Appendix 7.4.a Current Contract

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
September 15, 2011	December 31, 2016	31786 - 00111	28614

Contractor Legal Entity Name	Edison Vendor ID
POMCO, Inc.	7888

Service Caption (one line only)

Provides administrative services for the State's self-insured Medicare Supplement Plan for eligible participants of the Public Sector Plans.

Subrecipient or Vendor	CFDA #
☐ Subrecipient ☒ Vendor	

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2012			$1,070,887.50		$1,070,887.50
2013			$2,141,775.00		$2,141,775.00
2014			$2,141,775.00		$2,141,775.00
2015			$2,141,775.00		$2,141,775.00
2016			$2,141,775.00		$2,141,775.00
2017			$1,070,887.50		$1,070,887.50
TOTAL:			**$10,708,875.00**		**$10,708,875.00**

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.

Maureen Abbey /fw

OCR USE - FA

Speed Chart (optional)	Account Code (optional)	Contract #
	78901000	

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
STATE INSURANCE COMMITTEE,
AND
POMCO, INC.

This Contract, by and between the State of Tennessee, State Insurance Committee, hereinafter referred to as the "State" and POMCO, Inc., hereinafter referred to as the "Contractor," is for the provision of Self Insured Medicare Supplement Plan (hereinafter called the "Plan") administrative services for eligible retirees of the state, local education and local group insurance program who are enrolled in Medicare Part A and their eligible Medicare dependents electing such coverage, as further defined in the "SCOPE OF SERVICES".

The Contractor is a For-Profit Corporation.
Contractor Federal Employer Identification # 15-0581348 and Edison Registration ID # 0000007888.
Contractor Place of Incorporation or Organization: New York

A. SCOPE OF SERVICES

A.1. General.

a. 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.

b. The Contractor agrees to provide administrative services for the State's self-insured Medicare Supplement Plan for qualified former State of Tennessee employees, higher education employees, local education employees, local government employees, county judges and county officials who are retired and receiving a monthly retirement allowance from the Tennessee Consolidated Retirement System (TCRS), or a higher education optional retirement plan, and who are enrolled in Medicare Part A and their eligible Medicare dependents (hereinafter referred to as "members") who elect to participate in the Plan, in accordance with the contract and its clarifications of this agreement (Collectively referred to as the "Contract").

c. The Contractor recognizes the State will set the premium rates for the Plan. Similarly, the Contractor acknowledges the State may elect to adjust the State contribution for retiree members. The Contractor agrees the State's decisions on these issues are final and not subject to appeal.

d. Under this contract the State reserves the authority to require the Contractor to change from the Medicare Supplement Plan D to another NAIC approved Medicare Supplement Plan upon no less than 120 calendar days' notice.

A.2. Implementation.

a. The Contractor's call center and other information systems, including but not limited to its claims management system, shall be fully operational on the date specified in Contract Section A.15.1.

b. The Contractor shall implement the information systems and other processes required to process all medical claims and perform all other services described herein. The Contractor shall work with the State to ensure the Contractor satisfies applicable requirements of this Contract, including requirements in the Medicare Supplement Plan Document (referred to as the "Plan Document") which is located on the State's website at www.tn.gov/finance/ins and State and Federal law.

c. The Contractor shall have a full-time implementation team. All of the Contractor's implementation team members shall have participated, as team members, in the implementation of claims administration services for at least one other employer (*i.e.*, employer with Medicare Supplement or medical plans covering at least 1,000 lives). The Contractor's implementation team shall include a full-time Implementation Manager dedicated to this Contract, who will be the main contact with the State for all of the day-to-day matters relating to the implementation of this Contract. Also, the Contractor shall assign an Information Systems Project Coordinator (i) to serve as backup to the Implementation Manager and (ii) to coordinate activities among the Contractor and the State's existing vendor and all the internal and external participating and affected entities. The Contractor's implementation team shall include a full-time Account Manager who may be the same person as the Implementation Manager. The Implementation Manager and Account Manager should be dedicated full-time to this implementation project from the Contract start date through sixty (60) days after the go-live date. All other implementation team members shall be available as needed during the implementation, but should be dedicated full-time to this project at least two (2) months prior to the go-live date specified in Contract Section A.15.2. and thirty (30) days after the go-live date.

d. All key Contractor project staff shall attend a project kick-off meeting at the State of Tennessee offices in Nashville, Tennessee within the first thirty (30) calendar days after the Contract start date. State project staff shall provide access and orientation to the Plan and system documentation, as requested by the Contractor.

e. The Contractor shall provide a project implementation plan to the State no later than thirty (30) calendar days after the Contract start date. The plan shall be electronically maintained, daily, in Microsoft Excel or Microsoft Project. The plan shall comprehensively detail all aspects of implementation, which includes all tasks with deliverable dates necessary to satisfactorily implement all medical claims administrative services no later than the go-live date specified in Contract Section A.15.2. and a description of the members on the implementation team and their roles with respect to each item/task/function. The plan shall include a detailed timeline description of all work to be performed both by the Contractor and the State. This plan shall require written approval by the State. At a minimum, the implementation plan shall provide specific details on the following:

(1) identification and timing of significant responsibilities and tasks;
(2) names and titles of key implementation staff;
(3) identification and timing of the state's responsibilities;
(4) data requirements (indicate type and format of data required);
(5) identification and timing for the testing, acceptance and certification of receipt of the State's enrollment information through the State's enterprise resource planning system, known as "Edison";
(6) identification and timing for testing and certification of claims processing and payment and the reconciliation process;
(7) member communications;
(8) schedule of in-person meetings and conference calls; and
(9) transition requirements with the incumbent claims administrator that detail at a minimum the lifetime accumulators.

f. The Contractor shall provide for a comprehensive operational readiness review (pre implementation audit) by the State, and/or its authorized representative, at least sixty (60) days prior to the go-live date. Such review by the State, and/or its authorized representative, may include, but not be limited to, an onsite review of the Contractor's operational readiness for all services required in this Contract (*e.g.*, claims processing and payment, member services, training, and website development). The review may also include desk reviews of documentation that includes but is not limited to:

(1) policy and procedures manual;
(2) call center scripts;
(3) information systems documentation; and
(4) the ability to provide and the process governing the preparation of any and all deliverables required under this Contract.

g. At its discretion, the State may conduct an additional, pre-implementation review of the Contractor's progress towards fulfilling the information systems requirements of this Contract. Such review by the State, and/or its authorized representative, may include both onsite and desk reviews, including but not limited to staff interviews, system demonstrations, systems testing, and document review.

h. During onsite visits as part of readiness review or a pre-implementation review, the Contractor shall provide onsite workspace and access to a telephone, fax, printer, copy machine, and Internet connection. The Contractor's staff members shall be freely available to the State officials to answer questions during this visit.

i. The Contractor shall conduct status meetings concerning project development, project implementation and Contractor performance at least weekly during implementation, the two weeks prior to and the first month following the go-live date, unless otherwise approved by the State. Thereafter, all ongoing operational meetings shall be conducted on a State-specified schedule, but shall occur no less than once a month for the first six months following the go-live date, unless otherwise approved by the State. Such meetings shall be either by telephone or onsite at the offices of the State, as determined by the State, and shall include the Implementation Manager and appropriate systems staff. Any costs incurred by the Contractor as a result of a meeting with the State shall be the responsibility of the Contractor.

j. No later than forty-five (45) days post-implementation, the State will complete an Implementation Performance Assessment. The assessment tool will be provided by the Contractor. This assessment will be used to document the State's satisfaction with the implementation process and identify any necessary corrective action(s). The Contractor shall comply with all recommendations/requirements made in writing by the State within the timeframes specified by the State.

A.3. Claims Processing, Payment and Reconciliation.

a. The Contractor shall process all medical claims in strict accordance with the Plan Document. The Contractor shall not modify covered benefits during the term of this Contract without the prior written approval of the State.

b. Upon request by the State, the Contractor shall modify its systems and processes to reflect approved plan design changes, including but not limited to changes in covered benefits and scope of covered benefits within sixty (60) days of notification by the State. Should said change(s) not be effective within sixty (60) days, the Contractor shall have until the effective date of the change to modify its systems and processes.

c. The Contractor shall process claims, either filed directly by members and/or provider(s), in an accurate and timely manner and in accordance with the requirements in Contract Attachment B.26. Claims payment accuracy shall be ninety-eight percent (98%) or higher and claims processing accuracy shall be ninety-seven percent (97%) or higher. The Contractor shall submit to the State, at least one (1) month prior to the go-live date, a summary of its methodology for conducting internal claims audits, including audits to determine claims payment and processing accuracy and claims payment turnaround. The State reserves the authority to review the methodology and require changes, where appropriate. The Contractor shall notify the State in writing at least thirty (30) calendar

days in advance of any significant changes to its methodology. The State reserves the authority to review the change and require changes, where appropriate. The Contractor shall submit its audit methodology with each applicable performance measure report (see Contract Attachments B.31. and C.1.).

d. The Contractor shall provide hard copy and electronic versions of claim forms, as needed, and instructions to members.

e. The Contractor shall confirm eligibility of each member as claims are submitted, on the basis of the enrollment information provided by the State, which applies to the period during which the charges were incurred.

f. In concert with its claims payment cycle, the Contractor shall provide an electronic remittance advice (RA) to the provider indicating the disposition of every adjudicated claim submitted by the provider. The remittance advice shall contain appropriate explanatory remarks related to payment or denial of each claim. If a claim is partially or totally denied due to insufficient information and/or documentation, then the remittance advice shall specify all such information and/or documentation. Providers that do not have the capability of receiving an RA electronically may have one mailed to them.

g. An incomplete claim may be resubmitted with the information necessary to complete the claim. This resubmission shall constitute a new claim only for the purpose of establishing a timeframe for claims processing and payment.

h. Explanation of Benefits (EOB)

The Contractor shall generate and mail an explanation of benefits (EOB) to the member monthly unless otherwise approved by the State. The format of the EOB form will be reviewed and approved by the State prior to the effective date of this contract. On an annual basis, the State and Contractor shall review the format and content of the EOB and determine if changes are necessary. If changes are required, an implementation schedule shall be mutually agreed upon for introduction of the revised EOB.

i. The Contractor shall ensure that any payments funded by the State are accurate and in compliance with the terms of this Contract, including the Liquidated Damages requirements of this Contract (see Contract Attachment B.26.) and State and Federal laws and regulations.

j. The State shall determine all policies and benefits related to the Plan. Should the Contractor have a question on policy determinations, benefits, or operating guidelines required for proper performance of the Contractor's responsibilities, the Contractor shall request a determination in writing. The State will then respond in writing making a determination within thirty (30) calendar days. The Contractor shall then act in accordance with such policy determinations and/or operating guidelines.

k. The State shall have the sole responsibility for and authority to clarify and/or revise the benefits available under the Plan. It is understood between the parties that the Plan cannot and does not cover all medical situations. In a case where the benefits are not referenced in the Plan Document or are not clear, the Contractor shall comply with any applicable policy issued by Benefits Administration to interpret the Plan Document. If the benefits are not referenced in any policy, or are not clear, the Contractor shall utilize its policies in adjudicating claims, and the Contractor shall advise Benefits Administration, in writing, as to the difference along with the Contractor's recommendation. Such matters as determined by the State to have a significant impact on administration of plan benefits shall be resolved by the State.

l. The Contractor shall identify and pursue claims that may be subject to coordination of benefits (COB) in accordance with the regulations promulgated by the Tennessee Department of Commerce and Insurance, Chapter 0780-1-53 Tenn. Comprehensive Rules & Regulations. The Contractor shall provide a quarterly report of said activities to the State (refer also to Contract Attachment C.2., Reporting Requirements).

m. The Contractor shall notify the State on a weekly basis of receipt of any notices from Medicare that Medicare may have made primary payments for services when it should have been the secondary payer (a Medicare Secondary Payer demand letter). The Contractor shall resolve issues as to whether Medicare is the primary or secondary payer within thirty-one (31) days of receiving the demand letter.

n. Unless otherwise directed by the State, the Contractor shall comply with the State's requirements regarding subrogation as provided in Contract Attachment D. The Contractor shall implement new or revised requirements received from the State within sixty (60) calendar days of receipt of the requirements from the State, unless otherwise directed by the State.

o. The Contractor shall respond to all requests from the State for data detailing paid claims incurred within a specified period of time within seventy-two (72) hours of receiving the request using the template prior approved in writing by the State.

p. The Contractor shall submit quarterly claims reports to the State as provided in Contract Attachment C, including but not limited to a quarterly paid claims analysis report (refer to Contract Attachment C.14.), quarterly paid claims lag report (refer to Contract Attachment C.15.), monthly reconciliation report (refer to Contract Attachment C.3.), and monthly recoveries report (refer to Contract Attachment C.4.)

q. For the payment of all claims under this Contract, the Contractor shall issue payments in the form of checks and/or Automated Clearing House (ACH) electronic funds transfer against the Contractor's own bank account. The Contractor shall maintain security and quality controls over the design, printing and mailing of checks, as well as any fraud prevention feature of checks.

r. The State will only pay for approved and correctly paid claims, not for rejected, reversed, or duplicate claims. Additional requirements related to payments are listed in Contract Section C.3.

s. The Contractor shall issue all related U.S. Internal Revenue Service (IRS) Form 1099 reports, submit required 1099 information directly to the IRS utilizing the Contractor's tax ID number, and shall maintain responsibility in matters relating to such information provided to payees and to the IRS, including the payment of any penalties or fees related to such 1099 reporting.

t. Upon conclusion of this Contract, or in the event of its termination or cancellation for any reason, the Contractor shall be responsible for the processing of all claims incurred for medical services rendered or medical supplies purchased during the period of this Contract with no additional administrative cost to the State. The claims run out period shall extend through the final day of the thirteenth (13^{th}) month following Contract termination. In addition, in the event of termination of this Contract, the Contractor shall continue to provide and pay claims for services to any member who is hospitalized on the effective date of termination. Said coverage shall discontinue when the member is discharged from the hospital.

u. Fraud and Abuse

(1) The Contractor shall implement procedures to prevent and detect fraud or abuse by providers or members and shall perform fraud investigations of members and providers, in consultation with the State, for the purpose of recovery of overpayments due to fraud.

(2) The Contractor's procedures for preventing and detecting fraud and abuse shall include, at a minimum, claims edits, post-processing review of claims, and utilization management. The Contractor's claim edits shall include, at minimum, edits to identify upcoding and duplicate claims.

(3) In the event the Contractor discovers evidence that an unusual transaction has occurred that merits further investigation, the Contractor shall simultaneously inform Benefits Administration and the Division of State Audit, in the Office of the Comptroller of the Treasury. The State will review the information and inform the Contractor whether it wishes the Contractor to:

i. Discontinue further investigation if there is insufficient justification; or
ii. Continue the investigation and report back to Benefits Administration and the Division of State Audit; or
iii. Continue the investigation with the assistance of the Division of State Audit; or
iv. Discontinue the investigation and turn the Contractor's findings over to the Division of State Audit for its investigation.

(4) The Contractor shall submit to the State, at least two (2) months prior to the go-live date, two (2) written copies describing its fraud and abuse program. The State reserves the authority to review the documents and recommend changes, where appropriate. The Contractor shall notify the State, in writing, within thirty (30) calendar days of any significant changes to its programs related to insurance or provider fraud, abuse, and waste. The State reserves the authority to review the change and recommend changes, where appropriate.

(5) The Contractor shall provide a written narrative or report to the State on a quarterly basis regarding the effectiveness of the Contractor's fraud and abuse program, including its fraud and abuse detection activities, findings from those activities, follow-up on findings, proposed improvement activities, and any estimated savings to the Plan associated with the Contractor's detection of such fraudulent or wasteful activities.

A.4. State Audits.

a. Upon thirty (30) days written notice and the establishment of applicable third party confidentiality agreement(s), if any, reasonably required by the Contractor, the State and/or its authorized representative shall have the authority to examine and audit the Contractor services and pricing to ensure compliance with all applicable requirements. For the purpose of this requirement, the term, "Contractor," shall include its parent organization, affiliates, subsidiaries, and subcontractors.

b. The Contractor shall provide access, at any time during the term of this contract and for three (3) years after final contract payment (longer if required by law), to the State and/or its authorized representative to examine and audit Contractor services and payments pursuant to this Contract. The State reserves the authority to request that documentation be provided for review at the authorized representative's location, the State's location, or at the Contractor's corporate site.

c. The Contractor shall, at its own cost, provide the State and/or its authorized representative with prompt and complete access to any data, documents, access to

systems, and other information necessary to ensure Contractor compliance with all requirements of this Contract.

d. The Contractor shall provide reasonable cooperation with requests for information, which includes but is not limited to the timing of the audit, deliverables, data/information requests and the Contractor's response time to the State's questions during and after the process. The Contractor shall also provide a response to all "findings" received. Such response shall occur within thirty (30) days, or at a later date if mutually determined with the State to be more reasonable based on the number and type of findings.

e. The State shall not be responsible for time or any costs incurred by the Contractor in association with an audit including, but not limited to, the costs associated with providing data, reports, documentation, systems access, or space.

f. If the outcome of the audit results in an amount due to the State, then the State will work with the Contractor to negotiate terms of repayment. In the absence of such agreement, the State will deduct one-sixth of the total amount due from the fees due to the Contractor pursuant to Section C.3. for each month for six months and is subject to a compounding interest penalty of one percent (1%) per month. If the Contractor disagrees with a finding resulting in a payment to the State, the State will review the Contractor's comments, but if the State retains the original audit findings the Contractor will be responsible for any payment to the State.

A.5. Member Services.

a. All members services representatives handling inquiries related to the Plan shall be familiar with the terms and provisions of the Plan Document, including without limitation, eligibility, benefits, excluded services and procedures, deductibles, applicable cost-sharing, including co-payments and co-insurance, out-of-pocket maximums, instructions for completing a claim form, determining the status of claims, how to handle a complaint, and the member appeals process.

b. The Contractor shall have sufficient staff to respond to inquiries, correspondence, complaints, and problems. The Contractor shall not answer technical questions regarding eligibility policy and shall refer these questions to the State.

c. The Contractor shall have and implement procedures for monitoring and ensuring the quality of services provided by its member services representatives. Such procedures may include but are not limited to the following activities:

(1) auditing calls/correspondence for each member services representative;
(2) silent monitoring of calls;
(3) recording calls for quality and training purposes;
(4) skill refresher courses; and
(5) call coaching.

d. The Contractor shall set standards for customer satisfaction for member services representatives based upon, but not limited to, an evaluation of the following areas: documentation, greeting, courtesy, responsiveness, explanation and guiding techniques, and accuracy. The standards shall be submitted to the State for prior written approval before they are used to measure customer satisfaction. Adherence to the standards shall be measured, monitored and reviewed by the Contractor each month.

e. The Contractor shall provide a personalized response, in writing, to ninety-five percent (95%) of written (mail or email) inquiries from members concerning requested information, including the status of claims submitted and covered benefits, within five (5)

business days and one hundred percent (100%) within ten (10) business days. The Contractor shall acknowledge receipt of email inquiries within one (1) business day.

f. The Contractor shall designate a client service liaison to respond to member-related issues identified by the State. For designated issues by the State, the Contractor shall contact the member, resolve the issue and then notify the State of the resolution.

g. Member Appeals Process

(1) The Contractor shall maintain formal appeal procedures affording two levels of review. The Level I and Level II reviews shall be conducted by committees designated by the Contractor. Persons making Level I determinations shall not be involved in Level II decisions. With the prior written approval of the State, additional levels of review may be offered.

(2) At least one (1) month prior to the go-live date, the Contractor shall provide the State two (2) written copies describing in detail the Contractor's appeals process and procedures along with two (2) written copies of sample determination letters for Level I and Level II appeals. The State reserves the right to review the appeals process and procedures and letters and require changes, where appropriate.

(3) The Contractor shall submit quarterly appeals reports with information regarding each appeal filed with the Contractor (refer also to Contract Attachment C, Reporting Requirements).

(4) The Contractor shall provide the State with copies of requested appeal files within ten (10) business days of the State's request.

(5) Any time a member files an appeal, the Contractor shall ensure that all records and information related to the appeal are preserved for the greater of (a) one (1) year following the conclusion of the appeal process, including any external appeals (*e.g.*, the State's appeal process) and (b) any longer period required by other provisions of this Contract or state or federal law.

(6) The Contractor shall include notification of the member's right to appeal in any member communication regarding benefit coverage decisions, including but not limited to, letters to members and providers, member handbooks, and Explanation of Benefit (EOB) statements. The text and format of this notice is subject to prior written approval from the State.

(7) The Contractor shall maintain a procedure for resolving complaints informally by telephone. Where a complaint cannot be resolved to the member's satisfaction, the Contractor shall advise the member of his/her right to file an appeal and shall provide instructions for doing so.

(8) The Contractor shall designate the manner by which a member may file an appeal. The Contractor may require the member to submit a written request or to complete and submit a "member appeal form" or other designated form. If form(s) are required, the Contractor will make such forms available on its website and by mail within five (5) business days upon request of the member.

(9) The Contractor shall allow a member one hundred and eighty (180) days to initiate a Level I appeal following notice of an adverse determination. Where a Level I determination is unfavorable, the Contractor shall advise the member of their right to initiate a Level II appeal within ninety (90) days of notice of the Level I decision.

(10) For post-service appeals (Level I and Level II), the Contractor shall complete review and issue a written decision to all parties involved within sixty (60) days of receipt. For expedited appeals not involving a third party review the Contractor shall complete review and issue a written decision to all parties involved within seventy-two (72) hours of receipt. All other expedited appeals shall be completed within seven (7) calendar days. All decision notices shall advise of any further appeal options. Where the Contractor's appeals process has been exhausted, adverse determination notices must advise the member of the option to pursue a State-level appeal within two (2) years and must include the State's appeal form.

(11) The State sponsors an appeal process available to members after they have exhausted the Contractor's appeals process. The Contractor shall have a qualified individual available to provide support to the State Appeals Coordinator in the research and development of appeals. The Contractor shall have the appropriate qualified individuals, including the Account Manager available to participate in the State appeal process and to be available to personally attend the State appeals meetings when requested by the State.

h. Unless otherwise directed by the State, the Contractor shall perform, following review and approval by the State, a member satisfaction survey. The survey shall be conducted no more frequently than once during each calendar year at a time mutually agreed upon by the State and the Contractor and shall involve a statistically valid random sample of members. The State reserves the authority to review and mandate changes in the survey it feels are necessary to obtain valid, reliable, unbiased results. Those changes may include, but are not limited to, changes in the research design, units of analysis or observation, study dimension, sample size, sample frame, sample method, coding, or evaluation method. Based upon the results of the survey, the Contractor and the State shall jointly develop an action plan to correct problems or deficiencies identified through this activity. The results of the annual survey shall be measured according to Contract Attachment B, Performance Guarantee 14 Member Satisfaction Survey.

A.6. Call Center.

The Contractor shall operate a call center that uses a toll-free telephone number dedicated to the Plan as the entry point for members contacting the Contractor. The dedicated toll-free customer service phone number shall become the property of the State of Tennessee upon the termination of this Contract. The Contractor shall transfer said number to the State at no cost to the State such that the State or its designee can maintain this same number for continuous, uninterrupted use by members needing assistance after the termination of this Contract.

a. The Contractor's call center shall be open and staffed with trained personnel on the date specified in Contract Section A.15.16.

b. The Contractor's call center and member services representatives shall be located in the continental United States.

c. The Contractor's call center shall accept calls Monday through Friday, during the hours of 7:00 a.m. to 5:00 p.m., Central Time, except on official State Holidays.

d. The Contractor's call center shall be equipped with TDD (Telephone Device for the Deaf) in order to serve the hearing impaired population.

e. The Contractor's call center shall meet each of the following performance standards:

(1) The Contractor's call center shall answer, by a person, one hundred percent (100%) of calls within five (5) minutes (300 seconds).

(2) The Contractor's call center shall maintain an Average Seconds to Answer (ASA) of less than one (1) minute (60 seconds) and after answering the call the Contractor may only put callers on hold in order to (a) make outbound calls as necessary or (b) to research a caller's issue.

(3) The Contractor's call center shall maintain a blocked call rate of less than one percent (1%) per quarter.

(4) The Contractor's call center shall maintain an Abandoned Call rate of not more than three percent (3%).

f. The Contractor shall calculate each performance measure during the normal business hours of each business day.

g. The Contractor shall provide call center statistics for members to the State on a weekly basis during the thirty (30) days prior to the go-live date through the sixty (60) days after the go-live date. After which time the Contractor shall submit a summary report with data for the preceding month. (Refer to Contract Section A.15.17.)

h. The Contractor's call center shall have call management systems and communications infrastructure that can manage the potential call volume and achieve the performance standards described in this Contract.

i. The Contractor's call management systems shall be scalable and flexible so they can be adapted as needed, within negotiated timeframes where applicable, in response to program, benefit, or enrollment changes.

j. The Contractor's call management systems shall be equipped with caller identification. In addition, the Contractor's call center shall adopt caller identification for itself that is prior approved in writing by the State.

k. The Contractor's call management systems shall provide greeting messaging when necessary. The Contractor may play canned music and/or messages prior approved by the State for the callers while they are on hold and shall play messages as directed by the State. The Contractor shall not play advertising or informational messages for callers while they are on hold unless prior approved in writing by the State (or the State directs the Contractor to play certain messages). Additionally, the Contractor's systems shall provide a message that notifies callers that calls are being recorded and may be monitored by the Contractor and the State for quality control purposes.

l. The Contractor's call management system shall record and index all calls such that the Contractor can easily retrieve recordings of individual calls based on the phone number of the caller, the caller's name, the date/time of the call, or the member services representative who handled the call. The Contractor shall be able to provide a full recording of each call upon the State's request, using only the member's name or identifier to locate the call(s).

m. The Contractor's call management systems shall facilitate the processing of all calls received and assign incoming calls to available member services representatives in an efficient manner. The system shall transfer calls to other telephone lines as necessary and appropriate, including transfers to external call centers.

n. The Contractor may use an automated interactive voice response (IVR) system for managing inbound calls, provided that the caller always has the ability to leave the IVR

system and wait in queue in order to speak directly with a live-voice member services representative during normal business hours rather than continue through additional prompts. The Contractor shall not have more than one level of menu choices [limited to five (5) options] unless prior approved in writing by the State. The Contractor's decision tree and menu are subject to State review and prior written approval.

o. The Contractor shall inform callers of their likely wait times (based on real-time information, including call volume and member services representative availability) as they enter the queue. The Contractor shall also provide a "dial back" option that allows callers to receive a call back from the next available member services representative. Note that calls receiving a call back pursuant to this provision are not counted as "abandoned."

p. The Contractor shall have the ability to make outbound calls without interrupting the ability of callers to continue to access the call center.

q. The Contractor shall have the ability to allow third parties (the State or its authorized representative) to monitor recorded calls from a remote location. Additionally, the Contractor's system shall be able to record calls for monitoring.

r. The call management system shall enable the logging of all calls, including:

(1) the caller's identifying information (*e.g.*, employee ID);
(2) the call date and time;
(3) the reason for the call (including a reason code using a coding scheme prior approved by the State in writing);
(4) the member services representative who handled the call;
(5) the length of call; and
(6) the resolution of the call (including a resolution code using a coding scheme prior approved by the State in writing) (and if unresolved, the action taken and follow up steps required).

Additionally, the call management systems shall maintain a history of correspondence and call transactions for performance management, quality management and audit purposes. This history shall contain the actual information, a date/time stamp that corresponds to when the transaction took place, the origin of the data management transaction (*e.g.*, the State and/or one of its authorized representatives or the member), and the member services representative that processed the transaction. Related correspondence and calls shall be indexed and properly recorded such that they can be treated in reporting and analysis as part of a distinct transaction.

A.7. Member Communications/Materials.

a. The Contractor shall, in consultation with and following written approval by the State, print and distribute member materials, including but not limited to member handbooks, identification cards, welcome packets, letters, mass mailings, and administrative forms and manuals pertaining to or sent to members by December 12, 2011. Unless otherwise directed by the State, all member materials shall be prior approved in writing by the State and submitted to the State at least fourteen (14) days prior to the anticipated printing date.

b. The Contractor shall work in conjunction with the State and its marketing staff and vendor to ensure continuity of branding across all plan and member materials, website, and any other communications information. All uses of the branding elements shall be subject to prior approval by the State.

c. Unless otherwise specified, the Contractor shall be responsible for all costs related to the design, development, revision, printing, and distribution of all member materials that are required to be produced under the terms of this Contract. The Contractor shall ensure that up-to-date versions of all printed member materials can be downloaded from its website.

d. Member Identification Cards

(1) The Contractor shall provide members with identification (I.D.) cards.

(2) The cost of creating and mailing I.D. cards pursuant to subsection (d)(1) above and (d)(7) below shall be borne by the Contractor.

(3) Unless otherwise specified, identification cards shall comply with the State's guidelines for identification cards, which include but are not limited to the following:

i. The words "The Tennessee Plan" shall appear in the top center of the front of the card in a font size of no less than 11 point; the words "Administered by CONTRACTOR NAME" may appear beneath this in a smaller font size (at least two points less).

ii. The front of the card shall also include the following information: member name, member number, group name and/or number, benefit option (*e.g.*, Medicare Supplement).

iii. The Contractor shall use the State's Edison employee identification number (not Social Security Number) as the primary unique identifier for members and shall include this number as the member's identification number on the identification card.

(4) The format for identification cards shall be prior approved in writing by the State.

(5) The Contractor shall mail identification cards to members no later than twenty-one (21) calendar days prior to the go-live date. During the benefit year the Contractor shall mail I.D. cards to members no later than ten (10) calendar days from receipt of new enrollment or change in enrollment and fourteen (14) days prior to each benefit year, as indicated in the enrollment information from the State and no later than ten (10) calendar days from receipt of a member's request for a replacement or duplicate card (at no charge to the member).

(6) The Contractor shall have the capability on its website (see Contract Section A.8.) to allow members to print out temporary cards.

(7) The Contractor shall allow each member to have a duplicate card upon the member's request.

(8) As directed by the State, the Contractor shall re-issue identification cards to reflect approved plan design changes within the timeframe specified by the State (refer to Contract Section C.3.e. regarding the cost of identification cards re-issued at State direction).

e. Member Handbook

(1) The Contractor, following review and approval by the State, shall annually update, print and distribute member handbooks and shall maintain on its website an up-to-date version of the member handbook that incorporates changes made between annual printings.

(2) The member handbook shall be specific to the Plan and shall detail benefits and excluded services and procedures; detail cost-sharing requirements; and provide other information helpful to members.

(3) The Contractor shall distribute the member handbook to every head-of-contract at their home address of record no later than twenty-one (21) days prior to the go-live date and thereafter upon request by members.

(4) Each year the Contractor shall print member handbooks in a quantity approved by the State in order for the State to distribute the handbooks to newly eligible retirees and for the Contractor to distribute to members upon request at least 14 days prior to each benefit year.

f. The Contractor shall use first class rate for all mailings, unless otherwise directed or prior approved in writing by the State. The Contractor may use bulk mail and medical mail rates, if prior approved in writing by the State.

g. The Contractor shall have the exclusive responsibility to write, edit, and arrange for clearance of materials (such as securing full time use of a stock photograph used in brochures for perpetuity) for any and all member materials in time for the materials to be approved by the State and printed.

h. The Contractor shall ensure that its member materials are culturally sensitive and professional in content, appearance, and design.

i. The Contractor shall, to the extent practicable, use relatively large and legible fonts in its member materials. Additionally, the Contractor shall make maximum use of graphics to communicate key messages to populations with limited literacy or limited English proficiency. The Contractor shall also prominently display the Contractor's call center telephone number and hours of operation in large, bolded typeface on all member materials.

j. Unless otherwise prior approved in writing by the State, the Contractor shall design all member materials at the sixth (6.0) grade reading level or lower using the Flesch-Kincaid Index or other suitable metric that the State prior approves in writing. The Contractor shall evaluate materials using the entire text of the materials (except return addresses). Draft materials shall be submitted to the State for approval and the Contractor shall include a reading level analysis and certification of the reading level of each piece of material. Draft communications should be provided to the State no later than ten (10) business days prior to anticipated printing. Refer to Contract Attachment B.11.

k. The Contractor shall provide electronic templates of all finalized member materials in a format that the State can easily alter, edit, revise, and update. Absent gross negligence or malfeasance by the Contractor, the Contractor has no liability for errors on other deliverables that the State did not find or correct before giving final approval for the individual materials. However, the Contractor shall produce and distribute corrected versions of the individual materials at the State's direction (refer to Contract Section C.3.e. regarding production and distribution costs).

l. The Contractor covenants that all materials distributed to members and prepared or produced by the Contractor shall be accurate in all material respects.

m. At the State's request, the Contractor shall notify members, in writing, of any benefit changes no less than thirty (30) calendar days prior to the implementation of the change (refer to Contract Section C.3.e. regarding production and distribution costs).

n. Unless otherwise directed by the State, the Contractor shall print and distribute any mass mailings developed by the State within twenty-one (21) business days of receiving the text from the State (refer to Contract Section C.3.e. regarding production and distribution costs).

A.8. Web Site.

a. The Contractor shall maintain a website dedicated to and customized for this Contract. The design of the website, inclusive of the site map, page layout, color/font scheme and branding, static content and any documents which can be accessed via or downloaded from the website, must be prior approved in writing by the State. The website shall be designed for members and dedicated to the Plan. Additionally, the Contractor shall obtain prior, written approval from the State for any links from the site to an external (governmental and non-governmental) website/portal or webpage.

b. The website shall be fully operational, with the exception of member data/Protected Health Information on or before the date specified in Contract Section A.15.22.

c. The Contractor shall update content and/or documents posted to the website within five (5) business days of the State's approval of changes to said content and/or documents.

d. The Contractor shall submit to the State a website design specifications document, inclusive of a comprehensive site map, page design documentation including "screenshots" of all pages, all links to external sites (governmental and non-governmental) and all static content and documents associated with release #1 of the website for review and approval by the date specified in Contract Section A.15.23.

e. The Contractor shall host the website on a non-governmental server, which shall be located within the United States.

f. The Contractor shall ensure that the website/portal meets all of the capacity, availability, performance and security requirements outlined in Contract Sections A.11. and A.13.

g. The Contractor shall obtain and cover the cost of the domain name for the website/portal. The Contractor shall transfer ownership of the domain name to the State upon termination of this Contract without delay and at no cost to the State.

h. To ensure accessibility among persons with a disability, the Contractor's website shall comply with Section 508 of the Rehabilitation Act of 1973 (29 USC Section 794d) and implementing regulations at 36 CFR 1194 Parts A-D.

i. The website/portal shall be "Bobby-approved" (as defined in Contract Section A.16.).

j. At a minimum the website shall contain a home page with general information and links to additional information, including but not limited to frequently asked questions (FAQs), the member handbook, temporary identification cards, appeals forms (if applicable), and information about the explanation of benefits (EOB), including a sample form with an explanation of each item.

A.9. Administrative Services.

a. The Contractor, upon request by the State, shall review and comment on proposed revisions to the benefits in the Plan. When so requested, the Contractor shall comment in regard to:

(1) industry practices;
(2) Federal or state laws:

(3) the overall cost impact to the Plan;
(4) necessary changes in the Contractor's reporting requirements; and/or
(5) system changes.

b. The Contractor shall provide advice and assistance with regard to questions regarding effective dates, benefits, premiums, cost-sharing and cessation of coverage as requested by the State, members, and providers.

c. The Contractor shall refer calls from Agency Benefits Coordinators (ABCs) or members regarding eligibility or enrollment issues to the State.

d. The Contractor shall respond to all inquiries in writing from the State within one (1) calendar week after receipt of said inquiry. In cases where additional information to answer the State's inquiry is required, the Contractor shall notify the State immediately as to when the response can be furnished to the State. For matters designated as urgent by the State, the Contractor shall provide a response to the State within four (4) hours during normal business hours. During non-business hours the Contractor shall provide a response to urgent matters to the State within twenty-four (24) hours.

e. To maintain the privacy of personal health information, the Contractor shall provide to the State a method of securing email for daily communications between the State and the Contractor.

f. The Contractor, at the request of either party, shall meet with representatives of the State periodically, but no less than quarterly, to discuss any problems and/or progress on matters outlined by the State. The Contractor shall have in attendance the staff requested by the State, which may include a Program Director and representatives from the Contractor's organizational units required to respond to topics indicated by the State's agenda. The Contractor shall provide information to the State concerning its efforts to improve administrative activities, as well as trends in the provision of benefits. The Contractor shall provide advice, assistance and information to the State regarding applicable existing and proposed Federal and State laws and regulations affecting the Plan. The Contractor shall also provide information to the State regarding the administration of the benefit, internal procedures for billing and reconciliation of transactions, and other administrative matters. These meetings will take place at the State of Tennessee offices in Nashville, Tennessee. However, at its discretion, the State may allow the Contractor to participate in such meetings by teleconference.

g. The Contractor shall not modify the services or benefits provided to members during the term of this Contract without the prior written consent of the State.

h. The Contractor shall assist the State, if requested, in the education and dissemination of information regarding the Plan. This assistance may include but not be limited to:

(1) Written information;
(2) Audio/video presentations;
(3) Attendance at meetings, workshops, and conferences; and
(4) Training of State staff and other persons on Contractor's administrative and benefits procedures.

Any onsite visits to member agencies shall require the prior approval of the State.

i. The Contractor shall refer all media and legislative inquiries to Benefits Administration, which will have the sole and exclusive responsibility to respond to all such queries. However, the Contractor shall respond directly to audit requests from the Comptroller, to audit requests from divisions within the Department of Finance & Administration, and to

subpoenas; in all such instances, the Contractor shall copy Benefits Administration on all correspondence.

j. The Contractor shall ensure that the U.S. Postal Service returns all undeliverable mail and mail forwarding information to the Contractor, not to the State. Unless otherwise directed by the State, for all mailing materials, the Contractor shall use the "Address Service Requested" endorsement as described in Section 507.1.5 of the U.S. Postal Service's Domestic Mail Manual (DMM).

k. The Contractor shall review all returned mail from any mailings to members to determine if the member has moved, if the Contractor has the wrong address, and/or if the member is communicating other contact information to the Contractor or to the State. If the U.S. Postal Service indicates that a new address is available, the Contractor shall send the member a "Notice of Address Change Instructions" within three (3) business days and communicate the updated address information to the State within thirty (30) days. The Notice of Address Change Instructions shall be prior approved by the State in writing. The Contractor shall track returned mail and shall report monthly to the State the number of pieces of returned mail, the reason the mail was returned and action taken by the Contractor. The Contractor shall include in this report a list of all members whose mail was undeliverable due to an incorrect address provided by the State (see Contract Attachment C.8., Reporting Requirements).

l. Unless prior approved in writing by the State and in compliance with State and Federal law, the Contractor shall not use information gained through this Contract, including but not limited to utilization and pricing information, in marketing or expanding non-State business relationships or for any pecuniary gain.

A.10. Staffing.

a. The Contractor shall provide and maintain qualified staff to provide services required under this Contract. The Contractor shall ensure that all staff, including the Contractor's employees, independent contractors, consultants, and subcontractors, performing services under this requirement has the experience and qualifications to perform the applicable services. The Contractor shall maintain staffing at a level that enables the Contractor to meet the requirements of this Contract.

b. For its work under this Contract, the Contractor shall not use any person or organization that is on the U.S. Department of Health and Human Services' Office of Inspector General (OIG) exclusions list unless the Contractor receives prior, written approval from the State.

c. The Contractor shall ensure that all staff receives initial and ongoing training regarding all applicable requirements of this Contract and the Plan. The Contractor shall ensure that staff which provides services under this Contract are specifically oriented and trained regarding their functions, knowledgeable about the Contractor's operations relating to the Plan, and knowledgeable about their functions and how those functions relate to the requirements of this Contract.

d. The Contractor shall have an ongoing, Account Team that can provide daily operational support as well as strategic planning and analysis. All members of the Account Team shall have previous experience administering Medicare Supplement benefits for large employers. A member of the Account Team shall be available for consultation with the State during the hours of 8:00 a.m. to 4:30 p.m. Central Time, Monday through Friday, as required to fulfill the scope of services specified in this Contract

e. The Contractor shall designate a full time Account Manager as a member of the Account Team and the Implementation Team. The Account Manager shall be dedicated full-time

to this account from the Contract start date through sixty (60) days after the go-live date. The Account Manager shall continue to be responsible for management of the State account following the sixty (60) days after go-live period. The Account Manager shall have the responsibility and authority to manage the entire range of services specified in this Contract and shall respond promptly to changes in benefit plan design, changes in claims processing procedures, or general administrative problems identified by the State.

f. The Contractor shall survey the State annually in January to determine the State's satisfaction with the Account Team and report the results of the survey to the State (see Attachment C.9., Reporting Requirements).

g. The Contractor agrees that the State may approve or disapprove the staff assigned to this Contract prior to the proposed assignment. The State may also direct the Contractor to replace staff members providing core services as it deems necessary and appropriate. The decision of the State on these matters shall not be subject to appeal.

h. Key personnel commitments made in the Contractor's proposal shall not be changed unless prior approved by the State in writing. The Contractor shall notify the State at least fifteen (15) business days in advance, or as soon as the information is available, of proposed changes and shall submit justification (including proposed substitutions) in sufficient detail regarding education and experience equal to previous staff to the State to evaluate the impact upon the Contract. The decision of the State on these matters shall not be subject to appeal.

i. If any key position becomes vacant, the Contractor shall provide a replacement with commensurate experience and required professional credentials within sixty (60) days of the vacancy unless the State grants an exception to this requirement in writing.

A.11. Information Systems.

a. Claims Management System

(1) The Contractor shall operate a claims management system that processes and tracks detailed claims for members and appropriately links claim history and enrollment information.

(2) The Contractor must maintain and utilize the capability to electronically interface with the Medicare Part A and B Administrative intermediaries to provide for the direct filing of claims for retirees living in both the State of Tennessee as well as all other states.

(3) The Contractor's claims management system shall retain claim history on-line for at least two (2) years. (This does not limit the Contractor's obligations to retain all records in accordance with Contract Section D.9, Records.)

b. Member Services Representative Systems Access

The Contractor's member services representatives shall have access to claims management and other systems as necessary to respond to inquiries from members.

c. The Contractor's Systems shall have the capability of adapting to any future changes necessary as a result of modifications to the design of the Plan or this Contract and its requirements, including e.g., data collection, records and reporting based upon unique identifiers to track services and expenditures across population types/demographic groups, regions/parts of the state. The Systems shall be scalable and flexible so they can be adapted as needed, within negotiated timeframes, e.g., in response to changes in Contract requirements or increases in enrollment estimates. The Contractor's System

architecture shall facilitate rapid application of the more common changes that can occur in the Contractor's operation, including but not limited to:

(1) Changes in payment methodology;
(2) Changes in program management rules, e.g. eligibility for certain services; and
(3) Standardized contact/event/service codes.

d. The Contractor shall ensure that its electronic data processing (EDP) and electronic data interchange (EDI) environments (both hardware and software), data security, and internal controls meet all applicable Federal and State standards, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act. Said standards shall include but not be limited to the requirements specified under each of the following HIPAA subsections:

(1) Electronic Transactions and Code Sets
(2) Privacy
(3) Security
(4) National Provider Identifier
(5) National Employer Identifier
(6) National Individual Identifier
(7) Claims attachments
(8) National Health Plan Identifier
(9) Enforcement

e. All Contractor systems shall maintain linkages and "parent-child" relationships between initial and related subsequent interactions/transactions/events/activities. Additionally, when the Contractor houses indexed images of documents used by members, providers and subcontractors to transact with the Contractor, the Contractor shall ensure that these documents maintain logical relationships to certain key data such as member identification and provider/subcontractor identification numbers. The Contractor shall also ensure that records associated with a common event, transaction or customer service issue have a common index that will facilitate search, retrieval and analysis of related activities, e.g., interactions with a particular member about the same matter/problem/issue.

f. Upon the State's request, the Contractor shall be able to generate a listing of all members and others that were sent a particular document, the date and time that the document was generated, and the date and time that it was sent to particular members or others. The Contractor shall also be able to generate a sample of said document.

g. Retention and Accessibility of Information

(1) The Contractor shall provide and maintain a comprehensive information retention plan that is in compliance with state and federal requirements.

(2) The Contractor shall maintain information on-line for a minimum of two (2) years, based on the last date of update activity, and update detailed and summary history data monthly for up to two (2) years to reflect adjustments.

(3) The Contractor shall provide within three (3) business days turnaround or better on requests for access to information that is between three (3) years and six (6) years old. Such requests for information shall be made by the State or its authorized designee.

(4) If an audit or administrative, civil or criminal investigation or prosecution is in progress or audit findings or administrative, civil or criminal investigations or prosecutions are unresolved, information shall be kept in electronic form until all tasks or proceedings

are completed.

h. Information Ownership. All information, whether data or documents, and reports that contain or make references to said information, involving or arising out of this Contract is owned by the State. The Contractor is expressly prohibited from sharing or publishing State information and reports or releasing such information to external entities, affiliates, parent company, or subsidiaries without the prior written consent of the State.

i. System Availability and Disaster Recovery (DR)

(1) The Contractor shall ensure that critical member and other web-accessible and/or telephone-based functionality and information including the website described in Section A.8. (to be agreed to by the State and the Contractor) are available to the applicable System users twenty-four (24) hours a day, seven (7) days a week, except during periods of scheduled System unavailability agreed upon by the State and the Contractor. Unavailability caused by events outside of the Contractor's span of control is outside of the scope of this requirement. Any scheduled maintenance shall occur between the hours of midnight and 5:00 a.m. Central Time and shall be scheduled in advance with notification on the member website/portal. The Contractor shall make efforts to minimize any down-time between 5:00 a.m. and 10:00 p.m. Central Time.

(2) The Contractor shall ensure that the Systems within its span of control that support its data exchanges with the State and the State's vendors are available and operational according to the specifications and schedule associated with each exchange.

(3) Regardless of the architecture of its systems, the Contractor shall develop and be continually ready to invoke a disaster recovery (DR) plan. The DR plan shall encompass all information systems supporting this Contract. At a minimum the Contractor's DR plan shall address the following scenarios:

i. Central and/or satellite data processing, telecommunications, print and mailing facilities and functions therein, hardware and software are destroyed or damaged;

ii. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of transactions that are active in a live system at the time of the outage;

iii. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of data maintained in a live or archival system; and

iv. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that does not compromise the integrity of transactions or data maintained in a live or archival system but does prevent access to the system.

(4) The Contractor shall provide the State results of its most recent test of its DR plan one (1) month prior to the go-live date.

(5) The Contractor shall periodically, but no less than annually, test its DR plan through simulated disasters and lower level failures in order to demonstrate to the State that it can restore system functions. The Contractor shall submit an annual DR Results Report to the State (refer to Contract Attachment C.10., Reporting Requirements).

(6) In the event that the Contractor fails to demonstrate in the tests of its DR plan that it can restore system functions per the standards outlined in this Contract, the Contractor shall submit to the State a corrective action plan that describes how the failure will be resolved. The Contractor shall deliver the corrective action plan within ten (10) business days of the conclusion of the test.

(7) In the event of a declared major failure or disaster, as defined in the Contractor's DR plan, the Contractor's critical functionality as discussed in Section A.11.i.(1) shall be restored within seventy-two (72) hours of the failure's or disaster's occurrence.

(8) The Contractor shall maintain a duplicate set of all records relating to this Program in electronic medium, usable by the State and the Contractor for the purpose of disaster recovery. Such duplicate records are to be stored at a secure fire, flood, and theft- protected facility located away from the storage location of the originals. The Contractor shall update duplicate records, at a minimum, on a daily basis and shall retain said records for a period of sixty (60) days from the date of creation. At the end of the term of this Contract or upon notice of termination of this Contract prior to the term date, the Contractor shall convey the original and the duplicate records medium and the information they contain to the State on or before the date of termination.

j. Prior to implementing any major modification to or replacement of the Contractor's core information systems functionality and/or associated operating environment, the Contractor shall notify the State in writing of the change or modification within a reasonable amount of time (commensurate with the nature and effect of the change or modification) if the change or modification: (a) would affect the Contractor's ability to perform one or more of its obligations under this Contract; (b) would be visible to State system users and members; (c) might have the effect of putting the Contractor in noncompliance with the provisions or substantive intent of the Plan Document and/or this Contract; or (d) would materially reduce the benefits payable or services provided to the average member. If so directed by the State, the Contractor shall discuss the proposed change with the State/its designee prior to implementing the change. Subsequent to this discussion, the State may require the Contractor to demonstrate the readiness of the impacted systems prior to the effective date of the actual modification or replacement.

k. System and Information Security and Access Management Requirements

(1) The Contractor's Systems shall employ an access management function that restricts access to varying hierarchical levels of system functionality and information. The access management function shall:

i. Restrict access to information on a "least privilege" basis, e.g., users permitted inquiry privileges only will not be permitted to modify information;

ii. Restrict access to specific system functions and information based on an individual user profile, including inquiry only capabilities and the ability to create, change or delete certain data (global access to all functions shall be restricted to specified staff jointly agreed to by the State and the Contractor);

iii. Restrict unsuccessful attempts to access system functions to three (3), with a system function that automatically prevents further access attempts and records these occurrences; and.

iv. Ensure that authentication credentials are not passed in clear text or otherwise displayed or presented.

(2) The Contractor shall make System information available to duly authorized representatives of the State and other state and federal agencies to evaluate, through inspections or other means, the quality, appropriateness and timeliness of services performed.

(3) The Contractor's Systems shall contain controls to maintain information integrity. These controls shall be in place at all appropriate points of processing. The controls shall be tested in periodic and spot audits following a methodology to be developed jointly by and mutually agreed upon by the Contractor and the State.

(4) Audit trails shall be incorporated into all Systems to allow information on source data files and documents to be traced through the processing stages to the point where the information is finally recorded. The audit trails shall:

i. Contain a unique log-on or terminal ID, the date, and time of any create/modify/delete action and, if applicable, the ID of the system job that effected the action;
ii. Have the date and identification "stamp" displayed on any on-line inquiry;
iii. Have the ability to trace data from the final place of recording back to its source data file and/or document;
iv. Be supported by listings, transaction reports, update reports, transaction logs, or error logs; and
v. Facilitate batch audits as well as auditing of individual records.

(5) The Contractor's Systems shall have inherent functionality that prevents the alteration of finalized records.

(6) The Contractor shall provide for the physical safeguarding of its data processing facilities and the systems and information housed therein. The Contractor shall provide the State with access to data facilities upon request. The physical security provisions shall be in effect for the life of this Contract.

(7) The Contractor shall restrict perimeter access to equipment sites, processing areas, and storage areas through a card key or other comparable system, as well as provide accountability control to record access attempts, including attempts of unauthorized access.

(8) The Contractor shall include physical security features designed to safeguard processor site(s) through required provision of fire retardant capabilities, as well as smoke and electrical alarms, monitored by security personnel.

(9) The Contractor shall put in place procedures, measures and technical security to prohibit unauthorized access to the regions of the data communications network inside of the Contractor's span of control.

(10) Unless the State prior-approves in writing the Contractor's use of alternate mitigating controls, the Contractor shall use Federal Information Processing Standard (FIPS) 140-2 compliant technologies to encrypt all PHI in motion or rest, including back-up media.

(11) The Contractor shall commission a security risk assessment at least annually and communicate the results to the State as part of an information security plan provided prior to the start date of operations. The risk assessment shall also be made available to appropriate state and federal agencies if requested. At a minimum the assessment shall contain the following: identification of loss risk events/ vulnerabilities; analysis of the probability of loss risk and frequency of events; estimation of the impact of said events; identification and discussion of

options for mitigating identified risks; cost-benefit analysis of options; recommended options and action plan for their implementation. The assessment shall be conducted in accordance with the following: requirements for administrative, physical, and technical safeguards to protect health data (45 CFR §164.304 - 318); rules for conducting risk analysis and risk management activities (45 CFR §164.308); requirements for security awareness training (45 CFR §164.308(a)(5)); requirements for entities to have security incident identification, response, mitigation and documentation procedures (45 CFR §164.308(a)(6)).

A.12. Data Integration and Technical Requirements.

a. The Contractor shall maintain an electronic data interface with the State's Edison system, for the purpose of processing State member enrollment information. The Contractor shall be responsible for providing and installing the hardware and software necessary. When the Contractor requires the exchange of Protected Health Information (PHI) with the State of Tennessee, the State requires the use of second level authentication. This is accomplished using the State's standard software product, which supports Public Key Infrastructure (PKI). The Contractor shall design a solution, in coordination with the State, to connect to the State's Secure File Transfer Protocol (SFTP) server using a combination of the password and the authentication certificate. The initial sign-on and transmission testing will use a password. Certificate testing may also be performed during the test cycle. Subsequent production sign-on will be done using the authentication certificate. The Contractor will then download the file and decrypt the file in its secure environment. The State of Tennessee uses public key encryption with Advanced Encryption Standard (AES) to encrypt PHI. If the State adopts a different or additional encryption standard or tool in the future, the Contractor shall, with adequate notice, cooperate with the State to maintain the security of protected information according to all applicable State and Federal standards.

b. Notwithstanding the requirement to maintain enrollment data, the Contractor shall not perform changes to enrollment data without the State's approval. This prohibition shall include, but not necessarily be limited to: initiation, termination, and/or changes of coverage.

c. At least sixty (60) days prior to the go-live date, the Contractor shall complete testing of the transmission, receipt, and loading of the enrollment file from the State.

d. At least thirty (30) days prior to the go-live date, the Contractor shall load, test, verify and make available online for use the State's enrollment information. The Contractor shall certify, in writing, to the State that the Contractor understands and can fully accept and utilize the enrollment files as provided by the State.

e. The Contractor shall maintain, in its systems, in-force enrollment records of all individuals covered by the Plan.

(1) Weekly Enrollment Update: To ensure that the State's enrollment records remain accurate and complete, the Contractor shall, unless otherwise directed by the State, retrieve, via secure medium weekly enrollment files from the State, in the State's Edison 834 file format (refer to RFP # 31786 – 00111, Appendix 7.3.) for the current file format, which may be revised, for participants who are maintained in the State's Edison System (files will include full population records for all members and will be in the format of ANSI ASC X12.84, Benefit Enrollment and Maintenance (834), version 004010X095A1, with several fields customized by the State).

(2) The Contractor shall complete and submit to the State a Weekly File Transmission Statistics Report. The Contractor shall submit this report via email to designated State staff. (See Contract Attachment C.11.).

(3) The Contractor and/or its subcontractors, as applicable, shall electronically process one hundred percent (100%) of electronically transmitted enrollment updates within three (3) business days of receipt of the weekly file.

(4) The Contractor and/or its subcontractors, as applicable, shall resolve all discrepancies identified by the processing of the enrollment file within five (5) business days of receipt of the file from the State. The State and the Contractor shall work to develop a process for responding to invalid or non-processed records.

(5) State Enrollment Data Match: Upon request by the State, not to exceed four (4) times annually, the Contractor shall submit to the State, in a secure manner, its full file of State members, in a format provided by the State, by which the State may conduct a data match against the State's Edison database. The purpose of this data match will be to determine the extent to which the Contractor is maintaining its database of State members. The State will communicate results of this match to the Contractor, including any Contractor requirements, and associated timeframes, for resolving the discrepancies identified by the data match.

f. The Contractor shall reconcile, within ten (10) business days of receipt, payment information provided by the State. Upon identification of any discrepancies, the Contractor shall immediately advise the State.

g. The Contractor's systems shall conform to future federal and state specific standards for data exchange by the standard's effective date.

h. The Contractor shall partner with the State and member agencies in the management of current and future data exchange formats and methods and in the development and implementation planning of future data exchange methods not specific to HIPAA or other federal effort.

i. The Contractor's system(s) shall possess mailing address standardization functionality in accordance with U.S. Postal Service conventions.

j. Within sixty (60) calendar days of notice of termination of this Contract, the Contractor shall transfer to the State all required data and records necessary to administer the plan, subject to State and Federal confidentiality requirements. The transfer shall be made electronically via secure medium, in a file format to be determined based on the mutual agreement between the State and the Contractor.

A.13. Privacy & Confidentiality.

a. The Contractor shall develop, adopt, and implement standards, which are, at a minimum, compliant with the HIPAA statute and the HIPAA privacy and security rules in 45 CFR Part 164, to safeguard the privacy and confidentiality of all Protected Health Information (PHI) about members. For example, the Contractor shall ensure that it does not have completed forms containing PHI sitting in public view, left in unsecured boxes or files, or left unattended in any off-site location (*e.g.*, in an automobile). The Contractor's procedures shall include but not be limited to safeguarding the identity of members as members of the Plan and preventing the unauthorized disclosure of PHI. The Contractor shall comply with the HIPAA amendments in the American Recovery and Reinvestment

Act, Public Law 111-5, the HITECH Act, and any implementing regulations when they become effective.

b. The Contractor shall not use or further disclose protected health information (PHI) other than as permitted or required by HIPAA and the Business Associate Agreement; or as required by law. Use of PHI for payment, treatment, or health care operations may include disclosure only as permitted by HIPAA, including when such information is strictly necessary to resolve the issue or concern under discussion and the person has adequate permission or legal authority to review such information. In the absence of exigent circumstances, the Contractor shall not disclose any member's PHI to another business associate for pecuniary gain unless the State specifically prior authorizes such disclosure in writing.

c. The Contractor shall use appropriate safeguards to prevent the unauthorized use or disclosure of the PHI. The Contractor shall report to the State any unauthorized use or disclosure of the PHI within five (5) business days any Security Incident of which it becomes aware.

d. The Contractor shall mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of PHI by the Contractor in violation of the requirements of the Federal privacy rule.

e. The Contractor shall provide access to PHI in a "designated record set" in order to meet the requirements under 45 CFR §164.524.

f. The Contractor shall make any amendment(s) to PHI in a "designated record set" pursuant to 45 CFR §164.526.

g. The Contractor shall document disclosures of PHI and information related to such disclosures as would be required to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528.

h. The Contractor shall (i) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits, (ii) report to the State any security incident (within the meaning of 45 CFR § 164.304) of which the Contractor becomes aware, and (iii) ensure that any agent of the Contractor, including any subcontractor, agrees to the same restrictions and conditions that apply to the Contractor with respect to such information.

i. The Contractor shall not sell member information unless it is aggregated blinded data, which is not identifiable on a member basis. The Contractor shall not use member identified or non-aggregated information for advertising, marketing, promotion or any activity intended to influence sales or market share of any product or service.

j. The Contractor shall comply with all privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health (HITECH) Act. Unless the State prior approves in writing the Contractor's use of alternate mitigating controls, the Contractor shall use Federal Information Processing Standards (FIPS) 140-2 compliant technologies to encrypt all PHI in motion or rest, including back-up media.

k. The Contractor shall have full financial responsibility for any penalties, fines, or other payments imposed or required as a result of the Contractor's non-compliance with or violation of HIPAA or HITECH requirements, and the Contractor shall indemnify the State with respect to any such penalties, fines, or payments.

l. The Contractor shall assure that all Contractor staff is trained in all HIPAA requirements, as applicable.

A.14. Reporting

a. The Contractor shall submit reports in a mutually agreeable electronic format (*e.g.*, Microsoft Word or Microsoft Excel), of the type, at the frequency, and containing the detail described in Contract Attachment C. Reporting shall continue for the twelve (12) month period following termination of this Contract.

b. The Contractor shall ensure that reports submitted by the Contractor to the State shall meet the following standards:

(1) The Contractor shall verify the accuracy and completeness of data and other information in reports submitted.

(2) The Contractor shall ensure delivery of reports or other required data on or before scheduled due dates.

(3) Reports or other required data shall conform to the State's defined written standards.

(4) All required information shall be fully disclosed in a manner that is responsive and with no material omission.

(5) Each report shall be accompanied by a brief narrative that describes the content of the report and highlights salient findings of the report.

(6) As applicable, the Contractor shall analyze the reports for any early patterns of change, identified trend, or outlier (catastrophic case) and shall submit a written summary with the report including such analysis and interpretation of findings. At a minimum, such analysis shall include the identification of change(s), the potential reasons for change(s), and the proposed action(s).

(7) The Contractor shall notify the State regarding any significant changes in its ability to collect information relative to required data or reports.

(8) The submission of late, inaccurate or otherwise incomplete reports shall be considered failure to report within the specified timeframe (see Contract Attachment B.31.).

(9) State requirements regarding reports, report content and frequency of submission may change during the term of the Contract. The Contractor shall have at least forty-five (45) days to comply with changes specified in writing by the State.

A.15. Due Dates for Project Deliverables/Milestones.

Unless otherwise specified in writing by the State, the Contractor shall adhere to the following schedule for the deliverables and milestones for which it is responsible under this Contract:

Deliverables/Milestones:	Contract Reference(s):	Deliverable Due Dates:
Implementation		
1. Call center and other information	A.2.a	December 1, 2011

Deliverables/Milestones:	Contract Reference(s):	Deliverable Due Dates:
systems are fully operational		
2. Go-live	A.2.c	January 1, 2012
3. Kick-off meeting for key Contractor staff	A.2.d	Within 30 days after Contract start date
4. Implementation plan	A.2.e	no later than 30 days after Contract start date
5. State readiness review	A.2.f	November 1, 2011, or before
6. Implementation Performance Assessment	A.2.j	February 15, 2012, or before
Claims Processing, Payment and Reconciliation		
7. Quarterly COB Report	A.3.l and Attachment C	quarterly after go-live
8. Quarterly Paid Claims Analysis Reports	A.3.p and Attachment C.14.	quarterly after go-live
9. Monthly Reconciliation Report	A.3.p and Attachment C.3.	monthly after go-live
10. Monthly Recoveries Report	A.3.p and Attachment C.4.	monthly after go-live
11. Description of fraud and abuse program	A.3.u.	November 1, 2011, or before
12. Quarterly Fraud and Abuse Report	A.3.u.5. and Attachment C.5.	quarterly after go-live
Member Services		
13. Description of member appeals process and procedures and sample determination letters	A.5.g.(2)	December 1, 2011, or before
14. Quarterly Appeals Reports	A.5.g (3) and Attachment C.6.	quarterly after go-live
15. Satisfaction Survey Report	A.5.h and Attachment C.7.	annually by agreed upon date
Call Center		
16. Call center open	A.6.a	December 1, 2011
17. Call center statistics	A.6.e-g, Attachment B	weekly starting December 1, 2011, and monthly starting March 1, 2012
Member Communications/Materials		
18. I.D. cards	A.7.d.(5).	December 10, 2011, or before, and then, within 10 days of receipt of enrollment information and 14 days

Deliverables/Milestones:	Contract Reference(s):	Deliverable Due Dates:
		prior to each benefit year
19. Member handbook	A.7.e.(3)	December 10, 2011, or before, and then, at least 14 days prior to each benefit year
20. Initial welcome packets	A.7.a	December 12, 2011
21. Ongoing welcome packets	A.7.d.(5)	within 10 days of receipt of enrollment information
Web Site		
22. Web site go-live	A.8.b	December 1, 2011, or before
23. State review of web site	A.8.d	November 1, 2011, or before
Administrative Services		
24. Quarterly meetings with the State	A.9.f	quarterly after go-live
25. Monthly Returned Mail Report	A.9.k. and Attachment C.8.	monthly after go-live
Staffing		
26. Account Team Satisfaction Survey	A.10.f	annually (each January)
27. Account Team Satisfaction Survey Report	A.10.f and Attachment C.9.	annually
Information Systems		
28. Disaster Recovery (DR) Results Report	A.11.i(4) and (5) and Attachment C	December 1, 2011 and then annually in January
Data Integration & Technical Requirements		
29. Completion of enrollment file testing	A.12.c	November 1, 2011, or before
30. Edison System Interface/Enrollment file acceptance	A.12.d	December 1, 2011, or before
31. Weekly enrollment update	A.12.e.(1)	weekly after December 1, 2011
32. Weekly File Transmission Statistics Report	A.12.e.(2) and Attachment C.11.	within 6 business days of receipt of file
33. State enrollment data match	A.12.e.(5)	up to four (4) times annually, as requested by the State
34. Transmission of data and records to State	A.12.j.	within 60 days of notice of termination
Reporting		
35. Reports specified in Contract Attachment C	A.14.a and Contract	as specified in Contract Attachment C

Deliverables/Milestones:	Contract Reference(s):	Deliverable Due Dates:
	Attachment C	

A.16. Definitions.

a. Abandoned Call: A call in which the caller elects an option and is either not permitted access to that option or elects to disconnect from the system.

b. Affiliate: A business organization or entity that, directly or indirectly, is owned or controlled by the Contractor, or owns or controls the Contractor, or is under common ownership or control with the Contractor.

c. Agency Benefits Coordinator (ABC): An Agency Benefits Coordinator serves as the liaison between the Public Sector Plans and members.

d. Average Seconds to Answer (ASA): The mean time between (a) the moment at which a caller to the Contractor's call center first hears an introductory greeting and enters the queue and (b) the time at which a member services representative at the call center answers the call. For this definition, the term "answer" shall mean begin an uninterrupted dialogue with the caller. If a member services representative asks the caller to hold during the first sixty (60) seconds of the dialogue, the Contractor shall not consider the call to be "answered" for purposes of this definition until the member services representative returns to the caller and begins an uninterrupted dialogue. If a caller requested a returned call using the dial-back feature described in Contract Section A.6.o. the ASA shall be defined as the time between (a) the moment at which a caller to the Contractor's call center first hears an introductory greeting and enters the queue and (b) the time of the returned call (regardless of whether the member answered).

e. Benefits Administration: The division of the Tennessee Department of Finance & Administration that administers the Medicare Supplement Plan.

f. Blocked Call: A call that cannot be connected immediately because no circuit is available at the time the call arrives or the telephone system is programmed to block calls from entering the queue when the queue backs up behind a defined threshold.

g. Bobby-approved: Standards for website accessibility in keeping with Americans with Disabilities Act of 1990, Public Law 101-336, (as amended) and implementing regulations and other national standardization criteria. For more information refer to: http://www.accessible.org/bobby-approved.html.

h. Business Days: Traditional workdays, including Monday, Tuesday, Wednesday, Thursday, and Friday from 7:00 a.m. to 5:00 p.m., Central Time. State Government Holidays are excluded.

i. Calendar Days: All seven days of the week.

j. CFR: Code of Federal Regulations.

k. Co-insurance: That percentage of the charge for a medical service provided to a member that is the responsibility of the member.

l. Co-payment: That portion of the charge (flat dollar amount) for each medical service provided to a member that is the responsibility of the member.

m. Day(s): Calendar day(s) unless otherwise specified in the Contract.

n. Deductible: The amount specified in the Plan Document that must be paid by each member prior to payment of any covered benefits by the Contractor.

o. Denied Claim: A claim that is not paid for reasons such as eligibility and coverage rules.

p. Head of Contract: Eligible retiree who is enrolled in the Plan.

q. HIPAA: Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and implementing regulations.

r. HITECH: Health Information Technology for Economic and Clinical Health Act Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5 (Feb. 17, 2009) and implementing regulations.

s. Information System(s) (System(s)): A combination of computing and telecommunications hardware and software that is used in: (a) the capture, storage, manipulation, movement, control, display, interchange and/or transmission of information, *i.e.*, structured data (which may include digitized audio and video) and documents as well as non-digitized audio and video; and/or (b) the processing of information and non-digitized audio and video for the purposes of enabling and/or facilitating a business process or related transaction.

t. Member: Any person who is enrolled in the benefit options of the Plan administered by the Contractor in accordance with the Plan document.

u. National Provider Identification Number (NPI): A 10-position, intelligence-free numeric identifier (10-digit number). The numbers do not carry other information about health care providers, such as the state in which they live or their medical specialty.

v. Paid Claim: A claim that meets all coverage criteria of the Plan and is paid by the Contractor and submitted to the State for reimbursement.

w. Out-of-Pocket Expenses: The sum of any deductibles, co-payments or co-insurance required or incurred for any covered benefit.

x. Plan Document: The "Plan Document and Summary Plan Description for the Tennessee Plan (Medicare Supplemental Benefit Plan)", which is located on the State's website at www.tn.gov/finance/ins and which govern coverage of services and eligibility under this plan.

y. PMPM: Per Member per month.

z. Protected Health Information (PHI): As defined in the HIPAA Privacy Rule, 45 CFR § 160.103.

aa. RFP: Request for Proposals.

bb. Seconds to Answer: The total time between (a) the moment at which a caller to the Contractor's call center first hears an introductory greeting and enters the queue and (b) the time at which a member services representative at the call center answers the call. For this definition, the term "answer" shall mean begin an uninterrupted dialogue with the caller. If a member services representative asks the caller to hold during the first sixty (60) seconds of the dialogue, the Contractor shall not consider the call to be "answered" for purposes of this definition until the member services representative returns to the caller and begins an uninterrupted dialogue.

cc. Spouse: Legally married spouse, as of date of marriage as defined in Chapter 3 of Title 36, *Tennessee Code Annotated.*

dd. State: The State of Tennessee.

ee. State Insurance Committee: Policy making body for the State, Local Government, and Local Education plans established under *Tennessee Code Annotated* 8-27-101.

ff. State Government Holidays: Days on which official holidays and commemorations as defined in *Tennessee Code Annotated* 15-1-101 *et seq.* are observed.

gg. Subcontract: An agreement entered into by the Contractor with any other organization or person who agrees to perform any administrative function or service for the Contractor specifically related to securing or fulfilling the Contractor's obligations to the State under the terms of this Contract, when the intent of such an agreement is to delegate the responsibility for any major service or group of services required by this Contract.

hh. Subcontractor: Any organization or person who provides any function or service for the Contractor specifically related to securing or fulfilling the Contractor's obligations to the State under the terms of this Contract.

ii. Telecommunication Device for the Deaf (TDD): Special telephone devices with keyboard attachments for use by individuals with hearing impairments who are unable to use conventional phones. Also known as TTY.

B CONTRACT PERIOD:

This Contract shall be effective for the period beginning on September 15, 2011 and ending on December 31, 2016. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C PAYMENT TERMS AND CONDITIONS:

C.1 Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Ten Million Seven Hundred Eight Thousand Eight Hundred Seventy Five Dollars ($10,708,875.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and 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 Per Member Per Month (PMPM) 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 for said units, milestones, or increments of service based upon the following payment rates:

PMPM Rates by Plan Type and Calendar	PMPM 2012	PMPM 2013	PMPM 2014	PMPM 2015	PMPM 2016
State Plan	$ 6.25 PMPM	$ 6.25 PMPM	$ 6.25 PMPM	$ 6.25 PMPM	$ 6.25 PMPM

The State shall compensate the Contractor monthly for all services outlined in this Contract, at the PMPM rates indicated, based upon the number of members certified by the State to the Contractor. The Contractor shall be paid based on enrollment counts calculated by the State's Enterprise Resource Planning (ERP) solution, otherwise known as Edison.

c. Claims Payments. The State will fund the Contractor for the total issue amount of the claims payments, net of cancellations, voids or other payment credit adjustments. Unless otherwise mutually agreed in writing by the parties, the Contractor shall notify the State of the funding amount required and the State will fund the Contractor weekly, provided that the Contractor's payment process includes timely settlement of ACH transactions. As the parties shall mutually agree in writing, the transfer of said funding to the Contractor for claims payments shall be effected weekly by either ACH debit from the Contractor to a designated State bank account; or wire transfer of funds to the Contractor's designated bank account.

(1) The Contractor acknowledges and agrees that since the State intends to fund payments at the time of issuance, the State will not maintain a separate bank account or an escrow account with the Contractor or to otherwise pre-fund an account.

(2) The State reserves the right to review documentation either before or after the transfer of funding for claims payments and, as the State may deem appropriate, to adjust the funding amount to be transferred or withhold the amount of any overpaid funding from another funding transfer.

(3) The Contractor acknowledges that funding for Claims Payments shall be adjusted in full consideration of the Contract Scope of Service requirement that the Contractor shall identify and pursue claims that may be subject to coordination of benefits (COB); see Contract Section A.3.l.

d. If member materials containing an error were approved by the State in writing and the error was detected after the materials were mailed, pursuant to Contract Section C.3.e., the State will reimburse the Contractor the production and postage cost of mailing the corrected version.

e. The State shall reimburse the Contractor for the following, selected actual costs in the performance of this Contract upon the Contractor providing documentation of actual costs incurred.

(1) Postage. In a situation where unanticipated plan modifications would require notification to plan members that is not detailed in the terms and conditions of this Contract, the State may request the Contractor to produce and mail such

notification to plan members. In such extreme situations, The State shall reimburse the Contractor only for the actual cost of postage for mailing materials produced at the specific direction of the State and authorized in writing by the State.

(2) Printing / Production. The State shall reimburse the Contractor an amount equal to the actual net cost of document printing / production or producing hard copies of materials as required and authorized in writing by the State and only in extreme situations as described in Contract Section C.3.e.(1).

Notwithstanding the foregoing, the State retains the right to authorize the Contractor to deliver a product to be printed, approve and accept the product but not use the Contractor to print the material. In those situations, the State shall have the discretion to use other printing and production services at its disposal.

f. The State authorizes the Contractor to retain monies received through subrogation, on a per patient basis, of no more than five percent (5%) of the gross recoveries received, provided that the Contractor shall comply with the State's requirements regarding subrogation, as specified in Contract Section A.9. and Contract Attachment D. However, if the Contractor subcontracts the subrogation function to a subcontractor that is not an organizational unit, affiliate, subsidiary, or parent company, then the Contractor may instead request reimbursement from the State for seventy-five percent (75%) of the subcontracted costs incurred for subrogation activities for the public sector plans. Such reimbursement shall be in lieu of rather than in addition to the five percent (5%) retention allowance described above.

C.4 Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5 Monthly Payment to the Contractor

The State will provide the Contractor the enrollment counts for the State, Local Education, and Local Government Plans on a monthly basis. The enrollment figures for the following month's payment shall be the enrollment count on the last day of the prior month and shall be calculated through the State's Enterprise Resource Planning (ERP) solution, otherwise known as Edison. The first payment under this contract to the vendor shall be made during the month of January 2012 based on enrollment counts as of December 31, 2011 for the January 2012 month of coverage.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment 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 Human Resources, 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 Human Resources, 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 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 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 *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, 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 Contract Attachment A, 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 *Tennessee Code Annotated*, Section 12-4-124, *et seq.* 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 ventures, 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:

Marlene D. Alvarez, Procurement & Contracting Manager
Tennessee Department of Finance & Administration
Benefits Administration Division
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, Suite 2600
Nashville, Tennessee 37243
Telephone: 615.253.8358
Fax: 615.253.8556
Marlene.alvarez@tn.gov

The Contractor:

Robert W. Pomfrey, President and CEO
POMCO, Inc.
2425 James Street
Syracuse, New York 13206
rpomfrey@pomcogroup.com
Telephone: 315.432.9171 ext. 4223
Fax: 315.433.5454

with a copy to:

Donald Doerr, Esq.
POMCO, Inc.
2425 James Street
Syracuse, New York 13206
ddoerr@pomcogroup.com
Telephone: 315.432.9171 ext. 4413
Fax: 315.703.4884

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. 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.5. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.

a. The Contractor shall maintain, at minimum, the following insurance coverage:

(1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars ($1,000,000) per occurrence for employers' liability whichever is greater.

(2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate.

(3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars ($1,000,000) per occurrence.

(4) Professional Malpractice Liability with a limit of not less than one million dollars ($1,000,000) per claim and two million dollars ($2,000,000) aggregate.

b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and

Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach 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 Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.

b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.

c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

d. The Contractor shall reimburse the State and hold it harmless for all claims, liabilities, costs, and damages caused by violations of HIPAA and its implementing regulations by the Contractor. This includes, but is not limited to, any civil penalties assessed against the State and the costs of providing notice under 45 CFR 164.400 et seq and Tennessee Code Annotated Section 47-18-2107. Contractor will cooperate with the State in providing notice of the violation as required by applicable law.

E.8. 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.9. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or contracted services. Such procurements shall be made on a competitive basis, where practical. The Contractor shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Contract. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification, approved by the Commissioner of Finance and Administration, for such decision and non-competitive procurement.

E.10. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.11. 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.12. 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.13. 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 # 31786 -00111 (Attachment 6.2, Section B.15.) and resulting in this Contract.

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

E.14. Limitation of Liability. The parties agree that the Contractor's liability under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this section limit the liability of the Contractor for intentional torts, criminal acts, or fraudulent conduct.

E.15. 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.16. 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 as detailed in Contract Attachment B. The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for 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 above referenced, Contract Attachment B 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.

The State may conduct "secret shopper" and other monitoring activities during the operation of this Contract. The State may also assess liquidated damages for breaches of contract that it discovers during these and other activities as detailed in Contract Attachment B.

(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. The Notice of Partial Default and termination of services associated with the Breach shall advise the Contractor whether the

State will provide an opportunity to cure. 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.

The Termination Notice must (1) specify in reasonable detail the nature of the Breach; (2) provide Contractor with an opportunity to cure, which shall be no less than 30 days from the date of the Termination Notice; (3) shall specify the effective date of termination in the event Contractor fails to correct the Breach. The Contractor shall present the State with a written request detailing the efforts it will take to resolve the problem. 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.

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.17. Overpayments. The Contractor shall have responsibility for overpayments to providers resulting from the negligent, reckless, or willful acts or omissions of the Contractor, its officers, agents or employees, regardless of whether or not such overpayments can be recovered by the Contractor. The Contractor shall repay the State the amount of any such overpayment within thirty (30) calendar days of discovery of the overpayment. Overpayments due to provider fraud or fraud of any other type, other than fraud by employees or agents of the Contractor, will not be considered overpayments for purposes of this Section. The Contractor shall assist in identifying fraud and make reasonable efforts, in consultation with the State, to recover overpayments due to fraud.

E.18. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed pursuant to this contract unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).

IN WITNESS WHEREOF,

POMCO, INC.:

Robert W. Pomfrey 9/14/2011

CONTRACTOR SIGNATURE **DATE**

Robert W. Pomfrey, President & CEO

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

STATE OF TENNESSEE,
STATE INSURANCE COMMITTEE:

Mark A. Emkes 9-15-11

MARK A. EMKES, CHAIRMAN **DATE**

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	**Edison # 28614**
CONTRACTOR LEGAL ENTITY NAME:	**POMCO, Inc.**
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	**15-0581348**

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.

Robert W. Pomfrey 9/14/2011

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.

Robert W. Pomfrey, President + CEO

PRINTED NAME AND TITLE OF SIGNATORY

September 14, 2011

DATE OF ATTESTATION

LIQUIDATED DAMAGES

The Contractor shall pay to the State the indicated total dollar assessment upon notification by the State that an amount is due, through the term of this Contract.

As prior approved by the State in writing performance guarantees shall be measured specific to the Plan or on the Contractor's book of business.

1. Implementation Plan	
Guarantee	The Contractor shall provide a project implementation plan that meets the requirements of Contract Section A.2.e. to the State no later than thirty (30) calendar days after the contract start date.
Assessment	One thousand dollars ($1,000) for each day beyond the deadline that the plan is not provided to the State. Twenty-five thousand dollar ($25,000) maximum.
Measurement	Measured, reported, and reconciled no later than three (3) months after the go-live date.
2. Operational Readiness	
Guarantee	The Contractor shall resolve all findings identified by the State during its operational readiness review, as required in Contract Section A.2.f., prior to the go-live date.
Assessment	One thousand dollars ($1,000) per finding if the standard is not met. Twenty-five thousand dollar ($25,000) maximum.
Measurement	Measured, reported, and reconciled no later than three (3) months after the go-live date.
3. Edison System Interface	
Guarantee	Contractor's interface with the Edison System shall be fully operational by the date specified in Contract Section A.15.30.
Assessment	One thousand dollars ($1,000) per day, for every day beyond the deadline that the interface is not fully operational. Twenty-five thousand dollar ($25,000) maximum.
Measurement	Measured and reported beginning the day after the date specified in Contract Section A.15 and continuing – as necessary – until the interface is fully operational. (Reconciled upon final recognition of operational status.)
4. Call Center and Other Systems Operational	
Guarantee	The Contractor's call center and other systems shall be fully operational no later than the date specified in Contract Section A.15.16.
Assessment	One thousand dollars ($1,000) for every day beyond the deadline that the call center or other system is not operational. Twenty-five thousand dollar ($25,000) maximum.
Measurement	Measured, reported, and reconciled no later than three (3) months after the go-live date.
5. Program Go-Live Date	
Guarantee	All medical claims administrative services for the Plan shall take effect (*i.e.*, "go-live") and be fully operational on the go-live date specified in Contract Section A.15.2.
Assessment	Five thousand dollars ($5,000) for every day beyond the deadline that medical claims administrative services are not fully operational. Fifty thousand dollar

	($50,000) maximum.
Measurement	Measured, reported, and reconciled no later than three (3) months after the go-live date.
6. **Plan Design**	
Guarantee	The Contractor shall correctly adjudicate claims in accordance with the plan design as required in Contract Sections A.2 and A.3.
Assessment	One thousand dollars ($1,000) per occurrence (defined as an individual claim) if the standard is not met plus the actual costs incurred of the incorrectly-processed claim. Fifty-thousand dollar ($50,000) annual maximum (which excludes the actual costs incurred for incorrectly-processed claims, which shall not be subject to a cap).
Measurement	Measured, reported, and reconciled after each occurrence.
7. **Maximum Seconds of Answer**	
Guarantee	The Contractor's call center shall answer, by a person, one hundred percent (100%) of calls within five (5) minutes (300 seconds), as required in Contract Section A.6.e.(1).
Assessment	One hundred dollars ($100) for each second above the threshold during any single day Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	The Contractor shall calculate the number of instances during each day during which a caller's time-to-answer exceeds this threshold. Based on Contractor's internal telephone support system reports. Measured and reported on a weekly basis during the thirty (30) days prior to the go-live date though sixty (60) days after the go-live date; then on a monthly basis throughout the remaining term of the contract. Please note that the reports shall include rates for each day as well as averages for days of week, each week, and each month. Reconciled annually on a calendar year basis.
8. **Website**	
Guarantee	The Contractor's website for the Plan shall be available on the Internet and fully operational, with the exception of member data/Protected Health Information on or before the date specified in Contract Section A.15.22., as required in Contract Section A.8.b.
Assessment	One thousand dollars ($1,000) per day that the standard is not met. Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	Measured, reported, and reconciled no later than three (3) months after the go-live date.
9. **Written Member Inquiries**	
Guarantee	As required in Contract Section A.5.e., the Contractor shall respond to ninety-five percent (95%) of written inquiries (mail and e-mail) from members within five (5) business days and one hundred percent (100%) within ten (10) business days.
Assessment	One thousand dollars ($1,000) for each full percentage under each standard.
Measurement	Measured, reported and reconciled quarterly on a calendar year basis.
10. **Member Communications**	
Guarantee	All materials produced by the Contractor shall be provided to the State for review and approval at least fourteen (14) days prior to planned printing, assembly, and/or distribution, as required in Contract Section A.7.a.

Assessment	One thousand dollars ($1,000) for each instance that the standard is not met.
Measurement	The State will notify the Contractor of any such occurrence. Any amounts due for the Contractor's noncompliance with this pre-approval provision shall be paid annually on a calendar year basis upon request by the State.
11. Reading Level	
Guarantee	The Contractor shall provide to the State a draft of all member communications with both an accurate Flesch-Kincaid reading level analysis that indicates that the materials are at or lower than the 6.0 reading level and a reading level at or below 6.0, as required in Contract Section A.7.j. Draft communications should be provided to the State no later than ten (10) business days prior to anticipated printing.
Assessment	One thousand dollars ($1,000) for each occurrence in which the standard is not met. An occurrence shall be defined as the initial submission to the State of the draft member communication for approval.
Measurement	Measured, reported, and reconciled after each occurrence.
12. Initial Welcome Packet Distribution	
Guarantee	Ninety-seven percent (97%) of welcome packets, containing ID cards and member handbooks shall be produced and mailed no later than twenty-one (21) days prior to the go-live date, as required in Contract Section A.7.d.(5).
Assessment	Ten thousand dollars ($10,000) if the standard is not met.
Measurement	Measured, reported, and reconciled no later than three months after the go-live date.
13. Distribution of Ongoing Welcome Packet	
Guarantee	Ninety-seven percent (97%) of welcome packets shall be produced and mailed within ten (10) days of receipt of complete and accurate eligibility information, as required in Contract Section A.7.
Assessment	Ten thousand dollars ($10,000) per year in which the standard is not met.
Measurement	Measured, reported, and reconciled annually on a calendar year basis.
14. Member Satisfaction Survey	
Guarantee	The level of overall customer satisfaction, as measured annually by a State approved Member Satisfaction survey(s) required by Contract Section A.5.h., shall be equal to or greater than eighty-five percent (85%) in the first year of the Contract, and shall be equal to or greater than ninety percent (90%) in all subsequent year(s) within the contract term.
Assessment	Five thousand dollars ($5,000) for each year that the standard is not met.
Measurement	Measured, reported, and reconciled annually on a calendar year basis.
15. Appeal Decisions	
Guarantee	Ninety-five percent (95%) of post-service appeals within sixty (60) days, as required in Contract Section A.5.g.(10).
Assessment	Five thousand dollars ($5,000) for each instance that the standard is not met. Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	Measured, reported, and reconciled quarterly on a calendar year basis.
16. State Inquiries	

Guarantee	The Contractor shall respond to all non-urgent inquiries in writing from the State within one (1) week after receipt of said inquiry, as required in Contract Section A.9.d.
Assessment	Five hundred dollars ($500) for each instance that the standard is not met. Ten thousand dollar ($10,000) annual maximum.
Measurement	Measured, reported, and reconciled after each occurrence.
17. **Plan Changes**	
Guarantee	The Contractor shall correctly implement any plan design changes within sixty (60) days of written notification from the State as required in Contract Section A.3.b.
Assessment	Five thousand dollars ($5,000) per day if the standard is not met. One hundred thousand dollar ($100,000) annual maximum.
Measurement	Measured, reported, and reconciled after each occurrence.
18. **Data Review**	
Guarantee	All plan design implementation data, associated with the program setup, and identified in the implementation plan, as required in Contract Section A.2. shall be delivered to the State for review and approval prior to the go-live date.
Assessment	Twenty thousand dollars ($20,000) if the standard is not met.
Measurement	Measured, reported, and reconciled no later than three (3) months after the go-live date.
19. **Enrollment Set-Up**	
Guarantee	As required in Contract Section A.12.d., enrollment information shall be loaded, tested, verified and available online for use no later than thirty (30) days prior to the go-live date specified in Contract Section A.15.30.
Assessment	One thousand dollars ($1,000) for each day beyond the date specified in Contract Section A.15. Twenty-five thousand dollar ($25,000) maximum.
Measurement	Measured, reported, and reconciled no later than three (3) months after the go-live date.
20. **Enrollment Posting**	
Guarantee	The Contractor and/or its subcontractors, as applicable, shall process one hundred percent (100%) of electronically transmitted enrollment updates within three (3) business days of receipt of the weekly file as specified in Contract Section A.12.e.(1).
Assessment	Five hundred dollars ($500) per day for the first (1st) and second (2nd) business days out of compliance; one thousand dollars ($1,000) per business day thereafter. Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	Measured and reported weekly; reconciled annually on a calendar year basis.
21. **Enrollment Discrepancies**	
Guarantee	Resolve all discrepancies (any difference of values between the State's database and the Contractor's database) identified by the processing of the enrollment file within three (3) business days of receipt of the file from the State, as required in Contract Section A.12.e.(3).
Assessment	Five hundred dollars ($500) per day for the first (1st) and second (2nd) business days out of compliance; one thousand dollars ($1,000) per business day

	thereafter. Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	Measured and reported on a calendar quarter basis; reconciled annually on a calendar year basis.
22. **Initial Data Loading**	
Guarantee	All data required for implementation other than member enrollment data, as described in Contract Section A.2.e.(5), (6) and (9), shall be loaded correctly.
Assessment	Twenty-five thousand dollars ($25,000) if the standard is not met.
Measurement	Measured and reconciled at implementation.
23. **Ongoing Data Loading**	
Guarantee	All data required for operations other than member enrollment data shall be loaded correctly, as required in Contract Section A.11.a.(2).
Assessment	Five hundred dollars ($500) per day for the first (1st) and second (2nd) business days out of compliance; one thousand dollars ($1,000) per business day thereafter. Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	Measured and reported on a calendar quarter basis; reconciled annually on a calendar year basis.
24. **Enrollment Data Match**	
Guarantee	The Contractor shall submit an Enrollment Data Match, not to exceed four (4) times annually, in an agreed upon format, within fourteen (14) calendar days of the request from the State, as required in Contract Section A.12.e.(5).
Assessment	Five thousand dollars ($5,000) for each instance that the standard is not met.
Measurement	Measured, reported, and reconciled annually on a calendar year basis, but reported twenty (20) days following the update.
25. **Enrollment Data Match Discrepancies**	
Guarantee	The Contractor shall resolve the discrepancies identified in the Enrollment Data Match, within the specified timeframe(s) as required in Contract Section A.12.
Assessment	Five thousand dollars ($5,000) for each instance that the standard is not met.
Measurement	Measured, reported, and reconciled annually on a calendar year basis.
26. **Claims Payment Accuracy**	
Guarantee	Claims payment accuracy shall be ninety-eight percent (98%) or higher, as required in Contract Section A.3.c.
Assessment	One thousand dollars ($1,000) for each full percentage point below ninety-eight percent (98%) for each contracted quarter.
Measurement	Quarterly internal audit performed by the Contractor on a statistically valid sample. Measured and reported on a calendar quarter basis; reconciled annually on a calendar year basis.

27. **Claims Processing Accuracy**	
Guarantee	Claims processing accuracy shall be ninety-seven percent (97%) or higher, as required in Contract Section A.3.c.
Assessment	One thousand dollars ($1,000) for each full percentage point below ninety-seven percent (97%), for each contracted quarter.
Measurement	Quarterly internal audit performed by the Contractor on a statistically valid sample. Measured and reported on a calendar quarter basis; reconciled annually on a calendar year basis.
28. **Claims Payment Turnaround**	
Guarantee	The Contractor shall reimburse members or providers within fourteen (14) calendar days for ninety percent (90%) of clean claims and within thirty (30) calendar days for ninety-six percent (96%) of all claims.
Assessment	Non-Investigated Claims (clean): One thousand dollars ($1,000) for each full percentage point below the required minimum standard of ninety percent (90%) within fourteen (14) days. All Claims: Five thousand dollars ($5,000) for each full percentage point below the required minimum standard of ninety-six percent (96%) within thirty (30) days.
Measurement	Quarterly internal audit performed by the Contractor on a statistically valid sample. Measured and reported on a calendar quarter basis; reconciled annually on a calendar year basis.
29. **Key Staff Vacancies**	
Guarantee	As required in Contract Section A.10.i., if any key positions become vacant, the Contractor shall employ an adequate replacement within sixty (60) days of the vacancy unless the State grants an exception to this requirement.
Assessment	One thousand dollars ($1,000) for each week beyond sixty (60) days that the vacancy is not filled. Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	Measured, reported, and reconciled annually on a calendar year basis.
30. **Staff Availability**	
Guarantee	As required in Contract Section A.10.d., a member of the Account Team shall be available for consultation with the State during the hours of 8:00 a.m. to 4:30 p.m. Central Time, Monday through Friday.
Assessment	One thousand dollars ($1,000) per occurrence. Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	Measured, reported, and reconciled annually on a calendar year basis.
31. **Reporting**	
Guarantee	The Contractor shall distribute to the State all reports required in Contract Sections A.1. through A.15. and Contract Attachment C within the time frame specified in the Contract.
Assessment	One thousand dollars ($1,000) for each report not delivered to the State within the time frame specified in the Contract. Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	Measured, reported, and reconciled after each occurrence.

32. **Audit Recovery**	
Guarantee	As required in Contract Section A.4.d. and A.4.f., any amount due the State which is not paid by the Contractor within (30) days of the Contractor's receipt of the final audit report shall be deducted by one-sixth of the total amount due from the fees due to the Contractor pursuant to Section C.3. for each month for six months and also subject to a compounding interest penalty of one percent (1%) per month.
Assessment	Compounding interest penalty of one percent (1%) per month for each month payment is not received.
Measurement	Measured, reported, and reconciled after each occurrence.
33. **Authorization of Member Communications**	
Guarantee	The Contactor shall not distribute any materials to member prior to receiving the express, written authorization by the State for the use of such materials, as required in Contract Section A.7.a.
Assessment	One thousand dollars ($1,000) for each instance that the standard is not met (i.e., in which the Contractor distributes unauthorized materials to members). The assessment will be per occurrence or bulk mailing rather than per each mailed or distributed piece of information. Twenty-five thousand dollar ($25,000) annual maximum.
Measurement	The State will notify the Contractor of any such occurrence. Any amounts due for the Contractor's noncompliance with this pre-approval provision shall be paid annually on a calendar year basis upon request by the State.
34. **Privacy and Security of Protected Health Information**	
Guarantee	In accordance with Contract Section E.7., the Contractor shall not violate the Privacy and Security Rules (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191 as amended by Public Law 111-5, Division A, Title XIII (the HITECH Act).
Assessment	Two thousand five hundred dollars ($2,500) for the first violation, five thousand dollars ($5,000) for the second violation and ten thousand dollars ($10,000) for the third and any additional violations with a maximum cap at one hundred thousand dollars ($100,000) annually. The assessment will be imposed on a per incident basis meaning regardless of how many members are impacted and the assessment will be levied on the graduated basis detailed above.
Measurement	Measured, reported, and reconciled per occurrence.

REPORTING REQUIREMENTS

As required by this Contract, the Contractor shall submit reports to the State. Reports shall be submitted electronically, in the format specified by the State, and shall be of the type and at the frequency indicated below. The State reserves the right to modify reporting requirements as deemed necessary to monitor the Plan. The State will provide the Contractor with at least ninety (90) days notice prior to implementation of a report modification.

Unless otherwise directed by the State, the Contractor shall submit reports as follows:

- Weekly reports shall be submitted by Tuesday of the following week;
- Monthly reports shall be submitted by the 15th of the following month;
- Quarterly reports shall be submitted by the 20th of the following month;
- Semi-Annual Reports shall be submitted by the 20th of the following month;
- Annual reports shall be submitted within sixty (60) days after the end of the calendar year.

Unless prior approved in writing by the State, each report shall be specific to the Plan (not the Contractor's book of business).

Reports shall include:

1. **Performance Tracking**, as detailed at Contract Attachment B (each component to be submitted at the frequency indicated in Contract Attachment B), submitted by secure email using the template prior approved in writing by the State, which shall include:
   a. Status report narrative
   b. Detail report on each performance measure
2. **Quarterly Coordination of Benefits (COB) Report**, submitted quarterly by secure email using the template prior approved in writing by the State
3. **Monthly Reconciliation Report**, submitted monthly by secure email in Excel using the template prior approved in writing by the State.
4. **Monthly Recoveries Report**, submitted monthly by secure email in Excel using the template prior approved in writing by the State.
5. **Quarterly Fraud and Abuse Report**, submitted quarterly by secure email using the template prior approved in writing by the State.
6. **Quarterly Appeals Report**, submitted quarterly by secure email in Excel using the template prior approved in writing by the State.
7. **Annual Member Satisfaction Survey Report**, submitted annually by agreed upon date by secure email using the template prior approved in writing by the State.
8. **Monthly Returned Mail Report**, submitted monthly by email using the template prior approved in writing by the State.
9. **Annual Account Team Satisfaction Survey Report**, submitted annually using the template prior approved in writing by the State
10. **Annual DR Results Report**, submitted annually by email using the template prior approved in writing by the State.
11. **Weekly File Transmission Statistics Report**, submitted by secure email within six business days of receipt of the file using the template prior approved in writing by the State.
12. **Monthly Subrogation Reports,** submitted monthly by secure email using the template prior approved in writing by the State.

13. **Quarterly Subrogation Reports**, submitted quarterly by secure email using the template prior approved in writing by the State.

14. **Quarterly Paid Claims Analysis Report,** submitted quarterly by secure email using the template prior approved in writing by the State.

15. **Quarterly Claims Paid Lag Report,** submitted quarterly by secure email using the template prior approved in writing by the State.

16. **Weekly Claims Funding Request,** submitted by secure email using the template prior approved in writing by the State.

17. **Other Reports**, as specified in this Contract and using templates prior approved in writing by the State.

SUBROGATION REQUIREMENTS

As required by Contract Section A.3, the Contractor shall comply with the State's requirements regarding subrogation.

Department: Finance and Administration – Benefits Administration
Subject: Subrogation Guidelines
Purpose: The purpose of this document is to outline the minimum expectations related to subrogation recoveries that will apply to the Contractor for the purpose of adjudicating Medicare Supplement insurance claims on behalf of Plan members. The actions initiated in response to these guidelines are to comply with the laws of the State of Tennessee and relevant court decisions.
Policy: The Medicare Supplement Plan Document – Subrogation Section. This provision establishes the Plans' authority to review claims payment information and execute activities that provide for subrogation recoveries.
The Contractor, to the extent authorized in the contract, may engage the services of a subcontractor to maintain and execute a subrogation process.

Contractor Procedural Requirements

- The Contractor shall maintain a process to screen claims submitted by members through a detection procedure that reviews both occurrence codes and diagnostic codes. The Contractor shall also maintain a process to screen claims received from a Medicare Part A and Part B fiscal intermediary through a detection procedure that recognizes subrogation coding on the claims. The Contractor shall identify claims with subrogation potential within twenty (20) business days of the initial claim receipt. Of particular significance are claims related to workplace accidents and illnesses, injuries attributable to automobile accidents and expenses covered by property and casualty insurance maintained by homeowners and businesses.

- The Contractor shall recognize an allowable expense threshold of One Thousand Five Hundred dollars ($1,500) in total benefits payments for the identification of cases requiring recovery. In instances where claims are below the threshold, the Contractor shall establish and monitor an accumulator related to the member and the medical event. The Contractor shall continue the monitoring activity for specific instances (medical events) for twelve (12) months after the incident (date of the event which resulted in the first claim for medical services). The Contractor may pursue recoveries on cases with a benefit paid value less than ($1,500) at its discretion.

- Upon identification of claims with recovery potential, the Contractor shall provide an initial notice and request for pertinent information to the head-of-contract with an explanation of the State's requirements related to the recovery of benefit payments through a subrogation process. The Contractor's inquiry shall explain the member's responsibilities and procedures for the member to contact the Contractor. Language to be included in the initial notice from the Contractor will be supplied by the State.

- Thirty (30) days following the initial notice, the contractor shall provide to the heads-of-contract who have not responded to the first notice a second notice. The second notice shall request pertinent information and include an explanation of the State's requirements related to the recovery of benefit payments through a subrogation process. The Contractor's second notice shall also explain the member's responsibilities and procedures for the member to contact the Contractor.

- In addition to the inquiry process, the Contractor shall evaluate questionnaires submitted by members and complete tasks related to collecting additional data; particularly settlement information from health care providers, attorneys, court records and liability carriers. Data collection by the Contractor can be completed in writing or telephonically.

- The Contractor may negotiate settlement amounts and resolve cases with a benefit paid value less than Five Thousand ($5,000) without obtaining approval from Benefits Administration Public Sector Optional Products, Compliance & Support Unit (State). The Contractor shall submit a monthly case summary to the State by secure email using the template supplied by the State regarding the disposition of these issue(s).

- The Contractor shall prepare a brief summary using the template supplied by the State for each case with a benefits paid value of greater than $5,000 and provide it to the State by secure email for approval/disapproval regarding a settlement agreement. The Contractor shall also provide a specific recommendation concerning the disposition of the case. If requested by the State, the Contractor shall forward copies of any legal filings or other relevant documentation pertaining to the medical event.

- The Contractor shall provide a monthly "Non-Response Report" using the template supplied by the State detailing cases where responses from members are not received within the sixty (60) calendar day allotted timeframe.

- The Contractor shall close the subrogation case upon submission of the "Non-Response Report to the State.

- The Contractor shall submit a quarterly summary of cases utilizing the template supplied by the State where the "Made-Whole" doctrine was applied. If requested by the State, the Contractor shall forward copies of any legal filings or other relevant documentation pertaining to the "Made-Whole" claims raised by the member.

- The State authorizes the Contractor to retain monies received through subrogation, on a per Patient basis, according to the terms agreed upon between the State and Contractor which are specified in Contract Section C.3.f.

Performance Tracking

Contractor reports are to be submitted by secure email using the templates prior approved by the State. In addition to providing case summaries, the Contractor shall provide:

- Monthly YTD summary of **Subrogation Recoveries.**

- Monthly Summary of Subrogation Recovery Efforts detailing the claims reviews it has opened, active and closed with the disposition.

- Monthly "Non Response Reports" detailing cases where no response from members have been received within thirty (60) calendar days of the initial notice and are valid subrogation cases.

- Quarterly Report of Non-Responses cases closed by the Contractor due to (reason)

- Quarterly "Made Whole" Report detailing cases where a settlement agreement was made based upon the "Made Whole" doctrine. If requested by the State, the Contractor shall forward copies of any legal filings or other relevant documentation pertaining to the medical event.