioned also has an ownership or controlling interest. The Contractor must complete a Disclosure of Ownership and Control Interest State form located at http://www.tn.gov/tenncare/forms/disclosureownership.pdf once the contract is signed and update such disclosure information annually and on an as needed basis when changes occur. Additionally, a contractor is required to check the non-providers listed on the disclosure form, such as owners and agents, against the LEIE database located at http://oig.hhs.gov/fraud/exclusions/exclusions_list.asp and report to the state if there are any positive matches along with the submission of the Disclosure form. The State shall not contract with a managed care contractor or a benefit administrator who has not disclosed ownership or control information required under the federal regulations.

E.23. Disclosure of Business Transactions Upon Request: Regulation 42 CFR § 455.105 (requires that, upon request, Providers furnish to the State or the U.S. Department of Health and Human Services (HHS) information about certain business transactions with wholly owned suppliers or any subcontractors. In addition, the Provider must disclose the ownership of any subcontractor with whom the Provider has had business transactions totaling more than $25,000 during the 12-month period ending on the date of the request. Therefore, as a condition of contracting with the State, TennCare's Managed Care Contractors and/or TennCare's Benefit administrators must agree to disclosure of the business transaction information upon request specified in the regulation.

E.24. Health Care-Related Criminal Conviction Disclosures and Timely Reporting: Regulation 42 CFR § 455.106 stipulates that Providers must disclose to Federal and State Medicaid agencies any criminal convictions related to Medicare, Medicaid, or Title XX programs at the time they apply or renew their applications for Medicaid participation or at any time on request. The regulation further requires that the State Medicaid agency notify the HHS Office of Inspector General (HHS-OIG) whenever such disclosures are made. Hence, as a condition of contracting with the State, TennCare's Managed Care Contractors and/or TennCare's Benefit Administrators must agree to collect the disclosure of health care-related criminal conviction information as required by 42 CFR § 455.106 and establish policies and procedures to ensure that applicable criminal convictions are reported timely to the State.

E.25. Tennessee Bureau of Investigation Medicaid Fraud and Abuse Unit (MFCU) Access to Contractor and Provider Records Office of TennCare Inspector General Access to Contractor, Provider, and Enrollee Records

Pursuant to the Health Insurance Portability and Accountability Act (HIPAA) privacy regulations, MFCU and TennCare OIG shall be health oversight agencies as defined at 45 C.F.R. §§ 164.501 and 164.512(d) and 65 F.R. § 82462. When acting in their respective capacities as health oversight agencies and in compliance with federal regulations, MFCU and TennCare OIG do not need enrollee authorization to obtain enrollee protected health information (PHI). Because MFCU and TennCare OIG will request the information mentioned above for health oversight activities, "minimum necessary" standards do not apply to disclosures to MFCU or TennCare OIG that are required by law. See 45 C.F.R. §§ 164.502(b)(2)(iv), 164.502(b)(2)(v), and 164.512(d).

The Contractor shall immediately report to MFCU all factually based known or suspected fraud, abuse, waste and/or neglect of a provider or Contractor, including, but not limited to, the false or fraudulent filings of claims and/or the acceptance or failure to return money allowed or paid on claims known to be false or fraudulent. The Contractor shall not investigate or resolve the suspicion, knowledge or action without informing MFCU, and must cooperate fully in any investigation by MFCU or subsequent legal action that may result from such an investigation.

The Contractor and all its health care providers who have access to any administrative, financial, and/or medical records which relate to the delivery of items or services for which TennCare monies are expended, shall, upon request, make them available to MFCU or TennCare OIG. In addition, the MFCU must be allowed access to the place of business and to all TennCare records of any Contractor or health care provider, during normal business hours, except under special circumstances when after hour admission shall be allowed. MFCU shall determine any and all special circumstances.

The Contractor and its participating and non-participating providers shall report TennCare enrollee fraud and abuse to TennCare OIG. The Contractor and/or provider may be asked to help and assist in investigations by providing requested information and access to records. Shall the need arise, TennCare OIG must be allowed access to the place of business and to all TennCare records of any TennCare Contractor or health care provider, whether participating or non-participating, during normal business hours.

The Contractor shall inform its participating and non-participating providers that as a condition of receiving any amount of TennCare payment, the provider must comply with this Section of this Contract regarding fraud, abuse, waste and neglect.

E.26. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies and/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.).

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 CFR 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 its term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the amendment to this Contract 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.

IN WITNESS WHEREOF,

PUBLIC PARTNERSHIPS, LLC:

2/3/2011

CONTRACTOR SIGNATURE **DATE**

Marc Fenton, President

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE:

Mark A Emkes /ser 2/11/11

MARK. A. EMKES, COMMISSIONER **DATE**

ATTACHMENT A

DEFINITIONS

Adult Protective Services (APS) – An office within the Tennessee Department of Human Services that investigates reports of abuse, neglect (including self-neglect) or financial exploitation of vulnerable adults. APS staff assess the need for protective services and provide services to reduce the identified risk to the adult.

Back-up Plan – A written plan that is a required component of the plan of care for all CHOICES members receiving companion care or non-residential HCBS in their own home and which specifies unpaid persons as well as paid Consumer-Directed Workers and/or contract providers (as applicable) who are available, have agreed to serve as back-up, and who will be contacted to deliver needed care in situations when regularly scheduled HCBS providers or workers are unavailable or do not arrive as scheduled. The member/representative (as applicable) may not elect, as part of the back-up plan, to go without services. The back-up plan shall include the names and telephone numbers of persons and agencies to contact and the services to be provided by each of the listed contacts. The member and his/her representative (as applicable) shall have primary responsibility for the development and implementation of the back-up plan for Consumer Directed services with assistance from the Contractor as needed.

Care Coordinator - For purposes of CHOICES, a person who is employed or contracted by an MCO to perform the continuous process of care coordination:
(a) Assessing a Member's physical, behavioral, functional, and psychosocial needs;
(b) Identifying the physical health, behavioral health, and LTC services and other social support services and assistance (e.g., housing or income assistance) necessary to meet identified needs;
(c) Ensuring timely access to and provision, coordination and monitoring of physical health, behavioral health, and LTC services needed to help the Member maintain or improve his physical or behavioral health status or functional abilities and maximize independence; and
(d) Facilitating access to other social support services and assistance needed in order to ensure the Member's health, safety and welfare, and as applicable, to delay or prevent the need for more expensive institutional placement.

Child Protective Services (CPS) – A program division of the Tennessee Department of Children's Services whose purpose is to investigate allegations of child abuse and neglect and provide and arrange preventive, supportive, and supplementary services.

CHOICES Member – A member who has been enrolled by TennCare into CHOICES.

Confidential Information – Any non-public, confidential or proprietary information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, which is created under this Agreement. Any such information relating to individuals enrolled in the TennCare program ("TennCare members") or relating to individuals who may be potentially enrolled in the TennCare program, which is provided to or obtained 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.

Consumer Direction of HCBS (Consumer Direction) – The opportunity for a CHOICES member assessed to need specified types of HCBS including attendant care, personal care, homemaker, in-home respite, companion care and/or any other service specified in TennCare rules and regulations as available for Consumer Direction to elect to direct and manage (or to have a representative direct and manage) certain aspects of the provision of such services—primarily, the hiring, firing, and day-to-day supervision of Consumer-Directed Workers delivering the needed service(s).

Consumer-Directed Worker (Worker) – An individual who has been hired by a CHOICES member participating in consumer direction of HCBS or his/her representative to provide one or more eligible HCBS to the member. Worker does not include an employee of an agency that is being paid by an MCO to provide HCBS to the member.

Contract Provider - A provider who is under contract with an Enrollee's MCO. Also called "Network Provider" or "In-Network provider."

Contractor Risk Agreement – The agreement between the MCO and TennCare regarding requirements for operation and administration of the TennCare managed care program, including CHOICES.

Electronic Visit Verification (EVV) System - An electronic system that caregivers use to check-in at the beginning and check-out at the end of each period of service delivery. The system is used to monitor Member receipt of HCBS and also to generate claims for submission by the provider.

Eligible HCBS - For purposes of CD, services that may be consumer-directed are limited to Attendant Care, Personal Care Visits, Homemaker Services, In-Home Respite Care, or Companion Care.

Employee – The worker hired by the CHOICES member to deliver eligible HCBS.

Employer of Record – The member participating in consumer direction of HCBS or a representative designated by the member to assume the consumer direction of HCBS functions on the member's behalf.

Fiscal Employer Agent (Contractor) – An entity contracting with the State and/or an MCO that helps CHOICES members participating in consumer direction of HCBS. The Contractor provides both Financial Administration and Supports Brokerage functions for CHOICES members participating in consumer direction of HCBS. This term is used by the IRS to designate an entity operating under Section 3504 of the IRS code, Revenue Procedure 70-6 and Notice 2003-70 as the agent to members for the purpose of filing certain federal tax forms and paying federal income tax withholding, FICA and FUTA taxes. The Contractor also files state income tax withholding and unemployment insurance tax forms and pays the associated taxes and processes payroll based on the eligible HCBS authorized and provided.

HIPAA – Health Insurance Portability and Accountability Act of 1996, 45 CFR Parts 160 and 164.

Home and Community-Based Services (HCBS) – Services not covered by Tennessee's Title XIX state plan that are provided as an alternative to long-term care institutional services in a nursing facility or an Intermediate Care Facility for the Mentally Retarded (ICF/MR). HCBS does not include home health or private duty nursing services.
List of Excluded Individuals/Entities (LEIE) – List of Excluded Individuals/Entities is the database maintained by the Office of the Inspector General in the Department of Human Services containing the names of providers excluded from participation in federally financed healthcare programs by the authority granted in 42 USCA 1320a-7.

Managed Care Organization (MCO) – Managed Care Organization shall mean an appropriately licensed Health Maintenance Organization (HMO) approved by the Bureau of TennCare as capable of providing medical, behavioral, and long-term care services in the TennCare Program.

Member – Member shall mean a TennCare Medicaid- or TennCare Standard-eligible individual who is enrolled in a managed care organization.

Provider - Provider shall mean an appropriately licensed institution, facility, agency, person, corporation, partnership, or association that delivers health care services. Providers are categorized as either TennCare Providers or Non-TennCare Providers. TennCare Providers may be further categorized as being one of the following:
(a) Participating Providers or In-Network Providers

(b) Non-Participating Providers or Out-of-Network Providers
(c) Out-of-State Emergency Providers
Definitions of each of these terms are contained in TennCare Rule 1200-13-13-.01.
Provider does not include Consumer-Directed Workers (See Consumer-Directed Worker); nor does provider include the Contractor (Fiscal Employer Agent).

Provider Agreement – An agreement, using the provider agreement template approved by TDCI, between the MCO and a provider or between the MCO's subcontractor and a provider that describes the conditions under which the provider agrees to furnish covered services to the MCO's members.

Regulatory Requirements - Any requirements imposed by applicable federal, state or local laws, rules, regulations, court orders and consent decrees, a program contract, or otherwise imposed by TennCare in connection with the operation of the program or the performance required by either party under this agreement.

Representative – In general, for CHOICES members, a person who is at least eighteen (18) years of age and is authorized by the member to participate in care planning and implementation and to speak and make decisions on the member's behalf, including but not limited to identification of needs, preference regarding services and service delivery settings, and communication and resolution of complaints and concerns. As it relates to consumer direction of HCBS, a person who is authorized by the member to serve as the employer of record, and to direct and manage the member's worker(s), and signs a representative agreement. The representative for consumer direction of HCBS must also: be at least 18 years of age; have a personal relationship with the member and understand his/her support needs; know the members daily schedule and routine, medical and functional status, medication regimen, likes and dislikes, and strengths and weaknesses; and be physically present in the member's residence on a regular basis or at least at a frequency necessary to supervise and evaluate workers.

Representative Agreement – The agreement between a CHOICES member electing consumer direction of HCBS who has a representative direct and manage the consumer's worker(s) and the member's representative that specifies the roles and responsibilities of the member and the member's representative.

Risk Agreement – An agreement signed by a member who will receive HCBS (or his/her representative) that includes, at a minimum, identified risks to the member of residing in the community and receiving HCBS, the consequences of such risks, strategies to mitigate the identified risks, and the member's decision regarding his/her acceptance of risk. For members electing to participate in Consumer Direction, the Risk Agreement must include any additional risks associated with the member's decision to act as the employer of record, or to have a Representative act as the employer of record on his/her behalf.

Safeguarding Enrollee Information – To maintain reasonable and appropriate administrative, technical and physical safeguards, ensure the integrity and confidentiality, and protect against any reasonably anticipated threats or hazards to the security or integrity or unauthorized uses or disclosures of information regarding a TennCare member.

Self-Direction of Health Care Tasks – A decision by a CHOICES member participating in Consumer Direction to direct and supervise a paid worker delivering eligible HCBS in the performance of health care tasks that would otherwise be performed by a licensed nurse. Self-direction of health care tasks is not a service, but rather, health care-related duties and functions (such as administration of medications) that a CHOICES member participating in Consumer Direction may elect to have performed by a Consumer-Directed Worker as part of the delivery of eligible HCBS s/he is authorized to receive.

Service Agreement – The agreement between a CHOICES member electing consumer direction of HCBS (or the member's representative) and the member's Consumer-Directed Worker that specifies the roles and responsibilities of the member (or the member's representative) and the member's worker.

State – The State of Tennessee, including, but not limited to, any entity or agency of the state, such as the Tennessee Department of Finance and Administration, the Office of Inspector General, the Bureau of TennCare, the Tennessee Bureau of Investigation, Medicaid Fraud Control Unit, the Tennessee Department of Mental Health and Developmental Disabilities, the Tennessee Department of Children's Services, the Tennessee Department of Health, the Tennessee Department of Commerce and Insurance, and the Office of the Attorney General.

Supports Broker – An individual assigned by the Contractor to each member who assists the member/representative in performing employer functions including but not limited to: developing job descriptions, locating, recruiting, interviewing, scheduling, monitoring and evaluating workers. The supports broker collaborates with, but does not duplicate, the functions of the member's care coordinator. The supports broker does not have authority or responsibility for consumer direction. The member or member's representative must retain authority and responsibility for consumer direction.

TennCare or TennCare Program – The program administered by the single state agency, as designated by the state and CMS, pursuant to Title XIX of the Social Security Act and the Section 1115 research and demonstration waiver granted to the State of Tennessee and any successor programs.

TennCare CHOICES in Long-Term Care (CHOICES) – A program in which all nursing facility services and home and community based long-term care services for elders and/or adults with physical disabilities are integrated into TennCare's managed care delivery system.

Warm Transfer – A telecommunications mechanism in which the person answering the call facilitates transfer to a third party, announces the caller and issue, and remains engaged as necessary to provide assistance.

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Public Partnerships, LLC
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	043468852

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 C

Liquidated Damages

It is acknowledged by TennCare and the Contractor that in the event of failure to meet the requirements provided in this Contract and all documents incorporated herein, TennCare will be harmed. The actual damages which TennCare will sustain in the event of and by reason of such failure is uncertain, since it is extremely difficult and impractical to ascertain and determine. The parties, therefore, acknowledge that the Contractor shall be subject to damages and/or sanctions as described below. It is further agreed that the Contractor shall pay TennCare liquidated damages as directed by TennCare and not to exceed the fixed amount as stated below; provided however, that if it is finally determined that the Contractor would have been able to meet the Contract requirements listed below but for TennCare's failure to perform as provided in this Contract, the Contractor shall not be liable for damages resulting directly therefrom.

In addition to the specific liquidated damages listed below, TennCare shall have the right to assess a general liquidated damages claim of five hundred dollars ($500) per calendar day for each day that the Contractor fails to comply with the provisions and requirements of this Contract. The damage that may be assessed shall be $500 per calendar day for each separate failure to comply with the Contract.

	PROGRAM ISSUE		DAMAGE
A.1	Failure to obtain written approval of any written member materials including educational materials prior to using such materials as outlined in Sections A.4 and A.22. of this Contract		$250 per member or educational material (i.e., per document, regardless of the number of persons to whom such document may have been disseminated) for which prior approval was not obtained
A.2	Failure to complete and process all required employer paperwork, including but not limited to IRS Forms SS-4, 2678, and 8821, for the member or his/her representative, as applicable prior to initiating Consumer Direction of HCBS for the member as outlined in Section A.3. of this Contract		$500 per member for which all required employer paperwork is not completed and processed prior to initiating Consumer Direction of HCBS for the member
A.3	Failure to ensure that each Consumer Directed worker completes all required employee paperwork, including an abbreviated Medicaid agreement, and obtains a Medicaid provider ID number prior to authorizing the worker to deliver Consumer Directed services for a member, as outlined in Sections A.27 and A.30 of this Contract		$500 per worker for which all required employee paperwork was not completed prior to authorizing the worker to deliver Consumer Directed services for a member

	PROGRAM ISSUE		DAMAGE
A.4	Failure to ensure that each Consumer Directed worker completes all training requirements prior to authorizing the worker to deliver Consumer Directed services as outlined in Sections A.33, A.34, and A.35 of this Contract		$500 per worker for which all training requirements were not completed prior to authorizing the worker to deliver Consumer Directed services for a member
A.5	Failure to ensure that each Consumer Directed worker meets all qualifications specified in this Contract and in TennCare Rules and passes a background check as outlined in Section A.27 of this Contract (including all applicable registry and database checks); failure to maintain documentation of such qualifications and background (including registry and database) checks; or failure to allow a worker who has failed his/her background check to provide Consumer Directed services only as permitted pursuant to Section A.27 of this Contract.		$1,000 per worker for which qualifications were not verified, or a background check was not passed prior to authorizing the worker to deliver Consumer Directed services; for which documentation of such qualifications and background check was not maintained; or for each worker who failed a background check that was permitted to provide Consumer Directed services except as permitted pursuant to Section A.27 of this Contract
A.6	Failure to obtain a signed Service Agreement for each Consumer Directed worker prior to such worker being authorized to deliver Consumer Directed services, and any time there is a change in the terms or conditions of a worker's employment or a change in the member's Representative as outlined in Sections A.15 and A.27 of this Contract		$1,000 per worker for which a Service Agreement was not signed prior to authorizing the worker to deliver Consumer Directed services for a member, or for which a new Service Agreement is not signed when there is a change in the terms or conditions of a worker's employment or a change in the member's Representative
A.7	Failure to confirm each back-up person and organization's willingness and availability to provide back-up care when needed prior to initiation of Consumer Direction of HCBS and at least annually as outlined in Section A.11 of this Contract		$500 per member for whom the Contractor failed to confirm each back-up person and organization's willingness and availability to provide back-up care when needed prior to initiation of Consumer Direction of HCBS and at least annually

	PROGRAM ISSUE		DAMAGE
A.8	Failure to contact the member/ representative upon notification of a service gap to ensure that the back-up plan has been implemented and is effectively working and to offer assistance as needed in implementing the back-up plan as outlined in Section A.11 of this Contract		$500 per instance in which the Contractor failed to contact the member/representative upon notification of a service gap to ensure that the back-up plan has been implemented and is effectively working and to offer assistance as needed in implementing the back-up plan
A.9	Failure to report a critical incident within the timeframes specified in Section A.43 of this Contract		$250 per critical incident not reported
A.10	Failure to complete minimum supports broker contacts as defined in Section A.39 of this Contract.		$200 per member for which minimum supports broker contacts were not completed
A.11	Failure to pay a Consumer Directed worker pursuant to the terms of this Contract, including but not limited to the timeliness of payment as defined in Section A.70 of this Contract.		$200 per instance in which a Consumer Directed worker is not paid pursuant to the terms of this Contract
A.12	Failure to timely submit and pay a member or representative's Employer Payroll Taxes as defined in Section A.70 of this Contract.		$200 per member for which Employer Payroll Taxes were not timely submitted and paid in addition to all applicable IRS penalties and interest which may be assessed