



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 31865-00823	Edison ID 68985	Contract #	Amendment # 2		
Contractor Legal Entity Name NTT DATA State Health Consulting, LLC			Edison Vendor ID 0000004797		
Amendment Purpose & Effect(s) Exercise Renewal Option, Maximum Liability Increase, and Language					
Amendment Changes Contract End Date: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		End Date: December 31, 2025			
TOTAL Contract Amount INCREASE or DECREASE <u>per this Amendment</u> (zero if N/A):			\$39,365,517.60		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2021	\$589,167.02	\$5,302,503.17			\$5,891,670.19
2022	\$1,178,334.04	\$10,605,006.32			\$11,783,340.36
2023	\$1,178,334.04	\$10,605,006.32			\$11,783,340.36
2024	\$4,194,036.95	\$33,933,571.69			\$38,127,608.64
2025	\$4,718,967.96	\$34,605,765.04			\$39,324,733.00
2026	\$4,580,207.19	\$33,589,186.06			\$38,168,393.25
TOTAL:	\$16,439,047.20	\$128,640,038.60			\$145,079,085.80
<div><div><div>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.</div><div>Digitally signed by: Crystal Allen DN: CN = Crystal Allen email = crystal.g.allen@tn.gov C = US O = TennCare OU = Fiscal Date: 2024.12.03 16:04:32 -06'00'</div></div><div><div>CPO USE</div></div></div>					
Speed Chart (optional)		Account Code (optional)			

**AMENDMENT #2
OF CONTRACT 68985**

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

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

B.1 This Contract shall be effective for the period beginning on January 1, 2021 ("Effective Date") and ending on December 31, 2025, ("Term"). The State shall have no obligation for goods delivered or services provided by the Contractor prior to the Effective Date.

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

B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to one (1) renewal option under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of seventy-two (72) months.

3. Contract section C.1 Maximum Liability is deleted in its entirety and replaced with the following.

C.1. In no event shall the maximum liability of the State under this Contract exceed One Hundred Forty-Five Million, Seventy-Nine Thousand, Eighty-Five Dollars and Eighty Cents, (\$145,079,085.80) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

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

Amendment Effective Date. The revisions set forth herein shall be effective once all required approvals are obtained. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

NTT DATA State Health Consulting, LLC:

Christopher Merdon

November 18, 2024

SIGNATURE

DATE

Christopher Merdon

President

PRINTED NAME AND TITLE OF SIGNATORY (above)

Department of Finance and Administration, Division of TennCare:

Jim Bryson
JIM BRYSON, COMMISSIONER

12/3/2024

DATE



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 31865-00823	Edison ID 68985	Contract #	Amendment # 1		
Contractor Legal Entity Name NTT DATA State Health Consulting, LLC			Edison Vendor ID 0000004797		
Amendment Purpose & Effect(s) Term Extension, Maximum Liability Increase, and Language					
Amendment Changes Contract End Date: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		End Date: December 31, 2024			
TOTAL Contract Amount INCREASE or DECREASE <u>per this Amendment</u> (zero if N/A):			\$35,013,526.08		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2021	\$589,167.02	\$5,302,503.17			\$5,891,670.19
2022	\$1,178,334.04	\$10,605,006.32			\$11,783,340.36
2023	\$1,178,334.04	\$10,605,006.32			\$11,783,340.36
2024	\$4,194,036.95	\$33,933,571.69			\$38,127,608.64
2025	\$4,194,036.95	\$33,933,571.70			\$38,127,608.65
TOTAL:	\$11,333,909.00	\$94,379,659.20			\$105,713,568.20
<div><div><div>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.</div><div>Digitally signed by: Crystal G. Allen</div><div>DN: CN = Crystal G. Allen email = Crystal.G.Allen@tn.gov C = US O = TennCare OU = Budget</div><div>Date: 2023.11.02 09:18:04 -06'00'</div></div><div>CPO USE</div></div>					
Speed Chart (optional)		Account Code (optional)			

**AMENDMENT #1
TO CONTRACT #68985
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF TENNCARE
AND
NTT DATA STATE HEALTH CONSULTING, LLC**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, division of TennCare ("State") and NTT DATA State Health Consulting, LLC ("Contractor"), is for the provision of Medicaid Management Information System (MMIS) Business Support Services, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is a Limited Liability Company.
Contractor Place of Incorporation or Organization: Delaware
Contractor Edison Registration ID # 0000004797

1. Contract section A.9 Staff Management Plan is deleted in its entirety and replaced with the following:

A.9 Staff Management Plan. The Contractor shall develop a staffing plan that includes project roles, staff assignments, classifications (according to the contract rate schedule), and expected utilization including designation of hourly billing rates. The Contractor shall attach each staff management plan to the contract deliverable(s)/Terms and Conditions within the ServiceNow tool.

2. The following is added as Contract Section A.19:

A.19 As the Contractor is uniquely positioned to have access to subject matter and budgetary information related to future procurements, the Contractor shall not bid on any procurements for any projects or related services in which the Contractor has assisted, consulted, or viewed on behalf of the State pursuant to this Contract.

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

B.1 This Contract shall be effective for the period beginning on January 1, 2021 ("Effective Date") and ending on December 31, 2024, ("Term"). The State shall have no obligation for goods delivered or services provided by the Contractor prior to the Effective Date.

4. Contract section B.2 is deleted in its entirety and replaced with the following:

B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to Two (2) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of seventy-two (72) months.

5. Contract section C.1 Maximum Liability is deleted in its entirety and replaced with the following.

C.1. In no event shall the maximum liability of the State under this Contract exceed One Hundred Five Million, Seven Hundred Thirteen Thousand, Five Hundred Sixty-Eight and Twenty Cents, (\$105,713,568.20) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

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

Amendment Effective Date. The revisions set forth herein shall be effective once all required approvals are obtained. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and ef fect.

IN WITNESS WHEREOF,

NTT DATA STATE HEALTH CONSULTING, LLC: INC.:

DocuSigned by:

Christopher Mardon

October 26, 2023

A3B018F1406F47E...

SIGNATURE

DATE

Christopher Mardon

President

PRINTED NAME AND TITLE OF SIGNATORY (above)

**DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF TENNCARE:**

Jim Bryson / JB

11/16/2023

JIM BRYSON, COMMISSIONER

DATE



CONTRACT

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

Begin Date January 1, 2020	End Date December 31, 2023	Agency Tracking # 31865-00823	Edison Record ID 68985
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Contractor Legal Entity Name NTT Data State Health Consulting, LLC	Edison Vendor ID 0000004797
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Goods or Services Caption (one line only)
Medicaid Management Information System (MMIS) Business Support Services

Contractor <input checked="" type="checkbox"/> Contractor	CFDA #
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Funding ---					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2021	\$589,167.02	\$5,302,503.17	\$0.00	\$0.00	\$5,891,670.19
2022	\$1,178,334.04	\$10,605,006.32	\$0.00	\$0.00	\$11,783,340.35
2023	\$1,178,334.04	\$10,605,006.32	\$0.00	\$0.00	\$11,783,340.35
2024	\$1,178,334.04	\$10,605,006.32	\$0.00	\$0.00	\$11,783,340.35
2025	\$1,178,334.04	\$10,605,006.32	\$0.00	\$0.00	\$11,783,340.35
2026	\$1,178,334.04	\$10,605,006.32	\$0.00	\$0.00	\$11,783,340.35
2026	\$589,167.02	\$5,302,503.16	\$0.00	\$0.00	\$5,891,670.18
TOTAL:	\$7,070,004.21	\$63,630,037.91	\$0.00	\$0.00	\$70,700,042.12

Contractor Ownership Characteristics:

- ☐ Minority Business Enterprise (MBE):
☐ African American ☐ Asian American ☐ Hispanic American ☐ Native American
- ☐ Woman Business Enterprise (WBE)
- ☐ Tennessee Service Disabled Veteran Enterprise (SDVBE)
- ☐ Disabled Owned Business (DSBE)
- ☐ Tennessee Small Business Enterprise (SBE): \$10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.
- ☐ Government ☐ Non-Minority/Disadvantaged ☒ Other

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

<input type="checkbox"/> Competitive Selection	
<input checked="" type="checkbox"/> Other	This Agreement is based on the GSA Framework and NTT Data State Health Consulting General Services Administration Contract GS-35F-518GA. Relevant SCR approvals have been acquired for implementation of the Agreement.

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.

CPO Use - FA

Speed Code (optional) **Account Code (optional)**

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF TENNCARE
AND
NTT DATA STATE HEALTH CONSULTING, LLC**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, division of TennCare ("State") and NTT DATA State Health Consulting, LLC ("Contractor"), is for the provision of Medicaid Management Information System (MMIS) Business Support Services, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is a Limited Liability Company.

Contractor Place of Incorporation or Organization: Delaware

Contractor Edison Registration ID # 0000004797

A. SCOPE:

- A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.
- A.2. Definitions. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:
- a. Advance Planning Document (APD): Document that governs the procedure(s) by which states obtain approval for Federal financial participation (FFP) in the cost of acquiring automated data processing equipment and services.
 - b. Business Support Services (BSS): Set of services covered in this Contract provided by Contractor to the division of TennCare.
 - c. Deliverable Expectation Document (DED): a document that describes Acceptance Criteria for each Deliverable and Service subject described in a Statement of Work or Contract.
 - d. Federal Communication: official communications distributed from CMS weekly, monthly, annually, or as needed (e.g. State Medicaid Director Letters (SMD), Frequently Asked Questions (FAQ), website communications, or emails, etc.);
 - e. Health Information Exchange (HIE): the mobilization of health care information electronically across organizations within a region, community or hospital system.
 - f. Health and Human Services (HHS): a cabinet-level executive branch department of the U.S. federal government with the goal of protecting the health of all Americans and providing essential human services.
 - g. Health Information Technology (HIT): health technology, particularly information technology, applied to health and health care.
 - h. Information Technology Infrastructure Library (ITIL): a set of detailed practices for IT service management that focuses on aligning IT services with the needs of business.
 - i. Key Personnel: individuals who are essential to the Contractor's satisfactory performance of the Contract by virtue of their responsibilities, unique skills, and experience.
 - j. Medicaid Enterprise System: the entire Medicaid Systems applications support areas, covering the Medicaid Management Information Systems (MMIS) and Eligibility & Enrollment (E&E) CMS systems areas

- k. Medicaid Management Information System (MMIS): a mechanized claims processing and information retrieval system for Medicaid that's required by the federal government.
- l. Medicaid Information Technology Architecture (MITA): a Center for Medicare and Medicaid Services (CMS) initiative that fosters an integrated business and information technology (IT) transformation across the Medicaid enterprise in an effort to improve the administration and operation of the Medicaid program.
- m. Monthly Status Report: Provides monthly progress of activities completed in the prior month related to approved TennCare projects, as well as highlighting planned activities for the upcoming month
- n. National Human Services Interoperability Architecture (NHSIA): a framework to facilitate information sharing, improve service delivery, prevent fraud, and provide better outcomes for children and families.
- o. The Open Group Architecture Framework (TOGAF): a framework for enterprise architecture that provides an approach for designing, planning, implementing, and governing an enterprise information technology architecture.
- p. NTT DATA State Health Consulting, LLC (NTT DATA): Contractor providing the services in this Contract.
- q. Project Management Office (PMO): the department that improves project management by standardizing processes and improving efficiency.
- r. Project Management Plan: contains the project assigned, description of the activities, staff, timeframe, deliverables, and methodology for conducting the services.
- s. Request for Information (RFI): A non-competitive solicitation that does not result in a contract and is used to collect written information about the capabilities of various suppliers to inform the state and be used for comparative purposes.
- t. Request for Proposal (RFP): A competitive solicitation resulting in a contract used to outline the requirements for a specific project and solicit bids from qualified vendors in order to identify the vendor best qualified to complete the project.

A.3. Description of Business Support Services. The Contractor shall provide Business Support Services (BSS) including, but not limited to, the following:

- a. Certification support
- b. Testing support
- c. Documentation of existing processes
- d. Recommend and implement process improvements
- e. Medicaid and Health and Human Services business and industry expertise
- f. Participate in operations strategy and direction as requested by TennCare
- g. Contractor and invoice compliance support
- h. Content Management support
- i. Dashboard support and analytics reporting
- j. Medicaid Information Technology Architecture (MITA) support

- k. Strategic planning
- l. Development of business enterprise architecture strategy
- m. Advance Planning Documents support, including planning, implementation, operational, close-out and annual updates
- n. RFI and RFP development activities support
- o. CMS payment reconciliation and enhanced funding allocation verification
- p. Federal Communication review, guidance, and expertise
- q. Accounting and budget support
- r. Subject-matter expertise for state internal Project Management Office (PMO)
- s. Security expertise
- t. Additional Business Support Services as requested through the Control Memorandum Process (mentioned in Section A.16).

- A.4. Ongoing Assessment of TennCare Projects. The Contractor shall conduct an ongoing assessment of the TennCare portfolio of project activities and identify any business opportunities and risks based on upcoming Federal, State, or Industry trends or requirements.
- A.5. External Project Reviews. The Contractor shall support and participate in external project reviews, including but not limited to project security and certification reviews conducted by CMS and Internal Revenue Service. The Contractor shall assist the State in preparing for and coordinating external project reviews.
- A.6. Staffing Requirements. The Contractor shall assign experienced and qualified hourly staff to provide all services as required, described, and detailed herein or other related Business Support Services as requested by the State. The Contractor shall provide staff who will use their own expertise and also develop and use Tennessee state-specific expertise, in providing Business Services to TennCare. The Contractor will work with TennCare contractors, and other State agencies (as directed by TennCare) to support the various Medicaid Enterprise System components.
- A.7. Key Personnel Requirements: - For purposes of this Contract, the Project Director, the Enterprise Architect, and the Technical Architect, as defined in A.7.e below, are deemed to be Key Personnel by the State
- a) All Key Personnel shall be employed full-time from their start date until the project ends. Changes to this arrangement must receive prior approval from the State. All Key Personnel must be 100 percent dedicated to this Contract unless approved by the State as part-time.
 - b) The Contractor shall obtain prior State approval of all Key Personnel. Resumes for Key Personnel must be provided for State review at least thirty (30) days prior to the expected employee's start date, unless otherwise approved by the State in writing. The State may require personal interviews with these individuals prior to the employee's start date. Changes to the proposed Key Personnel positions, staff and responsibilities will only be allowed with prior written permission from the State.
 - c) In accordance with Section D.7., if any Key Personnel are not employees of the Contractor, the Contractor is required to identify those personnel, provide the State with agreements establishing their subcontract and the Contractor must receive prior approval of that subcontract with the State.
 - d) Key Personnel resumes shall include the following information:

- 1) Employment history for all relevant and related experience
- 2) Names of employers for the past five years, including specific dates
- 3) All educational institutions attended, and degrees obtained
- 4) All professional certifications

e) The following table includes the responsibilities and the minimum skill requirements for the Key Personnel.

<u>Key Position</u>	<u>Responsibilities</u>	<u>Minimum Skills</u>
Project Director	Reports to the TennCare Chief Information Officer.	Exhibits a combination of strong project management skills and in-depth content knowledge related to Medicaid Enterprise System programs to provide overall operational and management responsibility for providing Business Support Services to TennCare
	Responsible for the health of the overall project and oversight of the Business Support Services team.	10 years demonstrable experience managing multiple concurrent projects at the program level, either having delivered projects to a State or worked in a State government delivering MMIS/HHS related projects.
	Works directly with the business unit and other stakeholders/partners	4 - 6 years of experience managing multi-vendor projects
	Acts as the Contractor's single point of contact for contract related matters.	4 - 6 years of experience with Medicaid Certification and/or CMS procurement requirements.
	Manages the Business Support Services offerings in support of the Program.	Experience serving as liaison to executive level leadership.
	Oversees Business Support Services team including required training, project functions, performance assessments and managing execution.	Project Management Professional (PMP) or other industry certification presented by the Contractor and deemed in writing by the State to be acceptable.
	Accountable for communicating project status, escalating decision points, and obtaining strategic direction from TennCare Chief Information Officer.	

<u>Key Position</u>	<u>Responsibilities</u>	<u>Minimum Skills</u>
Enterprise Architect	Supports TennCare in driving the alignment of the business and IT vision for the Transformation of their Medicaid Enterprise by supporting the development of the business vision, business operating model, business processes, and target state business and IT blueprints.	6 - 8 years of experience using enterprise architecture principles to address large scale transformation efforts, using web based "N" tier platforms to the extent possible and as appropriate.
	Works with TennCare and its designees in the development of the transformation strategy, roadmap, business and technical architecture by leveraging their experience with large scale Health and Human Services projects.	Participated on at least 2 Medicaid Eligibility, MMIS, Health Information Exchange (HIE) or Health Information Technology (HIT) projects with post-ACA efforts.
	Supports the translation of business challenges to technical solutions, and technical challenges to business solutions.	Demonstrated experience using one or more of the key federal architectures, industry standard techniques and methodologies such as The Open Group Architecture Framework (TOGAF), Zachman and Information Technology Infrastructure Library (ITIL).
	Monitor industry trends to understand how TennCare can leverage these to enhance their business and IT solutions.	Demonstrated experience using Health and Human Services (HHS) domain reference modules: National Human Services Interoperability Architecture (NHSIA) and Medicaid Information Technology Architecture (MITA).
Technical Architect	Works with TennCare and its designees in the development of the technical transformation strategy, roadmap and technical architecture by leveraging their experience with large scale complex IT architecture projects.	6 - 8 years of experience in the development of complex IT architecture solutions including experience developing models and standards for hardware, software interfaces / solutions.
	Works with TennCare and its designees in the development of the technical transformation strategy, roadmap and technical architecture by leveraging their experience with large scale complex IT architecture projects.	Participated on at least 2 Medicaid Eligibility, MMIS, HIE or HIT projects with post-ACA efforts.

<u>Key Position</u>	<u>Responsibilities</u>	<u>Minimum Skills</u>
	Monitor industry trends; understand industry standard solutions, product market share, maintainability, and inter-operability between new and existing solutions.	Demonstrated experience using HHS domain reference modules: National Human Services Interoperability Architecture (NHSIA) and Medicaid Information Technology Architecture (MITA).
	Supports TennCare with defining standard non-functional requirements across the enterprise that allow for standard KPI's to be measured from multiple vendors to ensure the operating environments are functioning properly in a multi-tenant modular environment.	Experience with developing hardware / software standards and technology roadmaps.
	Works with TennCare and its designees to assess the re-use opportunities of currently deployed and in-development technologies.	Experience with development and implementation of SOA solutions.
	Works with TennCare and its designees to consider the appropriate opportunity for COTS/SAAS and Custom solutions as it relates to the transformation of the Medicaid Enterprise System.	Knowledgeable in commonly used open source technologies and/or COTS packages and have a familiarity with various deployment models such as IAAS/PAAS/SAAS and how to evaluate and potentially leverage them for the future state as appropriate.

A.8. **Key Personnel Replacements** - The State retains the right to approve or disapprove Key Personnel staffing and reserves the right to require the Contractor to replace specified staff. The Contractor agrees to substitute, with the State's prior approval, any Key Personnel so replaced with an employee meeting the required minimum skills outlined in the table above. The Contractor agrees to propose within thirty (30) days, and appropriately staff within sixty (60) days, any changes made to Key Personnel, regardless of the reason for the change. In the event it becomes necessary to replace Key Personnel during the term of this Contract, the Contractor shall:

- a) Provide the TennCare Chief Information Officer with written notification of such replacement, providing, when possible, for a two (2) week period for knowledge transfer from the Key Personnel to the replacement personnel. This knowledge transfer shall be provided at no charge to the State
- b) Provide the TennCare Chief Information Officer with documentation describing the circumstances of the need for the replacement
- c) Provide documentation of experience for the proposed replacement personnel, and
- d) Obtain prior written approval from the TennCare Chief Information Officer.

During the first twelve (12) months of the contract performance period, no substitutions of Key Personnel shall be permitted unless such substitutions are necessitated by an individual's sudden illness, death, or resignation, or otherwise approved by the TennCare Chief Information Officer or requested by the State. In any of these events, the Contractor shall follow the steps outlined above. Failure to meet the prior notice,

proposal, approval, and staffing requirements herein may result in the imposition of Liquidated Damages as contained in Attachment A.

- A.9. Staff Management Plan. The Contractor shall develop a staffing plan that includes project roles, staff assignments, classifications (according to the contract rate schedule), and expected utilization including designation of hourly billing rates. The Contractor shall submit the staffing plan to the TennCare Project Director for review and approval. The Contractor shall submit any proposed, requested, or required changes to the staffing plan via the TennCare Control Memorandum Process (as outlined in section A.16). The State may approve or deny the staffing plan, in whole or part, or request changes, including assignment, classification, or replacement of staff. The Contractor shall not bill for staffing or services not approved by the State.
- A.10. Tasks and Timeframes. The State has the right to designate to the Contractor which tasks the Contractor will be required to work on during this contract period and provide proposed due dates and instructions, as applicable. The State and Contractor shall meet to discuss the designated tasks and determine mutually agreeable due dates for such tasks prior to the Contractor beginning work. The State may modify the scope of tasks and schedule for delivery of the designated tasks to Contractor by notifying the Contractor. The Contractor shall use the Control Memorandum Process (mentioned in Section A.16) to document the assigned task and respective cost and resource estimates.
- A.11. Project Management Plan Deliverable. The Contractor shall develop a Project Management Plan for each project assigned, which describes the activities, staff, timeframe, deliverables, and methodology for conducting the services. Any deliverables created must be submitted to TennCare for review and approval.
- A.12. Monthly Status Report Deliverable. The Contractor shall produce a Monthly Status Report that will provide a summary of the tasks performed during the preceding month and a summary of the planned activities for the next month. This report will be due by the tenth (10th) calendar day of the month and will provide a summary of the current state of the project, timeliness and quality of project artifacts, and any recommendations for actions to improve project success. The Contractor will submit a Deliverable Expectation Document to define the format and content of the Monthly Status Report and submit it for State approval within fifteen (15) calendar days of the Contract start. TennCare will direct the format and content of the report and provide direction on any needed revision based upon the needs of the State.
- A.13. Monthly Status Meeting. The Contractor and State will meet in person or digitally, at the discretion of the State, to discuss the Monthly Status Report for the preceding month based upon the State's availability. The State will determine if any staff should be redirected. The Contractor shall redirect staff based on the direction received from the State.
- A.14. End of Contract Transition Plan. As part of the transition of this Contract to a new vendor when this Contract ends, the Contractor shall develop and provide to the State a transition plan no later than one hundred and eighty (180) days prior to the Contract end date. The transition plan shall contain the information requested by TennCare in a Control Memorandum as described in Section A.16.
- A.15. Transition Requirements. If applicable, prior to the end of the Contract term or extension of the Contract term, or in the event of a Contract termination or partial takeover, the State may contract with a successor contractor (Successor Contractor) to assume the Contractor's duties and requirements upon the end of the term or termination of this Contract. This may result in a period of transition during which the Contractor continues to provide services while the Successor Contractor prepares to assume those services, with a switch over from the Contractor to the Successor Contractor occurring on an implementation date specified by the State. The Contractor shall be required to participate as directed by the State, at no additional cost, in assisting with the transition by providing information relating to the Contractor's duties and attending meetings with the State and/or Successor Contractor. The Contractor shall help the State and/or the Successor Contractor develop a comprehensive transition plan covering both the Contractor's and the Successor Contractor's duties and responsibilities to ensure a smooth transition of responsibilities. The Contractor shall, at all times, act in good faith toward the State and/or Successor Contractor to facilitate as smooth a transition as possible. The State will use the Control Memorandum process (as described in Section A.16) to specify deliverables required of the Contractor in aid of the transition process. Failure to fully and timely cooperate with the State's request or

provide the requested deliverables may result in liquidated damages as specified in this Contract or in the applicable Control Memorandum. The State shall not be liable to the Contractor for any costs and expenses relating to these deliverables or to the services provided by the Contractor during the transition period, other than as set forth in Contract Section C.3.

A.16. Control Memorandum Process.

- a. The Control Memorandum ("CM") process shall be utilized by the State to clarify Contract requirements, issue instruction to the Contractor, document action required of the Contractor, or request information from the Contractor. In addition, the CM process shall be used by the State to impose assessments of damages, either actual or liquidated. This process will be used to address issues or matters that do not require a contract amendment. Each CM must be in writing and indicate the date on which it was issued. CMs may provide relevant history, background, and other pertinent information regarding the issue(s) being addressed in the CM. Each CM will establish a deadline or timeframe for the Contractor's reply or other action. All CMs submitted to the Contractor must be signed and approved by the State's Project Director (or his/her designee). When the CM pertains to damages, either actual or liquidated, the State may issue consecutive CMs, as may be necessary or appropriate.
- b. A CM may include one (1) or more of the five (5) components of the CM process described below:
 - (1) On Request Report – a request directing the Contractor to provide information by the time and date set out in the CM.
 - (2) Control Directive (CD) – instructions that require the Contractor to complete, within a designated timeframe, one (1) or more deliverables or to perform any other request from the State that is within the scope of the Contract. The CD may include a Corrective Action Plan. A CD may also provide clarification of certain Contract terms. Once a CM/CD has been issued, it shall be considered to be incorporated into this Contract.
 - (3) Notice of Potential Damages (Actual or Liquidated) (NPD) – notification to the Contractor that the State has determined that a potential Contract performance or compliance failure exists and that the State is contemplating assessing damages. The NPD shall identify the Contract provision(s) on which the State determination rests.
 - (4) Notice of Calculation of Potential Damages (Actual or Liquidated) (NCPD) – notification to the Contractor that provides a calculation of the amount of potential damages that the State is contemplating assessing against the Contractor. NPDs and NCPDs may be issued consecutively or simultaneously.
 - (5) Notice of Intent to Assess Damages (Actual or Liquidated) (NIAD) – notification to the Contractor that the State is assessing damages and specifying whether the damages, due to a performance or compliance failure, are actual damages or Liquidated Damages and setting out the performance or compliance failure underlying each intended damage assessment. The NIAD shall identify the NPD and NCPD upon which it is based. The NIAD shall specify the total amount and type of damages, whether actual or liquidated, that the State intends to assess. Following the issuance of an NIAD, the State may elect to withhold damages from payments due to Contractor. The State may not issue a NIAD without first issuing a NPD and a NCPD. The State may not obtain both Liquidated Damages and Actual Damages for the same occurrence of a Contract performance or compliance failure.
- c. Damages for failure to comply with CM. The Contractor shall fully comply with all CMs. Failure to do so may result in the State pursuing recovery of damages, as defined in Section E.6., including Liquidated Damages as listed in Contract Attachment A, a corrective action plan, and/or termination of the Contract.
- d. Appeal of Damages by Contractor. Contractor may appeal either the basis for NPD or calculation of NCPD potential damages, either actual or liquidated. To do so, the Contractor shall submit to the State's Project Director (or his/her designee) a written response to the NPD and/or NCPD within ten (10) business days of receipt of a CM which includes a NPD or a NCPD. The State's Project Director (or his/her designee) shall review the appeal and provide notice of his/her determination to the

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

- A.17. Warranty. Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

- A.18. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

B. TERM OF CONTRACT:

- B.1 This Contract shall be effective for the period beginning on January 1, 2021 ("Effective Date") and ending on December 31, 2023, ("Term"). The State shall have no obligation for goods delivered or services provided by the Contractor prior to the Effective Date.
- B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to Three (3) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of seventy-two (72) months.
- B.3. Term Extension. The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of seventy-two (72) months.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed Seventy Million, Seven Hundred Thousand, Forty-Two Dollars and Twelve Cents, (\$70,700,042.12) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. **Compensation Firm.** The payment methodology in Section C.3. and the Travel Compensation outlined in Section C.4. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct or indirect costs incurred or to be incurred by the Contractor.
- C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
 - b. The Contractor shall be compensated based upon the following payment methodology:

Labor Category and Hourly Rates	1/1/2021 - 12/31/2021	1/1/2022 - 12/31/2022	1/1/2023 - 12/31/2023	1/1/2024 - 12/31/2024	1/1/2025 – 12/31/2025	1/1/2026 – 12/31/2026
Administrative Specialist I	\$55.30	\$56.35	\$57.42	\$58.51	\$59.62	\$59.62
Analyst	\$77.79	\$79.27	\$80.77	\$82.31	\$83.87	\$83.87
Business Re-Engineering Expert	\$268.40	\$273.50	\$278.70	\$283.99	\$289.39	\$289.39
Communication Specialist	\$94.01	\$95.80	\$97.62	\$99.47	\$101.36	\$101.36
Configuration/Data Management Analyst I	\$95.35	\$97.16	\$99.01	\$100.89	\$102.81	\$102.81
Configuration/Data Management Analyst II	\$114.08	\$116.25	\$118.46	\$120.71	\$123.00	\$123.00
Consultant	\$82.07	\$83.63	\$85.22	\$86.84	\$88.49	\$88.49
Database Administrator	\$90.43	\$92.15	\$93.90	\$95.68	\$97.50	\$97.50
Engagement Manager	\$139.44	\$142.09	\$144.79	\$147.54	\$150.34	\$150.34
Enterprise Architect I	\$123.37	\$125.71	\$128.10	\$130.54	\$133.02	\$133.02

Enterprise Architect II	\$157.04	\$160.02	\$163.06	\$166.16	\$169.32	\$169.32
Enterprise Architect III	\$208.64	\$212.60	\$216.64	\$220.76	\$224.95	\$224.95
Enterprise Architect IV	\$278.82	\$284.12	\$289.52	\$295.02	\$300.62	\$300.62
Graphics Specialist I	\$60.65	\$61.80	\$62.98	\$64.17	\$65.39	\$65.39
Graphics Specialist II	\$64.89	\$66.12	\$67.38	\$68.66	\$69.96	\$69.96
Graphics Specialist III	\$77.70	\$79.18	\$80.68	\$82.21	\$83.78	\$83.78
Information Security Specialist I	\$106.00	\$108.01	\$110.07	\$112.16	\$114.29	\$114.29
Information Security Specialist II	\$129.02	\$131.47	\$133.97	\$136.51	\$139.11	\$139.11
Information Security Specialist III	\$229.23	\$233.59	\$238.02	\$242.55	\$247.15	\$247.15
Information Technology Management Analyst I	\$84.12	\$85.72	\$87.35	\$89.01	\$90.70	\$90.70
Information Technology Management Analyst II	\$95.90	\$97.72	\$99.58	\$101.47	\$103.40	\$103.40
Information Technology Management Analyst III	\$112.17	\$114.30	\$116.47	\$118.69	\$120.94	\$120.94
Information Technology Management Analyst IV	\$131.25	\$133.74	\$136.28	\$138.87	\$141.51	\$141.51
Information Technology Process Consultant I	\$100.11	\$102.01	\$103.95	\$105.93	\$107.94	\$107.94
Information Technology Process Consultant II	\$117.76	\$120.00	\$122.28	\$124.60	\$126.97	\$126.97
Information Technology Process Consultant III	\$143.37	\$146.09	\$148.87	\$151.70	\$154.58	\$154.58
Information Technology Process Consultant IV	\$223.22	\$227.46	\$231.78	\$236.19	\$240.67	\$240.67
Integration & Test Engineer I	\$114.08	\$116.25	\$118.46	\$120.71	\$123.00	\$123.00
Integration & Test Engineer II	\$129.02	\$131.47	\$133.97	\$136.51	\$139.11	\$139.11
Integration & Test Engineer III	\$153.11	\$156.02	\$158.98	\$162.00	\$165.08	\$165.08

Network Administrator	\$92.02	\$93.77	\$95.55	\$97.37	\$99.22	\$99.22
Network Engineer	\$92.02	\$93.77	\$95.55	\$97.37	\$99.22	\$99.22
Network Engineer II	\$106.06	\$108.08	\$110.13	\$112.22	\$114.35	\$114.35
Network Engineer III	\$147.63	\$150.43	\$153.29	\$156.21	\$159.17	\$159.17
Principal Consultant	\$128.61	\$131.05	\$133.54	\$136.08	\$138.67	\$138.67
Program Management Specialist I	\$129.02	\$131.47	\$133.97	\$136.51	\$139.11	\$139.11
Program Management Specialist II	\$143.37	\$146.09	\$148.87	\$151.70	\$154.58	\$154.58
Program Management Specialist III	\$162.65	\$165.74	\$168.89	\$172.10	\$175.37	\$175.37
Program Management Specialist IV	\$196.30	\$200.03	\$203.83	\$207.70	\$211.65	\$211.65
Program Manager I	\$145.82	\$148.59	\$151.41	\$154.29	\$157.22	\$157.22
Program Manager II	\$211.04	\$215.05	\$219.14	\$223.30	\$227.54	\$227.54
Program Manager III	\$258.61	\$263.52	\$268.53	\$273.63	\$278.83	\$278.83
Programmer/Analyst	\$72.93	\$74.32	\$75.73	\$77.17	\$78.63	\$78.63
Quality Assurance Analyst I	\$84.12	\$85.72	\$87.35	\$89.01	\$90.70	\$90.70
Quality Assurance Analyst II	\$95.35	\$97.16	\$99.01	\$100.89	\$102.81	\$102.81
Quality Assurance Analyst III	\$106.56	\$108.58	\$110.65	\$112.75	\$114.89	\$114.89
Quality Assurance Specialist	\$94.01	\$95.80	\$97.62	\$99.47	\$101.36	\$101.36
Sr. Consultant	\$107.74	\$109.79	\$111.87	\$114.00	\$116.16	\$116.16
Sr. Database Administrator	\$123.88	\$126.23	\$128.63	\$131.08	\$133.57	\$133.57
Sr. Financial Systems Accountant	\$162.24	\$165.32	\$168.46	\$171.66	\$174.93	\$174.93
Sr. Financial Systems Analyst	\$162.25	\$165.33	\$168.47	\$171.68	\$174.94	\$174.94
Sr. Management Analyst	\$113.44	\$115.60	\$117.79	\$120.03	\$122.31	\$122.31
Sr. Systems Program Manager	\$182.16	\$185.62	\$189.15	\$192.74	\$196.40	\$196.40

Sr. Systems Programmer	\$113.44	\$115.60	\$117.79	\$120.03	\$122.31	\$122.31
Sr. Technical Advisor	\$191.70	\$195.34	\$199.05	\$202.84	\$206.69	\$206.69
Sr. Technical Support Rep.	\$66.31	\$67.57	\$68.85	\$70.16	\$71.50	\$71.50
Strategic Information Technology Advisor I	\$252.38	\$257.18	\$262.06	\$267.04	\$272.11	\$272.11
Strategic Information Technology Advisor II	\$560.86	\$571.52	\$582.38	\$593.44	\$604.72	\$604.72
Subject Matter Expert 1	\$421.73	\$429.74	\$437.91	\$446.23	\$454.71	\$454.71
Subject Matter Expert 2	\$215.00	\$219.09	\$223.25	\$227.49	\$231.82	\$236.22
Systems Analyst	\$105.34	\$107.34	\$109.38	\$111.46	\$113.58	\$113.58
Sr. Systems Analyst	\$154.62	\$157.56	\$160.55	\$163.60	\$166.71	\$166.71
Systems Engineer I	\$103.19	\$105.15	\$107.15	\$109.18	\$111.26	\$111.26
Systems Engineer II	\$129.02	\$131.47	\$133.97	\$136.51	\$139.11	\$139.11
Systems Engineer III	\$143.37	\$146.09	\$148.87	\$151.70	\$154.58	\$154.58
Systems Programmer	\$89.12	\$90.81	\$92.54	\$94.30	\$96.09	\$96.09
Technical Support Analyst	\$72.85	\$74.23	\$75.64	\$77.08	\$78.55	\$78.55
Technical Support Lead/Supervisor	\$79.89	\$81.41	\$82.95	\$84.53	\$86.14	\$86.14
Technical Support Manager	\$82.07	\$83.63	\$85.22	\$86.84	\$88.49	\$88.49
Technical Support Rep.	\$59.71	\$60.84	\$62.00	\$63.18	\$64.38	\$64.38
Technical Support Specialist I	\$50.47	\$51.43	\$52.41	\$53.40	\$54.42	\$54.42
Technical Support Specialist II	\$54.94	\$55.98	\$57.05	\$58.13	\$59.24	\$59.24
Technical Writer/Editor	\$51.86	\$52.85	\$53.85	\$54.87	\$55.92	\$55.92
Technical Writer II	\$94.09	\$95.88	\$97.70	\$99.56	\$101.45	\$101.45
Technical Writer III	\$120.11	\$122.39	\$124.72	\$127.09	\$129.50	\$129.50

Trainer/Course Developer	\$72.93	\$74.32	\$75.73	\$77.17	\$78.63	\$78.63
Training Developer II	\$119.49	\$121.76	\$124.07	\$126.43	\$128.83	\$128.83
Training Developer III	\$146.58	\$149.37	\$152.20	\$155.09	\$158.04	\$158.04
Training Specialist I	\$101.26	\$103.18	\$105.14	\$107.14	\$109.18	\$109.18

- C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the current "State Comprehensive Travel Regulations."

The Contractor must include (in addition to other invoice requirements of this Contract) a complete itemization of requested travel compensation and appropriate documentation and receipts as required by the "State Comprehensive Travel Regulations."

- C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

Division of TennCare
310 Great Circle Road
Nashville, TN 37243

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):

- (1) Invoice number (assigned by the Contractor);
- (2) Invoice date;
- (3) Contract number (assigned by the State);
- (4) Customer account name: Department of Finance and Administration, Division of TennCare;
- (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
- (6) Contractor name;
- (7) Contractor Tennessee Edison registration ID number;
- (8) Contractor contact for invoice questions (name, phone, or email);
- (9) Contractor remittance address;
- (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
- (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
- (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
- (13) Amount due for each compensable unit of good or service; and
- (14) Total amount due for the invoice period.

- b. Contractor's invoices shall:

- (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
- (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
- (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
- (4) Include shipping or delivery charges only as authorized in this Contract.

- (5) Include resource activity detail referenceing the work completed by respective project and corresponding accounting code shall be submitted with each invoice.

- c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

- C.6. Payment of Invoice. The State shall pay Contractor's invoices in accordance with the TN Prompt Pay Act.. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.
 - a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
 - b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. MANDATORY TERMS AND CONDITIONS:

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

The State:

Deputy Commissioner
Department of Finance and Administration
Division of TennCare
310 Great Circle Road
Nashville TN 37243
Telephone# (615) 507-6444
FAX# (615) 253-5607

The Contractor:

Janet Miller, Contracts Negotiation Senior Specialist
NTT DATA State Health Consulting, LLC
7950 Legacy Blvd., Suite 900, Plano, TX 75024
janet.miller@nttdata.com
Telephone # 480.481.5946

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

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall provide written notice to Contractor specifying the Breach Condition. If within thirty (30) days of notice, the Contractor has not cured the Breach Condition, the State may terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the

Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

- D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. In addition, the Contractor shall comply with the provisions of Contract Section E.19. (Nondiscrimination Compliance Requirements), and this Section D.9 shall not be deemed to limit or abridge any requirement set forth in Section E.19.
- D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment C, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of ten (10) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In no event will the Contractor be liable to the State for any incidental or consequential damages, including without limitation lost revenues or profits. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death. For clarity, except as otherwise expressly set forth in this Section, Contractor's indemnification obligations and other remedies available under this Contract are subject to the limitations on liability set forth in this Section.
- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from

the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.
- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
 - d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.
- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

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

- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, pandemics and epidemics, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees for the affected obligations until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.
- D.25. State and Federal Compliance. The Contractor shall comply with all State and federal laws and regulations applicable to Contractor in the Contractor's performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 408.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes: Attachment A (Liquidated Damages), Attachment B (HIPAA Business Associate Agreement) Attachment C (Attestation RE Personnel Used in Contract Performance).and Attachment D (Labor Categories)
 - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - f. the Contractor's response seeking this Contract.

The GSA multiple award schedule contract number GS-35F-518GA held by a Contractor affiliate company was referenced as a framework for the labor categories and labor rates agreed to for this Contract.

- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC)

number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability ("CGL") Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
 - i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.

- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
 - i. The Contractor employs fewer than five (5) employees;
 - ii. The Contractor is a sole proprietor;
 - iii. The Contractor is in the construction business or trades with no employees;
 - iv. The Contractor is in the coal mining industry with no employees;
 - v. The Contractor is a state or local government; or
 - vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

d. Professional Liability Insurance

- 1) Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
 - i. The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase "extended reporting" or "tail coverage" for a minimum of five (5) full years from the date of the final Contract payment.
- 2) Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- 3) If the Contract involves the provision of services by medical professionals, a policy limit not less than three million (\$3,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

e. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance

- 1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor's profession in an amount not less than ten million dollars (\$10,000,000) per occurrence or claim and ten million dollars (\$10,000,000) annual aggregate, covering all acts, claims, errors, omissions, negligence, infringement of intellectual property (including copyright, patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.
- 2) Such coverage shall include data breach response expenses, in an amount not less than ten million dollars (\$10,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder.

- D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.
- D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

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

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- E.2. Intellectual Property Indemnity. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall

not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

- E.3. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- E.4. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- E.5. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within forty-eight (48) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Contract.

- E.6. Liquidated Damages. In the event of a Contract performance or compliance failure by the Contractor relating to the specific Contract Sections identified in Contract Attachment A, the State may, but is not obligated to address such Contract performance or compliance failure and/or assess damages ("Liquidated Damages") in accordance with Attachment A of the Contract. The State shall notify the Contractor of any amounts to be assessed as Liquidated Damages via the Control Memorandum process specified in Contract Section A.16. 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 Contract performance or compliance failure, as these amounts are likely to be uncertain and not easily proven. Contractor has carefully reviewed the Liquidated Damages contained in Contract Attachment A and agrees that these amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of a Contract performance or compliance failure, are a reasonable estimate of the damages that would occur from a Contract performance or compliance failure, and are not punitive. The Parties agree that, although the Liquidated Damages represent the reasonable estimate of the damages and injuries sustained by the State due to the Contract performance or compliance failure, they do not include any injury or damage sustained by a third party. The Contractor agrees that the Liquidated Damages are in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or any other sections of this Contract.

The State is not obligated to assess Liquidated Damages as a result of a Contract performance or compliance failure before availing itself of any other remedy. In the event of multiple Contract performance or compliance failures, the Parties recognize that the cumulative effect of these Contract performance or compliance failures may exceed the compensation provided by Liquidated Damages. The State may choose to avail itself of any other remedy available under this Contract or at law or equity. The Parties further recognize that the State may not obtain both Liquidated Damages and Actual Damages for the same occurrence of a Contract performance or compliance failure.

Without regard to whether the State has imposed Liquidated Damages or pursued any other remedy due to any action or inaction by the Contractor, the State may impose a corrective action plan or similar measure through a Control Memorandum. Such measure is neither punitive nor related to any damages the State might suffer.

- E.7. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

- a. Reporting of Total Compensation of the Contractor's Executives.

- (1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:

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

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

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):

- i. Salary and bonus.
- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v. Above-market earnings on deferred compensation which is not tax qualified.
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

- b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.
- c. If this Contract is amended to extend the Term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the term extension becomes effective.
- d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>

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

- E.8. Applicable Laws, Rules, Policies, and Court Orders. The Contractor agrees to comply with all applicable federal and State laws, rules, regulations, sub-regulatory guidance, executive orders, TennCare waivers, and all current, modified or future Court decrees, orders or judgments applicable to the State's TennCare program. Such compliance shall be performed at no additional cost to the State.

- E.9. Offer of Gratuities. By signing this contract, the Contractor signifies that no member of or a delegate of Congress, nor any elected or appointed official or employee of the State of Tennessee, the federal General Accounting Office, federal Department of Health and Human Services, the Center for Medicare and Medicaid Services, or any other state or federal agency has or will benefit financially or materially from this Contract. This Contract may be terminated by TENNCARE as provided in Section D. 6., if it is determined that gratuities of any kind were offered to or received by any of the aforementioned officials or employees from the Contractor, its agent, or employees.
- E.10. Employees Excluded from Medicare, Medicaid, or CHIP. The Contractor does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly employ, in the performance of this Contract, employees who have been excluded from participation in the Medicare, Medicaid, and/or CHIP programs pursuant to Sections 1128 of the Social Security Act.
- E.11. Discovery and Litigation Hold Requirements. TennCare is frequently involved in litigation as either a party or a non-party with relevant information. Contractor shall cooperate with all TennCare requests to aid in data and document retention, and collection, as required for litigation. Contractor will also provide subject matter experts as needed for depositions or as witnesses at trial. These services will be provided at no cost to the state. TennCare and its attorneys will exert all reasonable efforts to limit the scope and cost of discovery and litigation requests.
- E.12. Litigation Support. If any litigation should arise which involves the services of this Contract and that requires the defense of a TennCare claim before any court or tribunal, the Contractor shall cooperate fully and timely with any TennCare Office of General Counsel (OGC) attorneys or paralegals in defense of the claim at no additional cost to the State. The Contractor shall make its personnel available to testify in Tennessee, whether in person before a tribunal or by deposition. The Contractor agrees to waive any objections to any subpoena issued by a Tennessee tribunal. The Contractor shall promptly provide OGC with all information within the Contractor's control if required to do so by a discovery demand or court order.
- E.13. Business Associate. As the Contractor will provide services to TennCare pursuant to which the Contractor will have access to, receive from, create, or receive on behalf of TennCare Protected Health Information, or Contractor will have access to, create, receive, maintain or transmit on behalf of TennCare Electronic Protected Health Information (as those terms are defined under HIPAA and HITECH), Contractor hereby acknowledges its designation as a business associate under HIPAA and agrees to comply with all applicable HIPAA regulations and the terms in the associated Business Associate Agreement (See Attachment B).
- E.14. Social Security Administration (SSA) Required Provisions for Data Security. The Contractor shall comply with limitations on use, treatment, and safeguarding of data under the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. §3541, *et seq.*), and related National Institute of Standards and Technology guidelines. In addition, the Contractor shall have in place administrative, physical, and technical safeguards for data.
- a. The Contractor shall specify in its agreements with any agent or subcontractor that will have access to data that such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to the Contractor pursuant to this Section;
 - b. The Contractor shall not duplicate in a separate file or disseminate, without prior written permission from TennCare, the data governed by the Contract for any purpose other than that set forth in this Contract for the administration of the TennCare program. Should the Contractor propose a redisclosure of said data, the Contractor must specify in writing to TennCare the data the Contractor proposes to redisclose, to whom, and the reasons that justify the redisclosure. TennCare will not give permission for such redisclosure unless the redisclosure is required by law or essential to the administration of the TennCare program.
 - c. The Contractor agrees to abide by all relevant federal laws, restrictions on access, use, and disclosure, and security requirements in this Contract.

- d. The Contractor shall maintain a current list of the employees of such contractor with access to SSA data and provide such lists to TennCare upon request and at any time there are changes.
- e. The Contractor shall restrict access to the data obtained from TennCare to only those authorized employees who need such data to perform their official duties in connection with purposes identified in this Contract. The Contractor shall not further duplicate, disseminate, or disclose such data without obtaining TennCare's prior written approval.
- f. The Contractor shall ensure that its employees:
 - (1) Properly safeguard SSA-supplied data furnished by TennCare under this Contract from loss, theft or inadvertent disclosure;
 - (2) Receive regular, relevant and sufficient SSA data related training, including use, access and disclosure safeguards and information regarding penalties for misuse of information;
 - (3) Understand and acknowledge that they are responsible for safeguarding this information at all times, regardless of whether or not the Contractor employee is at his or her regular duty station;
 - (4) Ensure that laptops and other electronic devices/ media containing SSA-supplied data are encrypted and/or password protected;
 - (5) Send emails containing SSA-supplied data only if the information is encrypted or if the transmittal is secure; and,
 - (6) Limit disclosure of the information and details relating to a SSA-supplied data loss only to those with a need to know.

Contractor employees who access, use, or disclose TennCare or TennCare SSA-supplied data in a manner or purpose not authorized by this Contract may be subject to civil and criminal sanctions pursuant to applicable federal statutes.

- g. Loss or Suspected Loss of Data - If an employee of the Contractor becomes aware of suspected or actual loss of SSA-supplied data, the Contractor must notify TennCare immediately upon becoming aware to report the actual or suspected loss. The Contractor must provide TennCare with timely updates as any additional information about the loss of SSA-supplied data becomes available.

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

- h. TennCare may immediately and unilaterally suspend the data flow under this Contract, or terminate this Contract, if TennCare, in its sole discretion, determines that the Contractor has: (1) made an unauthorized use or disclosure of TennCare SSA-supplied data; or (2) violated or failed to follow the terms and conditions of this Contract Section E.21.
- i. This Section further carries out Section 1106(a) of the Act (42 U.S.C. 1306), the regulations promulgated pursuant to that section (20 C.F.R. Part 401), the Privacy of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, related Office of Management and Budget ("OMB") guidelines, the Federal Information Security Management Act of 2002 ("FISMA") (44 U.S.C. 3541 et seq.), and related National Institute of Standards and Technology ("NIST") guidelines, which provide the requirements that the SSA stipulates that the Contractor must follow with regard to use, treatment, and safeguarding data in the event data is exchanged with a federal information system.
- j. Definitions

“SSA-supplied data” or “data” as used in this section means an individual’s personally identifiable information (e.g. name, social security number, income), supplied by the Social Security Administration to TennCare to determine entitlement or eligibility for federally-funded programs pursuant to a Computer Matching and Privacy Protection Act Agreement and Information Exchange Agreement between SSA and the State of Tennessee.

E.15. Internal Revenue Service (IRS) Safeguarding of Return Information.

- a) Performance. In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:
- (1) This provision shall not apply if information received or delivered by the Parties under this Contract is NOT "federal tax returns or return information" as defined by IRS Publication 1075 and IRC 6103.
 - (2) All work will be done under the supervision of the Contractor or the Contractor's employees. The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.
 - (3) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer or employee of the Contractor will be prohibited.
 - (4) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
 - (5) The Contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
 - (6) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the TennCare or its designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy print-outs and will provide the TennCare or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
 - (7) All computer systems receiving, processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
 - (8) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.
 - (9) The Contractor will maintain a list of employees authorized access. Such list will be provided to the TennCare and, upon request, to the IRS reviewing office.
 - (10) TennCare will have the right to void the Contract if the Contractor fails to provide the safeguards described above.

b) Criminal/Civil Sanctions.

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301 .6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.
- (3) Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor , who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- (4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A. The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

- c) Inspection. The IRS and TennCare with 24-hour notice, shall have the right to send their officers and employees into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work with FTI under this contract. The IRS and TennCare's right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, specific measures may be required in cases where the Contractor is found to be noncompliant with Contract safeguards.

E.16. Medicaid and CHIP. The Contractor must provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan:

- a) Purposes directly related to the administration of Medicaid and CHIP include:
 - 1) establishing eligibility;
 - 2) determining the amount of medical assistance;
 - 3) providing services for beneficiaries; and,
 - 4) conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to Medicaid or CHIP administration.
- b) The Contractor must have adequate safeguards to assure that:
 - 1) Information is made available only to the extent necessary to assist in the valid administrative purposes of those receiving the information, and information
 - 2) received under 26 USC is exchanged only with parties authorized to receive that information under that section of the Code; and, the information is adequately stored and processed so that it is protected against unauthorized disclosure for other purposes.
- c) The Contractor must have criteria that govern the types of information about applicants and beneficiaries that are safeguarded. This information must include at least:
 - 1) Names and addresses;
 - 2) Medical services provided;
 - 3) Social and economic conditions or circumstances;
 - 4) Contractor evaluation of personal information;
 - 5) Medical data, including diagnosis and past history of disease or disability
 - 6) Any information received for verifying income eligibility and amount of medical assistance payments, including income information received from SSA or the Internal Revenue Service;
 - 7) Income information received from SSA or the Internal Revenue Service must be safeguarded according to Medicaid and CHIP requirements;
 - 8) Any information received in connection with the identification of legally liable third-party resources; and,
 - 9) Social Security Numbers.
- d) The Contractor must have criteria approved by TENNCARE specifying:

- 1) the conditions for release and use of information about applicants and beneficiaries:
- 2) Access to information concerning applicants or beneficiaries must be restricted to persons or Contractor representatives who are subject to standards of confidentiality that are comparable to those of TENNCARE;
- 3) The Contractor shall not publish names of applicants or beneficiaries;
- 4) The Contractor shall obtain permission from a family or individual, whenever possible, before responding to a request for information from an outside source, unless the information is to be used to verify income, eligibility and the amount of medical assistance payment to an authorized individual or entity;
- 5) If, because of an emergency situation, time does not permit obtaining consent before release, the Contractor shall notify TENNCARE, the family or individual immediately after supplying the information.
- 6) The Contractor's policies must apply to all requests for information from outside sources, including governmental bodies, the courts, or law enforcement officials.
 - i) The Contractor shall notify TENNCARE of any requests for information on applicants or beneficiaries by other governmental bodies, the courts or law enforcement officials ten (10) days prior to releasing the requested information.
- 7) If a court issues a subpoena for a case record or for any Contractor representative to testify concerning an applicant or beneficiary, the Contractor must notify TENNCARE at least ten (10) days prior to the required production date so TENNCARE may inform the court of the applicable statutory provisions, policies, and regulations restricting disclosure of information.
- 8) The Contractor shall not request or release information to other parties to verify income, eligibility and the amount of assistance under Medicaid or CHIP, prior to express approval from TENNCARE.

E.17. Nondiscrimination Compliance Requirements.

- a. The Contractor shall comply with all applicable federal and state civil rights laws, regulations, rules, and policies, which may include, but are not limited to, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and 42 U.S.C. § 18116 (codified at 45 C.F.R. pt. 92) and Contract Section D.9 of this Contract.
 - 1) Nondiscrimination Compliance Coordinator. In order to demonstrate compliance with the applicable federal and State civil rights laws and regulations, which may include, but are not limited to, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and 42 U.S.C. § 18116 (codified at 45 C.F.R. pt. 92) the Contractor shall designate a staff person to be responsible for nondiscrimination compliance.

The Contractor's Nondiscrimination Compliance Coordinator (NCC) shall be responsible for compliance with the nondiscrimination requirements set forth in this Contract. The Contractor agrees that its civil rights compliance staff member shall work directly with TennCare's Director of Civil Rights Compliance (DCRC) in order to implement and coordinate nondiscrimination compliance activities. The Contractor does not have to require that civil rights compliance be the sole function of the designated NCC staff member. However, the Contractor shall identify the designated NCC staff member to the DCRC by name.

Within ten (10) calendar days of the commencement of any period of time that the Contractor does not have an NCC, the Contractor shall provide written notice of this event to the DCRC. The name and contact information for the new NCC shall be reported in writing to the DCRC within ten (10) calendar days of assuming the duties of the NCC.

- 2) Policies and Procedures. The Contractor shall, at a minimum, implement nondiscrimination in its personnel policies and procedures as it relates to hiring, promoting, operational policies, contracting processes and participation on advisory/planning boards or committees.
- 3) Training. On an annual basis, the Contractor shall be responsible for making nondiscrimination training available to all Contractor staff and to its subcontractors that are considered to be recipients of federal financial assistance under this Contract. The Contractor shall be able to show documented proof to OCRC that the training was made available to the Contractor's staff and to its subcontractors that are considered to be recipients of federal financial assistance under this contract.
- 4) Records. The Contractor shall keep such records as may be necessary in order to submit timely, complete and accurate compliance reports that may be requested by the U.S. Department of Health and Human Services (HHS), the U.S. Department of Justice (DOJ), TennCare, and the Tennessee Human Rights Commission (THRC) or their designees. If requested, the information shall be provided in a format and timeframe specified by HHS, DOJ, TennCare, or THRC. The requested information may be necessary to enable HHS, DOJ, TennCare, or THRC to ascertain whether the Contractor is complying with the applicable civil rights laws. For example, the Contractor should have available data showing the manner in which services are or shall be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination. Further examples of data that could be requested can be found at 45 C.F.R. § 80.6 and 28 C.F.R. § 42.406.
- 5) Access. The Contractor shall permit access as set forth in the applicable civil rights laws, such as, 45 C.F.R. § 80.6 to HHS, DOJ, TennCare, and THRC or their designees during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain whether the Contractor is complying with the applicable civil rights laws.
- 6) Nondiscrimination Notice and Taglines. Should the Contractor create TennCare materials, the Contractor shall ensure that significant publications and significant communications, including small sized publications and communications that are targeted to beneficiaries, participants, enrollees, applicants, and members of the public shall be printed with the notice of nondiscrimination and LEP taglines as required by TennCare and set forth in TennCare's tagline templates and the applicable federal civil rights laws, including 45 C.F.R. pt. 45. Written materials specific to TennCare's programs' members shall be prior approved in writing by TennCare prior to the materials being sent to these individuals and shall be translated for members who are Limited English Proficient in accordance with the following requirements:
 - (i) Pursuant to 68 Fed. Reg 47311-02, within ninety (90) calendar days of notification from TennCare, all vital Contractor documents related to this Contract shall be translated and available to each Limited English Proficiency ("LEP") group identified by TennCare in accordance with the applicable standards set forth below:

- (ii) If a LEP group constitutes five percent (5%) or 1,000, whichever is less, of the population targeted under this Contract, vital documents shall be translated into that LEP language. Translation of other documents, if needed, can be provided orally; or
- (iii) If there are fewer than fifty (50) individuals in a language group that is part the population targeted under this Contract that reaches the five percent (5%) trigger in (a), the Contractor shall inform those individuals that it does not provide written translation of vital documents but provides written notice in that group's primary language of the right to receive competent oral interpretation of those written materials, free of cost.
- (iv) At a minimum, all vital Contractor documents shall be translated and available in Spanish.

b) Annual Nondiscrimination Compliance Questionnaire. The Contractor shall submit the following nondiscrimination compliance deliverables to TennCare as follows:

Annual Compliance Questionnaire. Annually, the DCRC shall provide the NCC with a Nondiscrimination Compliance Questionnaire. The NCC shall answer the questions contained in the Compliance Questionnaire and submit the completed Questionnaire to DCRC within sixty (60) days of receipt of the Questionnaire with any requested documentation, which shall include, The Contractor's Assurance of Nondiscrimination. The signature date of the Contractor's Nondiscrimination Compliance Questionnaire shall be the same as the signature date of the Contractor's Assurance of Nondiscrimination. The Nondiscrimination Compliance Questionnaire deliverables shall be in a format specified by TennCare.

- 1) As part of the requested documentation for the Nondiscrimination Compliance Questionnaire, the NCC shall submit copies of the Contractor' nondiscrimination policies and procedures (e.g. 45 C.F.R. § 80.3; 45 C.F.R. § 92.101) that demonstrate nondiscrimination in the provision of its services, programs, or activities provided under this Contract.
- 2) The documentation shall include copies of the trainings provided to the Contractor' staff members that provide instruction on the following topics:
 - (i) How to assist individuals who report acts of discrimination and how to help these individuals file discrimination complaints with the TennCare programs covered under this Contract;
 - (ii) Providing services in a culturally competent manner to all individuals served under the Contract; and
 - (iii) Providing language and communication assistance services, auxiliary aids or services, or reasonable accommodations to individuals who are being served under this Contract and instruction on the procedures the Contractor's staff should use to provide the needed assistance to the individual.
- 3) If applicable under this Contract, the NCC shall include, as part of the requested documentation for the Nondiscrimination Compliance Questionnaire, reports that capture data for all language and communication assistance services used and provided by the Contractor under this Contract. The Contractor shall ensure that language and communication assistance section of the questionnaire contains:
 - (i) the names of the Contractor's language and communication assistance service providers; the languages in which interpretation and translation services are available;

- (ii) the auxiliary aids or services that are provided and are available;
- (iii) the hours that language and communication assistance services are
- (iv) numbers individuals call to access language and communication assistance services;
- (v) a separate Excel spreadsheet report that captures a listing of language and communication assistance services that were requested by members and/or participants (e.g. Arabic; Braille) and the methods used to provide the language and alternative communication service to the members (i.e. interpretation; translation).

Upon request, the NCC shall provide a more detailed report that contains the requestor's name and identification number, the requested service, the date of the request, the date the service was provided, and the name of the service provider.

- c) **Discrimination Complaint Investigations.** In the event, a discrimination complaint is filed by an individual, including, TennCare member/representative, TennCare participant/provider, TennCare employee or a Contractor staff member alleging an incident claimed to be caused by either the Contractor's staff or one of its subcontractors who are considered to be performing duties under this contract, the Contractor shall cooperate with TennCare's DCRC during the investigation and resolution of the complaint allegation. Should the Contractor receive a report of a discrimination complaint allegation related to the activities being performed under this Contract, the Contractor shall inform DCRC of the complaint within two (2) business days from the date the Contractor learns of the complaint, DCRC shall determine the complaint investigation outcome, resolution and/or corrective action.

The Contractor shall train its staff members/subcontractors on how to provide assistance to individuals who report discrimination and how to assist these individuals with filing discrimination complaints with the TennCare programs covered under this Contract. The Contractor shall use and have available to individuals TennCare's discrimination complaint forms for the TennCare programs covered under this Contract. These discrimination complaint forms shall be provided to individuals upon request and be available on the Contractor's website. TennCare's discrimination complaint forms are vital documents and must be available at a minimum in the English, Spanish, Arabic languages. The DCRC shall provide the NCC with TennCare's discrimination complaint forms that are required under this Contract.

- d) **Electronic and Information Technology Accessibility Requirements.** To the extent that the Contractor is using electronic and information technology to fulfill its obligations under this Contract, the Contractor agrees to comply with the electronic and information technology accessibility requirements under the federal civil rights laws including Section 504 and Section 508 of the Rehabilitation Act of 1973 (Section 508), the Americans with Disabilities Act, and 45 C.F.R. pt. 92 (or any subsequent standard adopted by an oversight administrative body, including the Federal Accessibility Board). To comply with the accessibility requirements for Web content and non-Web electronic documents and software, Contractor shall use the most current W3C's Web Content Accessibility Guidelines (WCAG) level AA or higher (For the W3C's guidelines see: <https://www.w3.org/WAI/standards-guidelines/wcag/new-in-21/>) (More resources can be found at <https://www.w3.org/WAI/> and <https://www.access-board.gov/guidelines-and-standards/communications-and-it/>).

Additionally, the Contractor agrees to comply with Title VI of the Civil Rights Act of 1964. In order to achieve Title VI compliance, the Contractor should add a system function that allows users to translate the content into a language other than English. This requirement may be satisfied by the provision of a link to Google translate or other machine translate tool.

- e) **Culturally Competent Delivery of Program Services.** The Contractor and its subcontractors that are providing services pursuant to this Contract shall participate in the State's efforts to

promote the delivery of services in a culturally competent manner to all TennCare enrollees/representatives/participants, including those with Limited English Proficiency, disabilities and diverse cultural and ethnic backgrounds regardless of an individual's sex. This includes the Contractor emphasizing to its staff the importance of providing language and communication assistance services, auxiliary aids or services, or reasonable accommodations to individuals who are being served under this Contract and instruction on the procedures the Contractor's staff should use to provide the needed assistance to the individual.

- E.18. Notification of Breach and Notification of Suspected Breach. The Contractor shall notify TennCare's Privacy Office immediately upon becoming aware of and in no case later than 48 hours after discovery of any incident, either confirmed or suspected, that represents or may represent unauthorized access, use or disclosure of encrypted or unencrypted computerized data that materially compromises the security, confidentiality, or integrity of enrollee PHI maintained or held by the Contractor, including any unauthorized acquisition of enrollee PHI by an employee or otherwise authorized user of the Contractor's system. This includes, but is not limited to, loss or suspected loss of remote computing or telework devices such as laptops, PDAs, Blackberrys or other Smartphones, USB drives, thumb drives, flash drives, CDs, and/or disks.

IN WITNESS WHEREOF,

NTT DATA STATE HEALTH CONSULTING, LLC:



CONTRACTOR SIGNATURE

21 Dec 2020

DATE

Timothy Conway, EVP & Group President, Public Sector

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF TENNCARE:



BUTCH ELEY, COMMISSIONER

12/21/20

DATE

LIQUIDATED DAMAGES

In the event of a Contract performance or compliance failure by Contractor and such Contract performance or compliance failure is not included in the following table with an associated Liquidated Damage amount, the parties hereby agree that the State may choose one of the following courses of action in order to obtain redressability for such Contract performance or compliance failure: (1) the State may assess actual damages resulting from the Contract performance or compliance failure against the Contractor in the event that such actual damages are known or are reasonably ascertainable at the time of discovery of such Contract performance or compliance failure or (2) if such actual damages are unknown or are not reasonably ascertainable at the time of discovery of the Contract performance or compliance failure, the State may (a) require the Contractor to submit a corrective action plan to address any such Contract performance or compliance failure and (b) assess liquidated damages against Contractor for an amount that is reasonable in relation to the Contract performance or compliance failure as measured at the time of discovery of the Contract performance or compliance failure. In the event that the State chooses to assess a Liquidated Damage for a Contract performance or compliance failure according to the immediately preceding sentence, in no event shall such Liquidated Damage be in excess of \$1,000 for any single Contract performance or compliance failure.

TennCare may elect to apply the following liquidated damages remedies in the event the Contractor fails to perform its obligations under this Contract in a proper and/or timely manner. Upon determination by TennCare that the Contractor has failed to meet any of the requirements of this Contract in a proper and/or timely manner, TennCare will notify the Contractor in writing of the performance or compliance failure and of the potential liquidated damages to be assessed. Should the performance or compliance failure remain uncorrected for more than thirty (30) calendar days from the date of the original notification of the performance or compliance failure by TennCare, TennCare may impose an additional liquidated damage of Five Hundred Dollars (\$500) per day from the date of the original notification to Contractor until said performance or compliance failure is resolved.

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

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

Liquidated damages will apply to the Contract performance or compliance failures listed below. Contractor acknowledges that the actual damages likely to result from Contract performance or compliance failures are difficult to estimate and may be difficult for the State to prove. The parties intend that the Contractor's payment of assessed liquidated damages will compensate the State for breach of the Contractor obligations under this Contract. Liquidated damages do not serve as punishment for any breach by the Contractor.

	<u>PROGRAM ISSUES</u>		<u>DAMAGE</u>
	Data Security		

1.	Failure by the Contractor to meet the standards for privacy, security, and confidentiality of individual data as evidenced by a breach of the security per Section D.34. and E.18.		\$1,000 per affected member per occurrence
2.	Failure by the Contractor to execute the appropriate agreements to effectuate transfer and exchange of TennCare enrollee PHI or TennCare confidential information including, but not limited to, a data use agreement, trading partner agreement, business associate agreement or qualified protective order prior to the use or disclosure of PHI to a third party. (See E.13. and Business Associate Agreement between the parties.)		\$1,000 per affected member per occurrence.
3.	Failure by the Contractor to seek express written approval from TennCare prior to the use or disclosure of TennCare enrollee data or TennCare confidential information in any form via any medium with any third party beyond the boundaries and jurisdiction of the United States. (See E.13. and Business Associate Agreement between the parties.)		\$1,000 per affected member per occurrence.
4.	Failure by the Contractor to timely report violations in the access, use and disclosure of PHI or timely report a security incident or timely make a notification of breach or notification of suspected breach per Sections E.5., E.13. and E.18. (See Business Associate Agreement.)		\$1,000 per affected member per occurrence.
	Control Memorandum(a) Process		
5.	Failure to complete or comply with an ORR.		\$100 per business day for every business day the ORR is incomplete or not in compliance, starting on the business day after the ORR due date.
6.	Failure to complete or comply with a Control Directive requirement by the due date.		\$500 per business day for every business day the requirement is incomplete or not in compliance, starting on the next business day after the requirement due date.
	Key Personnel Staffing		
7.	Failure to appropriately staff a Key Personnel position within 60 days of the position becoming vacant. (A.8)		\$100 per business day for every business day the Key Personnel position is vacant beginning on the 61 st business day the position is vacant.



HIPAA Business Associate Agreement

THIS HIPAA BUSINESS ASSOCIATE AGREEMENT (“Agreement”) is between The State of Tennessee, Division of TennCare (“TennCare” or “Covered Entity”), located at 310 Great Circle Road, Nashville, TN 37243 and NTT DATA State Health Consulting, LLC

(“Business Associate”), located at 7950 Legacy Drive, Suite 900, Plano, TX 75024, including all office locations and other business locations at which Business Associate data may be used or maintained. Covered Entity and Business Associate may be referred to herein individually as “Party” or collectively as “Parties.”

BACKGROUND

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

LIST OF AGREEMENTS AFFECTED BY THIS HIPAA BUSINESS ASSOCIATE AGREEMENT:

Contract for MMIS Business Support Services - 68985

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

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

1. DEFINITIONS

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

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

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

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

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

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

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

2.2 HITECH Act Compliance. The Health Information Technology for Economic and Clinical Health Act (HITECH) was adopted as part of the American Recovery and Reinvestment Act of 2009. HITECH and its implementing regulations impose new requirements on Business Associates with respect to privacy, security, and Breach notification. Business Associate hereby acknowledges and agrees that to the extent it is functioning as a Business Associate of Covered Entity, Business Associate shall comply with any applicable provisions of HITECH. Business Associate and the Covered Entity further agree that the provisions of HIPAA and HITECH that apply to business associates and that are required to be incorporated by reference in a business associate agreement have been incorporated into this Agreement between Business Associate and Covered Entity. Should any provision not be set forth specifically, it is as if set forth in this Agreement in its entirety and is effective as of the Applicable Effective Date, and as amended.

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

2.4 Privacy Safeguards and Policies. Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the Service Agreement(s), this Agreement or as required by law. This includes the implementation of Administrative, Physical, and Technical Safeguards to reasonably and appropriately protect the Covered Entity’s PHI against any reasonably anticipated threats or hazards, utilizing the technology commercially available to the Business Associate (See also Section 3.2). The Business Associate shall

maintain appropriate documentation of its compliance with the Privacy Rule, including, but not limited to, its policies, and procedures, records of training and sanctions of members of its Workforce.

2.5 Business Associate Contracts. Business Associate shall require any agent, including a Subcontractor, to whom it provides PHI received from, maintained, created or received by Business Associate on behalf of Covered Entity, or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI or other confidential TennCare information, to agree, by written agreement with Business Associate, to substantially similar, but not less stringent restrictions and conditions that apply through this Agreement to Business Associate with respect to such information except for the provision at section 4.6, which shall only apply to the Business Associate notwithstanding the requirements in this section 2.5.

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

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

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

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

2.8.2 Business Associate shall cooperate with Covered Entity in timely providing the appropriate and necessary information to Covered Entity.

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

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

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

- (a) The Parties understand that if either Party receives a request for access to or copies of PHI from an Individual which the Party may complete with only its own onsite information, the time for such response shall be thirty (30) days, with notification to the Covered Entity upon completion.
- (b) If the Covered Entity receives a request and requires information from the Business Associate in addition to the Covered Entity's onsite information to fulfill the request, the Business Associate shall have fifteen (15) days from date of Covered Entity's notice to provide access or deliver such information to the Covered Entity so that the Covered Entity may timely respond to the Individual within the thirty (30) day requirement of 45 C.F.R. § 164.524.
- (c) If the Party designated above as responding to the Individual's request is unable to complete the response to the request in the time provided, that Party shall provide the Individual, or Individual's designee, with a written statement of the reasons for the delay and the date by which the Party will complete its action on the request. The Party may extend the response time once for no more than thirty (30) additional days.
- (d) Business Associate is permitted to send an Individual or Individual's designee unencrypted emails including Electronic PHI if the Individual requests it, provided the Business Associate has advised the Individual of the risk and the Individual still prefers to receive the message by unencrypted email.

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

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

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

- (a) If Covered Entity directs Business Associate to provide an accounting of disclosures of the Individual's PHI directly to the Individual, the Business Associate shall have sixty (60) days from the date of the Individual's request to provide access to or deliver such information to the Individual or Individual's designee. The Covered Entity shall provide notice to the Business Associate in time to allow the Business Associate a minimum of thirty (30) days to timely complete the Individual's request.
- (b) If the Covered Entity elects to provide the accounting to the Individual, the Business Associate shall have thirty (30) days from date of Covered Entity's notice of request to provide information for the Accounting to the Covered Entity so that the Covered Entity may timely respond to the Individual within the sixty (60) day period.
- (c) If either of the Parties is unable to complete the response to the request in the times provided above, that Party shall notify the Individual with a written statement of the reasons for the delay and the date by which the Party will complete its action on the request. The Parties may extend the response time once for no more than thirty (30) additional days.
- (d) The accounting of disclosures shall include at least the following information:

- (1) date of the disclosure;
 - (2) name of the third party to whom the PHI was disclosed,
 - (3) if known, the address of the third party;
 - (4) brief description of the disclosed information; and
 - (5) brief explanation of the purpose and basis for such disclosure.
- (e) The Parties shall provide one (1) accounting in any twelve (12) months to the Individual without charge. The Parties may charge a reasonable, cost-based fee, for each subsequent request for an accounting by the same Individual if he/she is provided notice and the opportunity to modify his/her request. Such charges shall not exceed any applicable State statutes or rules.

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

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

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

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

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

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

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

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

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

3.3 Security Provisions in Business Associate Contracts. Business Associate shall ensure that any agent to whom it provides Electronic PHI received from, maintained, or created for Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI supplied by Covered Entity, shall execute a bilateral contract (or the appropriate equivalent if the agent is a government entity) with Business Associate, incorporating substantially similar, but not less stringent restrictions and conditions in this Agreement with Business Associate regarding PHI except for the provision in Section 4.6.

3.4 Reporting of Security Incidents. The Business Associate shall track all Security Incidents as defined and as required by HIPAA and shall periodically report such Security Incidents in summary fashion as may be requested by the Covered Entity. The Covered Entity shall not consider as Security Incidents, for the purpose of reporting, external activities (port enumeration, etc.) typically associated with the “footprinting” of a computing environment as long as such activities have only identified but not compromised the logical network perimeter, including but not limited to externally facing firewalls and web servers. The Business Associate shall reasonably use its own vulnerability assessment of damage potential and monitoring to define levels of Security Incidents and responses for Business Associate’s operations. However, the Business Associate shall expediently notify the Covered Entity’s Privacy Officer of any related Security Incident, immediately upon becoming aware of any unauthorized acquisition including but not limited to use, disclosure, modification, or destruction of PHI by an employee or otherwise authorized user of its system of which it becomes aware.

3.4.1 Business Associate identifies the following key contact persons for all matters relating to this Agreement:
Attn: Legal Department

NTT DATA State Health Consulting, LLC

7950 Legacy Drive, Suite 900

Plano, TX 75024

800-745-3265

Business Associate shall notify Covered Entity of any change in these key contacts during the term of this Agreement in writing within ten (10) business days.

3.5 Contact for Security Incident Notice. Notification for the purposes of Sections 2.8 and 3.4 shall be in writing made by email/fax, certified mail or overnight parcel immediately upon becoming aware of the event, with supplemental notification by facsimile and/or telephone as soon as practicable, to:

TennCare Privacy Officer 310 Great Circle Rd.

Nashville Tennessee 37243

Phone: (615) 507-6697

Facsimile: (615) 734-5289 Email: Privacy.TennCare@tn.gov

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

3.7 Cooperation in Security Compliance. Business Associate shall fully cooperate in good faith to assist Covered

Entity in complying with the requirements of the Security Rule.

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

4. USES AND DISCLOSURES BY BUSINESS ASSOCIATE

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

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

4.3 Third Party Disclosure Confidentiality. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or, if permitted by law, this Agreement, and the Service Agreement, provided that, if Business Associate discloses any PHI to a third party for such a purpose, Business Associate shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality, integrity, and availability of PHI and not to use or further disclose such information except as required by law or for the purpose for which it was disclosed, and (b) notify Business Associate of any instances in which it becomes aware in which the confidentiality, integrity, and/or availability of the PHI is Breached immediately upon becoming aware.

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

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

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

4.7 Prohibition of Other Uses and Disclosures. Business Associate shall not use or disclose PHI that is Genetic Information for underwriting purposes. Moreover, the sale, marketing or the sharing for commercial use or any

purpose construed by Covered Entity as the sale, marketing or commercial use of TennCare enrollee personal or financial information with affiliates, even if such sharing would be permitted by federal or state laws, is prohibited.

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

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

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

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

5. OBLIGATIONS OF COVERED ENTITY

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

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

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

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

6. TERM AND TERMINATION

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

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

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

- (a) Provide notice of breach and an opportunity for Business Associate to reasonably and promptly cure the breach or end the violation, and terminate this BAA if Business Associate does not cure the breach or end the violation within the reasonable time specified by Covered Entity; or
- (b) Immediately terminate this BAA if Business Associate has breached a material term of this BAA and cure is not possible.

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

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

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

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

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

6.3.5 Upon written mutual agreement of the Parties that return or destruction of PHI is unfeasible and upon

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

7. MISCELLANEOUS

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

7.2 Amendment. The Parties agree to take such action to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act, Public Law 104-191. Business Associate and Covered Entity shall comply with any amendment to the Privacy and Security Rules, the Health Insurance Portability and Accountability Act, Public Law 104-191, and related regulations upon the effective date of such amendment, regardless of whether this Agreement has been formally amended, including, but not limited to, changes required by the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

7.3 Survival. The respective rights and obligations of Business Associate under Confidentiality and Section 6.3 of this Agreement shall survive the termination or expiration of this Agreement.

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

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

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

Notifications relative to Sections 2.8 and 3.4 of this Agreement must also be reported to the Privacy Officer pursuant to Section 3.5.

COVERED ENTITY:

Stephen Smith, Director Division
of TennCare 310 Great Circle Rd.
Nashville, TN 37243
Fax: (615) 253-5607

BUSINESS ASSOCIATE:

Attn: Legal Department
NTT DATA State Health Consulting, LLC
7950 Legacy Drive, Suite 900
Plano, TX 75024

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

7.7 Transmission of PHI or Other Confidential Information. Regardless of the transmittal methods permitted above, Covered Entity and Business Associate agree that all deliverables set forth in this Agreement that are required to be in the form of data transfers shall be transmitted between Covered Entity and Business Associate via the data transfer method specified in advance by Covered Entity. This may include, but shall not be limited to, transfer through Covered Entity's SFTP system. Failure by the Business Associate to transmit such deliverables in the manner specified by Covered Entity may, at the option of the Covered Entity, result in liquidated damages if and as set forth in one (1) or more of the Service Agreements between Covered Entity and Business Associate listed above. All such deliverables shall be considered effectively submitted upon receipt or recipient confirmation as may be required.

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

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

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

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

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

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


DIVISION OF TENNCARE

By: 
Stephen Smith, Director

Date: 12/22/20

Division of TennCare
310 Great Circle Road
Nashville, TN 37243
Fax: (615) 253-5607

BUSINESS ASSOCIATE

By: 
TIMOTHY CONWAY, EVP & Group President

Date: 21 Dec 2020

NTT DATA State Health Consulting, LLC
7950 Legacy Drive, Suite 900
Plano, TX 75024

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	68985
CONTRACTOR LEGAL ENTITY NAME:	NTT DATA State Health Consulting, LLC
EDISON VENDOR IDENTIFICATION NUMBER:	000004797

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



CONTRACTOR SIGNATURE

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

Timothy Conway, EVP & Group President, Public Sector

PRINTED NAME AND TITLE OF SIGNATORY

21 Dec 2020

DATE OF ATTESTATION

Labor Category Descriptions

Substitution of labor category requirements in accordance with the below methodology where appropriate is acceptable with State approval.

Experience Substitution Methodology:

H.S. Diploma + 4 years additional experience	Equals	Associate's Degree
Associate's Degree + 4 years additional experience	Equals	Bachelor's Degree
Bachelor's Degree + 4 years additional experience	Equals	Master's Degree
Master's Degree + 4 years additional experience	Equals	PhD

Education Substitution Methodology:

A PhD may be substituted for 4 years of required experience with a Master's Degree or 4 years with a Bachelor's Degree
A Master's Degree may be substituted for 4 years of required experience with a Bachelor's Degree or 4 years with an Associate's Degree
A Bachelor's Degree may be substituted for 2 years of required experience with an Associate's Degree or 4 years with a H.S. Diploma

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Administrative Specialist I	Performs a variety of routine administrative and clerical duties such as answering phones, filing, copying, routing communications, and stocking office supplies. Receives and announces visitors. Prepares packages for courier pick-up. Sorts, distributes, edits, files, and delivers correspondence. Works under direct supervision and reports to senior administrators. Performs other duties as assigned. Provides general administrative support to supervisors in support of IT projects.	1 Yr. Minimum Relevant Experience	HS-GED

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Analyst	Under supervision, prepares reports, studies, and documentation. Delivers presentations and participates in meetings with the assistance of senior system analyst. Performs logical and physical systems design and reviews and prepares system documents and specifications.	Min. 1 yr. Client-specified computer certifications may apply.	AA Degree
Business Re-Engineering Expert	Provide expert consultation in Quality Assurance. Manage a team of senior consultants and analysts that coordinate the evaluation and redesign of current business processes to ensure effective and efficient use of business information technology and resources, and improve process performance. Recommends and designs cost effective strategies for use of system technology to meet customer information goals and objectives. Experience in analysis, design and development of large business information systems is required. Facilitate process improvement through custom programming, commercial off-the-shelf software (COTS), or other means.	6 Yrs. Minimum Relevant Experience Client-specified industry certifications may apply.	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Communication Specialist	Evaluates and recommends action on requirements and specifications for data communication equipment, systems and/or networks. Provides technical advisory assistance concerning the design, development and installation of data transmission systems. Develops procedures governing the operation and management of data communications programs and systems. Provides guidance for Client-wide telecommunications systems activities.	5 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Configuration/Data Management Analyst I	<p>Responsible for the effective development and implementation of programs to ensure company standards and end-user requirements.</p> <p>Responsible for configuration management of requirements, design, and code. Prepares configuration management plans and procedures. Administers problem management process including monitoring and reporting on problem resolution. Makes recommendations regarding the acquisition and/or implementation of software to increase efficiency. Operates and manages program support library. Responsible for configuration management of requirements, design, and code.</p>	1 Yr. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Configuration/Data Management Analyst II	<p>Responsible for the effective development and implementation of programs to ensure company standards and end-user requirements.</p> <p>Responsible for configuration management of requirements, design, and code. Prepares configuration management plans and procedures. Administers problem management process including monitoring and reporting on problem resolution. Makes recommendations regarding the acquisition and/or implementation of software to increase efficiency. Operates and manages program support library. Responsible for configuration management of requirements, design, and code. May provide supervision.</p>	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Consultant	<p>Coordinates and performs logical and physical systems design. Reviews and prepares system documents and specifications. Prepares reports, studies, and documentation, delivers presentations, and participates in meetings. Provides technical direction to personnel performing systems analysis and system/subsystem development tasks.</p>	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Database Administrator	Provides guidance and technical expertise in the development, testing, operation, and maintenance of information systems for business processing applications. Conducts management studies, defines data requirements, provides performance management analyses, proposes solutions to system problems based on cost effectiveness and quality of performance. Provides technical guidance to Database Administrators/Specialists in the performance of their duties. Evaluates the databases and applications as they relate to information goals. Defines all database standards, policies, and procedures. Provides technical expertise in the logical and physical design of databases.	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Engagement Manager	Utilizes an accomplished knowledge of multiple technical disciplines and unique applications to develop technical and/or business solutions to client problems. Manages and coordinates the implementation of system applications objectives through all phases, including planning, requirements analysis, design, development, testing, installation, and evaluation. Ensures conformance with work standards, interprets policies, procedures, and goals and objectives of the organization.	10 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Enterprise Architect I	Establishes system information requirements to develop large scale information systems. Designs architecture to include the software, hardware, and communications. Ensures compatibility, compliance, and regulatory requirements. Evaluates work flows, organization, and planning. Develops corrective action when necessary. Designs architecture(s) to include the software, hardware, and communications.	1 Yr. Minimum Relevant Experience	MS/MA in Information Technology Management, Business, or task order specific discipline

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Enterprise Architect II	Establishes system information requirements to develop large scale information systems. Designs architecture to include the software, hardware, and communications. Ensures compatibility, compliance, and regulatory requirements. Evaluates work flows, organization, and planning. Develops corrective action when necessary. Designs architecture(s) to include the software, hardware, and communications. May provide supervision.	3 Yrs. Minimum Relevant Experience	MS/MA in Information Technology Management, Business, or task order specific discipline
Enterprise Architect III	Establishes system information requirements to develop large scale information systems. Designs architecture to include the software, hardware, and communications. Ensures compatibility, compliance, and regulatory requirements. Evaluates work flows, organization, and planning. Develops corrective action when necessary. Designs architecture(s) to include the software, hardware, and communications. May provide supervision.	6 Yrs. Minimum Relevant Experience	MS/MA in Information Technology Management, Business, or task order specific discipline
Enterprise Architect IV	Establishes system information requirements to develop large scale information systems. Designs architecture to include the software, hardware, and communications. Ensures compatibility, compliance, and regulatory requirements. Evaluates work flows, organization, and planning. Develops corrective action when necessary. Designs architecture(s) to include the software, hardware, and communications. Provides daily supervision and direction to staff.	10 Yrs. Minimum Relevant Experience	MS/MA in Information Technology Management, Business, or task order specific discipline
Graphics Specialist I	Executes graphic projects and coordinates and schedules production. Interfaces with users to determine scope of project and best graphic medium. Operates and sets up computer graphic systems. May train others in proper use of computer graphic equipment. Familiar with commonly-used art media and commercially available graphics packages. Performs graphics design and layout of technical or scientific materials.	1 Yr. Minimum Relevant Experience	BS/BA
Graphics Specialist II	Conceptualizes, designs, and develops a wide variety of information materials (technical,	5 Yrs. Minimum	BS/BA

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	promotional, informational, instructional), such as forms, labels, brochures, meeting and conference handouts, slides, logos, posters, and other presentation aids through a variety of media outlets such as CDROMs, websites, and other publications.. Uses advanced desktop publishing, page layout, or typesetting software. Generates, manipulates, and integrates graphic images, animations, sound, text and video generated with automated tools into consolidated and seamless multimedia programs. Functions as a technical expert across multiple project assignments. May supervise others.	Relevant Experience	
Graphics Specialist III	Conceptualizes, designs, and develops a wide variety of information materials (technical, promotional, informational, instructional), such as forms, labels, brochures, meeting and conference handouts, slides, logos, posters, and other presentation aids through a variety of media outlets such as CDROMs, websites, and other publications. Uses advanced desktop publishing, page layout, or typesetting software to design and develop high quality textual and graphic compositions to communicate complex technical. Has domain and expert technical knowledge. May supervise others.	10 Yrs. Minimum Relevant Experience	MS/MA
Information Security Specialist I	Responsible for designing and implementing solutions for protecting the confidentiality, integrity and availability of sensitive information. Provides technical evaluations of customer systems and assists with making security improvements. Conducts security product evaluations, and recommends products, technologies and upgrades to improve the customers security posture. Conducts testing and audit log reviews to evaluate the effectiveness of current security measures. Provides technical support in the areas of vulnerability assessment, risk assessment, network security, product evaluation, and security implementation.	1 Yr. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Information Security Specialist II	Responsible for designing and implementing solutions for protecting the confidentiality, integrity and availability of sensitive information. Provides technical evaluations of	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems,

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	customer systems and assists with making security improvements. Conducts security product evaluations, and recommends products, technologies and upgrades to improve the customers security posture. Conducts testing and audit log reviews to evaluate the effectiveness of current security measures. Provides technical support in the areas of vulnerability assessment, risk assessment, network security, product evaluation, and security implementation.		Engineering, Business, Physical Science, or other technology-related discipline.
Information Security Specialist III	Helps agencies identify their current security infrastructure and define future programs, design and implementation of security related to IT systems. Oversees the efforts of security staff to design, develop, engineer and implement solutions to security requirements. A working knowledge of several of the following areas is required: understanding of business security practices and procedures; knowledge of current security tools available; hardware/software security implementation; different communication protocols; encryption techniques/tools; familiarity with commercial products, and current Internet/EC technology. Ability to serve as Information System Security Officer. May supervise others.	10 Yrs. Minimum Relevant Experience	MS/MA in Computer Science, Information Technology Management, Security, Business, or other technology- or security- specific discipline
Information Technology Management Analyst I	Analyzes IT systems functionality and integration with management, processes, structure, culture, and performance. Conducts organizational analysis using qualitative and quantitative tools and techniques to assess the effectiveness of the client's IT systems relative to overall program goals. Identifies sources of automation issues, make recommendations, including designing and implementing appropriate IT system and improvements. Tasks may include coaching, interviewing, workshop facilitation, training, and surveys. Conducts organizational or process analysis, utilizing qualitative and quantitative analysis tools and techniques.	1 Yr. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Information Technology Management Analyst II	Analyzes IT systems functionality and integration with management, processes, structure, culture, and performance. Conducts organizational analysis using qualitative and quantitative tools and techniques to assess the	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering,

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	effectiveness of the client's IT systems relative to overall program goals. Identifies sources of automation issues, make recommendations, including designing and implementing appropriate IT system and improvements. Tasks may include coaching, interviewing, workshop facilitation, training, and surveys. Conducts organizational or process analysis, utilizing qualitative and quantitative analysis tools and techniques.		Business, Physical Science, or other technology-related discipline.
Information Technology Management Analyst III	Analyzes IT systems functionality and integration with management, processes, structure, culture, and performance. Conducts organizational analysis using qualitative and quantitative tools and techniques to assess the effectiveness of the client's IT systems relative to overall program goals. Identifies sources of automation issues, make recommendations, including designing and implementing appropriate IT system and improvements. Tasks may include coaching, interviewing, workshop facilitation, training, and surveys. Conducts organizational or process analysis, utilizing qualitative and quantitative analysis tools and techniques.	4 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Information Technology Management Analyst IV	Analyzes IT systems functionality and integration with management, processes, structure, culture, and performance. Conducts organizational analysis using qualitative and quantitative tools and techniques to assess the effectiveness of the client's IT systems relative to overall program goals. Identifies sources of automation issues, make recommendations, including designing and implementing appropriate IT system and improvements. Tasks may include coaching, interviewing, workshop facilitation, training, and surveys. Conducts organizational or process analysis, utilizing qualitative and quantitative analysis tools and techniques.	5 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Information Technology Process Consultant I	Uses Information Technology based applications to implement process improvement and reengineering methodologies to client business processes. Duties may include activity and data modeling, developing improvements to business methods on IT related projected. This individual is responsible for transition	1 Yr. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	planning introduction, and integration of new IT processes. May provide group facilitation and training for newly implemented IT processes and act as key coordinator between multiple process stakeholders and project. Key coordinator between multiple project teams to ensure enterprise-wide integration of reengineering efforts under direct supervision.		technology-related discipline.
Information Technology Process Consultant II	Uses Information Technology based applications to implement process improvement and reengineering methodologies to client business processes. Duties may include activity and data modeling, developing improvements to business methods on IT related projected. This individual is responsible for transition planning introduction, and integration of new IT processes. May provide group facilitation and training for newly implemented IT processes and act as key coordinator between multiple process stakeholders and project. Coordinator between multiple project teams to ensure enterprise-wide integration of reengineering efforts under general supervision.	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Information Technology Process Consultant III	Uses Information Technology based applications to implement process improvement and reengineering methodologies to client business processes. Duties may include activity and data modeling, developing improvements to business methods on IT related projected. This individual is responsible for transition planning introduction, and integration of new IT processes. May provide group facilitation and training for newly implemented IT processes and act as key coordinator between multiple process stakeholders and project. Key coordinator between multiple project teams to ensure enterprise-wide integration of reengineering efforts.	6 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Information Technology Process Consultant IV	Uses Information Technology based applications to implement process improvement and reengineering methodologies to client business processes. Duties may include activity and data modeling, developing improvements to business methods on IT related projected. This individual is responsible for transition planning introduction, and integration of new IT processes. May provide group facilitation and	10 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	training for newly implemented IT processes and act as key coordinator between multiple process stakeholders and project. Key coordinator between multiple project teams to ensure enterprise-wide integration of reengineering efforts.		
Integration & Test Engineer I	Highly specialized in one or more phases of systems engineering and testing. Evaluates the applicability of a broad range of information systems issues, including hardware/software integration, compatibility and multiple platforms. Evaluates the effectiveness and applicability of a broad range of information systems.	1 Yr. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Integration & Test Engineer II	Highly specialized in one or more phases of systems engineering and testing. Evaluates the applicability of a broad range of information systems issues, including hardware/software integration, compatibility and multiple platforms. Evaluates the effectiveness and applicability of a broad range of information systems.	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Integration & Test Engineer III	Highly specialized in one or more phases of systems engineering and testing. Evaluates the applicability of a broad range of information systems issues, including hardware/software integration, compatibility and multiple platforms. Evaluates the effectiveness and applicability of a broad range of information systems.	6 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Network Administrator	Responsible for troubleshooting and making necessary adjustments in network operating system, software and hardware. Works with other ADP sta. to design, develop, install, test, debug, modify and maintain distributed processing databases on the LAN. Designs,	8 Yrs. Minimum Relevant Experience Client-specified industry certifications may apply.	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	installs, modifies and maintains Local Area and Wide Area Networks (LANs & WANs).		
Network Engineer	Provides technical support in evaluating and resolving network and processor problems. Responsible for the design, configuration and implementation of Wide Area Networks (WANs). Evaluates network performance using hardware and software diagnostic tools. Participates in planning and installation of new networks and ADP hardware. Recommends network changes for operational impact. Designs, configures, test, implements and maintains telecommunications and LAN operation support activities, and supports application programmers	5 Yrs. Minimum Relevant Experience Client-specified industry certifications may apply.	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Network Engineer II	Provides support in the translation of business requirements into telecommunications (e.g., LAN, MAN, WAN, Voice and Video) requirements, designs and orders. . Provides the routine testing and analysis of all elements of the network facilities (including power, software, communications machinery, lines, modems, and terminals). Troubleshoots network systems when necessary and makes improvements to the network. Has the ability to apply a comprehensive knowledge across key tasks and high impact assignments. May supervise others.	8 Yrs. Minimum Relevant Experience Client-specified industry certifications may apply	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Network Engineer III	Provides support in the translation of business requirements into telecommunications (e.g., LAN, MAN, WAN, Voice and Video) requirements, designs and orders. Provides in-depth engineering analysis of telecommunications alternatives for government agencies in support of their strategic modernization efforts and telecommunications enhancement design for medium and large-scale telecommunication infrastructures. Provides	10 Yrs. Minimum Relevant Experience Client-specified industry certifications may apply	MS/MA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	technical/management leadership on major tasks or technology assignments. Establishes goals and plans that meet project objectives. Has domain and expert technical knowledge. May supervise others.		
Principal Consultant	Serves as technical expert and assists in the development of logical and physical systems design. Reviews and prepares systems documents and specifications. Provides technical interpretation of methodologies and concepts underlying project objectives. Prepares reports, studies, and documentation, delivers presentations, and participates in meetings. Competent to work on complex projects independently and on multiple phases of a project. Develops practical and workable solutions to clients' technical and business problem.	6 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Program Management Specialist I	Analyzes management, business, and technical issues related to program management and information systems. Provides guidance the business implications of various systems. Collaborates on feasibility studies and systems planning. Assists in formulating systems scope and objectives. Devises and/or modifies procedures for managing complex programs. Coordinates multiple project teams under direct supervision.	1 Yr. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Program Management Specialist II	Analyzes management, business, and technical issues related to program management and information systems. Provides guidance the business implications of various systems. Collaborates on feasibility studies and systems planning. Assists in formulating systems scope and objectives. Devises and/or modifies procedures for managing complex programs. Coordinates multiple project teams under general supervision.	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Program Management Specialist III	Analyzes management, business, and technical issues related to program management and information systems. Provides guidance the business implications of various systems. Collaborates on feasibility studies and systems planning. Assists in formulating systems scope and objectives. Devises and/or modifies procedures for managing complex programs. Key coordinator between multiple project teams. May work independently and supervise junior staff.	6 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Program Management Specialist IV	Analyzes management, business, and technical issues related to program management and information systems. Provides guidance the business implications of various systems. Collaborates on feasibility studies and systems planning. Assists in formulating systems scope and objectives. Devises and/or modifies procedures for managing complex programs. Key coordinator between multiple project teams to ensure enterprise-wide integration of reengineering efforts. Works independently and supervises junior staff.	10 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Program Manager I	Responsible for all contract activities. Sets policies and procedures, technical standards and methods, and priorities. Coordinates the management of all work performed on tasks under the contract. Coordinates the efforts of subcontractors, team members, and vendors. Acts as the central point of contact with the Contracting Officer's Technical Representative, and other client officials. Manages a large programs ensuring that the government programs come in on time and under budget.	5 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Program Manager II	Organizes, directs, and manages contract operation support functions, involving multiple, complex and inter-related project tasks. Meets with customer and contractor personnel to formulate and review task plans and deliverable items. Ensures conformance with program task schedules and costs. Establishes and maintains technical and financial reports to show progress of projects to management and customers, organizes and delegates responsibilities to subordinates and oversees the successful completion of all assigned tasks. Functions as a	8 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	technical expert across multiple project assignments. May supervise others.		
Program Manager III	Organizes, directs, and manages contract operation support functions, involving multiple, complex and inter-related project tasks. Meets with customer and contractor personnel to formulate and review task plans and deliverable items. Ensures conformance with program task schedules and costs. Establishes and maintains technical and financial reports to show progress of projects to management and customers, organizes and delegates responsibilities to subordinates and oversees the successful completion of all assigned tasks. Establishes goals and plans that meet project objectives. Directs and controls activities for a client, having overall responsibility for financial management, methods, and staffing to ensure that technical requirements are met. Decision making and domain knowledge may have a critical impact on overall project implementation. May supervise others.	10 Yrs. Minimum Relevant Experience	MS/MA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline
Programmer/Analyst	Develops program level specifications under supervision. Develops, modifies and maintains business and information management programs. Uses standard procedures for program development, file and data manipulation, error detection and correction, program testing and documentation.	Min. 3 yrs. Client-specified computer certifications may apply.	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Quality Assurance Analyst I	Ensures that all information systems products and services meet company, client, and end-user requirements. Tests software to ensure proper operation and freedom from defects and/or supports testing. Reviews all documentation for completeness, accuracy, and correctness. Organizes and maintains all quality assurance documentation. Reports progress on problem resolution to management. Devises improvements to current procedures and	1 Yr. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	develops models of possible future configurations. Performs work flow analysis and recommends quality improvements. Ensures that all information systems products and services meet client standards and end-user requirements.		
Quality Assurance Analyst II	Ensures that all information systems products and services meet company, client, and end-user requirements. Tests software to ensure proper operation and freedom from defects and/or supports testing. Reviews all documentation for completeness, accuracy, and correctness. Organizes and maintains all quality assurance documentation. Reports progress on problem resolution to management. Devises improvements to current procedures and develops models of possible future configurations. Performs work flow analysis and recommends quality improvements. Ensures that all information systems products and services meet client standards and end-user requirements	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Quality Assurance Analyst III	Ensures that all information systems products and services meet company, client, and end-user requirements. Tests software to ensure proper operation and freedom from defects and/or supports testing. Reviews all documentation for completeness, accuracy, and correctness. Organizes and maintains all quality assurance documentation. Reports progress on problem resolution to management. Devises improvements to current procedures and develops models of possible future configurations. Performs work flow analysis and recommends quality improvements. Ensures that all information systems products and services meet client standards and end-user requirements	5 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Quality Assurance Specialist	Ensures that all information systems products and services meet company, client, and end-user requirements. Tests software to ensure proper operation and freedom from defects and/or supports testing. Reviews all documentation for completeness, accuracy, and correctness. Organizes and maintains all quality assurance documentation. Reports progress on problem resolution to management. Devises improvements to current procedures and develops models of possible future configurations. Performs work flow analysis and recommends quality improvements. Ensures that all information systems products and services meet client standards and end-user requirements	6 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.
Sr. Consultant	Coordinates and performs logical and physical systems design. Reviews and prepares system documents and specifications. Prepares reports, studies, and documentation, delivers presentations, and participates in meetings. Provides technical direction to personnel performing systems analysis and system/subsystem development tasks.	8 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Sr. Database Administrator	Provides guidance and technical expertise in the development, testing, operation, and maintenance of information systems for business processing applications. Conducts management studies, defines data requirements, provides performance management analyses, proposes solutions to system problems based on cost effectiveness and quality of performance. Provides technical guidance to Database Administrators/Specialists in the performance of their duties. Evaluates the databases and applications as they relate to information goals. Defines all database standards, policies, and procedures. Provides technical expertise in the logical and physical design of databases.	10 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Sr. Financial Systems Accountant	Prepares requirements analyses and assists in system design related to agency accounting functions. Analyzes agency management systems, plans, procedures, and requirements relating to the implementation of enterprise systems. Assists in developing test scenarios for system testing and benchmarking. Reviews agency accounting system policies, regulations, and operations. Develops process and system improvements. CPA or CMA is preferred.	8 Yrs. Minimum Relevant Experience	MS/MA Accounting, Business, or Technology Related Discipline
Sr. Financial Systems Analyst	Provides technical interpretation of financial policy and concepts underlying Federal accounting and reporting regulations and procedural requirements. Prepares reports, studies, and documentation, delivers presentations, and participates in meetings. Serves as a technical expert for Government financial information management. Assists in the development of logical and physical systems design.	8 Yrs. Minimum Relevant Experience	BS/BA Accounting, Business, or Technology Related Discipline
Sr. Management Analyst	Develops new and/or revises existing policies and procedures to increase accountability for development reports, enhance coordination and cooperation between offices, improve information and data flow, and facilitate management planning. Coordinates the implementation and reviews the effectiveness of developed policies and procedures.	8 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Sr. Systems Program Manager	Ensures conformance with work standards, interprets policies, procedures, and goals and objectives of the organization. Coordinates work effort with all parties to ensure problem resolution and user satisfaction. Reviews work products for quality, completeness, and adherence to design concepts and user requirements. Capable of negotiating and making binding decisions on behalf of the company. Manages and coordinates the implementation of enterprise applications through all phases of the development life cycle, including planning, requirements analysis, design, development, testing, installation and evaluation.	15 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Sr. Systems Programmer	Confers with technical and analytical personnel and designs detailed programs, flow charts, and diagrams indicating required computations and sequence of machine operations. Translates design into coded instructions. Verifies accuracy and validity of programs by preparing sample data and testing. Corrects program errors and modifies the program as required by revising instructions. Reviews and/or prepares system documents and specifications. Analyzes programs and outlines for such factors as type and extent of information to be transferred from storage units, sorting, and format of final results.	8 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Sr. Technical Advisor	Identifies, evaluates, and specifies system architecture and high level design. Provides advice and counsel to project and senior management through broad technical specialization of scientific theory and principals. Individual is well-recognized for mastery of hardware, software, firmware, scientific, and engineering techniques and theories gained through wide experience or specialized development. Provides expertise on technical matters on an as-needed basis to all task assignments	10 Yrs. Minimum Relevant Experience Client-specified industry certifications may apply.	MS/MA in Information Technology Management, Business, or task order specific discipline
Sr. Technical Support Rep.	Provides technical support requiring an intermediate level knowledge of IT products and services. Assists lower level Technical Support Representatives in resolving more complex technical problems. Answers telephone inquiries from end-users and/or other Technical Support Reps regarding a variety of IT products or services. Queries end-users for information in order to accurately identify the technical source of the problem. Supports junior staff and provides troubleshooting and makes recommendations. Responsible for providing technical support, problem diagnosis and resolution, to system end-users for a variety of IT products, i.e. hardware, software, and related services	Min. 2 yrs. Client-specified computer certifications may apply.	AA Degree

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Strategic Information Technology Advisor I	<p>Highly specialized knowledge and expertise in one or more vertical disciplines such as law enforcement, anti-terrorism, biological science, banking, transportation, or other such disciplines as required to define/ establish the functional or business direction of an enterprise, agency, or inter-agency requirement. Provides leadership, direction, and knowledge transfer in the target discipline. Aligns the business processes and information technology strategy with the conditions and circumstances of the functional environment and establishes effective performance measures. Contributes to the definition and implementation of planning processes and/or systems at the enterprise level including both strategic and operational activities. Highly specialized knowledge and expertise in an uncommon or emerging technical or engineering discipline not generally available in the marketplace.</p>	1 Yr. Minimum Relevant Experience	MS/MA in Information Technology Management, Business, or task order specific discipline
Strategic Information Technology Advisor II	<p>Highly specialized knowledge and expertise in one or more vertical disciplines such as law enforcement, anti-terrorism, biological science, banking, transportation, or other such disciplines as required to define/ establish the functional or business direction of an enterprise, agency, or inter-agency requirement. Provides leadership, direction, and knowledge transfer in the target discipline. Aligns the business processes and information technology strategy with the conditions and circumstances of the functional environment and establishes effective performance measures. Contributes to the definition and implementation of planning processes and/or systems at the enterprise level including both strategic and operational activities. Highly specialized knowledge and expertise in an uncommon or emerging technical or engineering discipline not generally available in the marketplace.</p>	3 Yrs. Minimum Relevant Experience	MS/MA in Information Technology Management, Business, or task order specific discipline

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Subject Matter Expert 1	Supports the definition and implementation of planning processes and systems at the enterprise or group level and including both strategic and operational activities. Evaluates expectations for and capabilities of the information management organization and makes recommendations to improve service. May require specialized training with a specific software / hardware tool set. Provides expert assistance in subject matter related to the task order.	15 Yrs. Minimum Relevant Experience	PhD in Information Technology Management, Business, or task order specific discipline
Subject Matter Expert 2	Supports the definition and implementation of planning processes and systems at the enterprise or group level and including both strategic and operational activities. Evaluates expectations for and capabilities of the information management organization and makes recommendations to improve service. May require specialized training with a specific software / hardware tool set. Provides expert assistance in subject matter related to the task order.	10 Yrs. Minimum Relevant Experience	MS/MA in Information Technology Management, Business, or task order specific discipline
Systems Analyst	Assists technical and user personnel in identifying problems and devising feasible solutions for acquiring, organizing, and processing data. Performs need assessments, requirements analyses, and develops system and subsystem functional specifications. Develops design documents and program specifications. Participates in all program development activities, including program and system testing. CPA or CMA is preferred.	3 Yrs. Minimum Relevant Experience	MS/MA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Sr. Systems Analyst	Assists technical and user personnel in identifying problems and devising feasible solutions for acquiring, organizing, and processing data. Performs need assessments, requirements analyses, and develops system and subsystem functional specifications. Develops	10 Yrs. Minimum Relevant Experience	MS/MA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	design documents and program specifications. Participates in all program development activities, including program and system testing. CPA or CMA is preferred.		
Systems Engineer I	Highly specialized in one or more phases of software systems development, systems integration, or network engineering. Formulates / defines specifications, develops / modifies / maintains complex systems and subsystems, using vendor engineering releases and utilities for overall operational systems. Develops complete specifications to enable computer programmers to prepare required programs. Coordinates work with programmers and engineers, and orients users to new systems. Software systems development, systems integration, or network engineering.	1 Yr. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Systems Engineer II	Highly specialized in one or more phases of software systems development, systems integration, or network engineering. Formulates / defines specifications, develops / modifies / maintains complex systems and subsystems, using vendor engineering releases and utilities for overall operational systems. Develops complete specifications to enable computer programmers to prepare required programs. Coordinates work with programmers and engineers, and orients users to new systems. Software systems development, systems integration, or network engineering.	3 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Systems Engineer III	Highly specialized in one or more phases of software systems development, systems integration, or network engineering. Formulates / defines specifications, develops / modifies / maintains complex systems and subsystems, using vendor engineering releases and utilities for overall operational systems. Develops complete specifications to enable computer programmers to prepare required programs. Coordinates work with programmers and	5 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	engineers, and orients users to new systems. Software systems development, systems integration, or network engineering.		
Systems Programmer	Confers with technical and analytical personnel and designs detailed programs, flow charts, and diagrams indicating required computations and sequence of machine operations. Translates design into coded instructions. Verifies accuracy and validity of programs by preparing sample data and testing. Corrects program errors and modifies the program as required by revising instructions. Reviews and/or prepares system documents and specifications. Analyzes programs and outlines for such factors as type and extent of information to be transferred from storage units, sorting, and format of final results.	5 Yrs. Minimum Relevant Experience	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Technical Support Analyst	Provides technical support requiring an intermediate or advanced level technical knowledge of IT products and services. Has an in depth knowledge of several areas of specialty. Acts as a technical resource for more complex problem resolution. Troubleshoots, analyzes and investigates complex technical problems and communicates solutions via telephone, fax, e-mail, or in person concerning the use of IT products and services. Performs in depth analysis and research of the problem and determines solutions to meet client needs. Troubleshoots and analyzes technical problems for end-users regarding a variety of IT products, i.e. hardware, software, and related services	3 Yrs. Minimum Relevant Experience Client-specified industry certifications may apply.	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
Technical Support Lead/Supervisor	Provides training, guidance and direction to Technical Support Representatives to ensure quality services are provided to end users. Motivates the project team to meet established criteria, identify potential quality deficiencies and propose corrective actions. Coordinates shift scheduling and establish work flow ensuring adequate coverage at all times. May participate in the recruiting, interviewing and hiring process. Evaluates documents and seeks to improve the performance of Technical Support Representatives. Recommends action steps to ensure satisfied end users. Supervises and monitors the work of Technical Support Representatives engaged in providing technical support to end-users regarding a variety IT products, i.e. hardware, software, and related services. Ensures that quality technical support is provided to end-users	4 Yrs. Minimum Relevant Experience Client-specified industry certifications may apply.	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Technical Support Manager	Provides training, guidance and direction to Technical Support Representatives to ensure quality services are provided to end users. Motivates the project team to meet established criteria, identify potential quality deficiencies and propose corrective actions. Coordinates shift scheduling and establish work flow ensuring adequate coverage at all times. May participate in the recruiting, interviewing and hiring process. Evaluates, documents and seeks to improve the performance of Technical Support Representatives. Recommends action steps to ensure satisfied end users. Supervises and monitors the work of Technical Support Representatives engaged in providing technical support to end-users regarding a variety IT products, i.e. hardware, software, and related services. Ensures that quality technical support is provided to end-users.	5 Yrs. Minimum Relevant Experience Client-specified industry certifications may apply.	BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology
Technical Support Rep.	Provides technical support requiring an intermediate level knowledge of IT products and services. Answers telephone inquiries	Min. 1 yr. Client-specified	AA Degree

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	from end-users and/or other Technical Support Reps regarding a variety of IT products or services. Queries end-users for information in order to accurately identify the technical source of the problem. Responsible for providing technical support, problem diagnosis and resolution, to system end-users for a variety of IT products, i.e. hardware, software, and related services.	computer certifications may apply.	
Technical Support Specialist I	Provides technical support to staff and customers by testing software and hardware products, maintains software documentation, responds and follows-up on internal and external customer support problems. Provides support to end users for either PC, server, or mainframe applications and hardware. Testing software and hardware products	1 Yr. Minimum Relevant Experience	BA/BS
Technical Support Specialist II	Provides technical support to staff and customers by testing software and hardware products, maintains software documentation, responds and follows-up on internal and external customer support problems. Provides support to end users for either PC, server, or mainframe applications and hardware. Testing software and hardware products	3 Yrs. Minimum Relevant Experience	BA/BS
Technical Writer/Editor	Prepares and edits system documentation incorporating information provided by the user, specialist, analyst, and programmer personnel. Interprets technical documentation standards and prepares documentation according to the standards and prepares documentation according to the standards. Responsible for spelling, grammar, and proper formats. Proofreads final products. Writes, edits, and types reports, studies, and presentation material of technical information for both technical and non-technical audience.	3 Yrs. Minimum Relevant Experience	BS/BA
Technical Writer II	Gathers, analyzes, translates and composes technical information into clear, readable documents to be used by technical and non-technical personnel. Composes technical documents including, user's manuals, training materials, installation guides, proposals, and reports. Edits functional descriptions, system specifications, user's manuals, special reports,	5 Yrs. Minimum Relevant Experience.	BS/BA

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	or any other customer deliverables and documents. Conducts research and ensures the use of proper technical terminology. May supervise others.		
Technical Writer III	Gathers, analyzes, translates and composes technical information into clear, readable documents to be used by technical and non-technical personnel. Composes technical documents including, user's manuals, training materials, installation guides, proposals, and reports. Edits functional descriptions, system specifications, user's manuals, special reports, or any other customer deliverables and documents. Conducts research and ensures the use of proper technical terminology. May supervise others.	10 Yrs. Minimum Relevant Experience	MS/MA
Trainer/Course Developer	Identifies training objectives, constructs performance measures, and specifies appropriate instructional delivery methods. Interfaces with design and development teams to insure incorporation of training needs into the system development life cycle process. Designs, develops, documents, and delivers training courses to a wide range of audiences using a mix of training techniques and media such as formal lectures, seminars, tutorials, and computer aided instruction (CADE). Evaluates training material and resources. Provides professional guidance to Contractor management, analysts, specialists, programmers, and Government personnel.	5 Yrs. Minimum Relevant Experience	BA/BS
Training Developer II	Experienced in instructional systems design (ISD) methodology (preferably ADDIE). Develops instructor-led and computer-based training. Develops and revises training courses and prepares appropriate training catalogs. Develops courses and instructional material to educate technical and non-technical personnel. Prepares instructor materials (course outline, background material, and training aids). Prepares student materials (course manuals, workbooks, handouts, completion certificates, and course critique forms). Must possess exceptional interpersonal skills and superior oral	5 Yrs. Minimum Relevant Experience. ISD certification preferred	BS/BA

Labor Category	Minimum General Experience	Minimum Years of Experience	Educational Requirements
	<p>and written communication skills. Possesses and applies expertise on multiple complex work assignments which are broad in nature, requiring originality and innovation in determining how to accomplish tasks. Has the ability to apply a comprehensive knowledge across key tasks and high impact assignments. Plans and leads major technology assignments. Evaluates performance results and recommends major changes affecting short-term project growth and success. Functions as a technical expert across multiple project assignments. May supervise others.</p>		
Training Developer III	<p>Experienced in instructional systems design (ISD) methodology (preferably ADDIE). Develops instructor-led and computer-based training. Develops and revises training courses and prepares appropriate training catalogs. Develops courses and instructional material to educate technical and non-technical personnel in IT. Prepares instructor materials (course outline, background material, and training aids). Prepares student materials (course manuals, workbooks, handouts, completion certificates, and course critique forms). Must possess exceptional interpersonal skills and superior oral and written communication skills. Establishes goals and plans that meet project objectives. Decision making and domain knowledge may have a critical impact on overall project implementation. May supervise others.</p>	<p>10 Yrs. Minimum Relevant Experience. ISD certification preferred</p>	<p>MS/MA</p>
Training Specialist I	<p>Organizes and conducts training and educational programs for information systems (technical) or user (non-technical) personnel. May develop instructional curriculum and materials; prepares course outline, handouts, and visual aid materials. Coordinates with subject matter experts to ensure that prepared courses meet stated objectives. Maintains records of training activities and program effectiveness. Organizes and conducts training and educational programs for information systems.</p>	<p>1 Yr. Minimum Relevant Experience</p>	<p>BS/BA in Computer Science, Information Systems, Engineering, Business, Physical Science, or other technology-related discipline.</p>