

**GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF TENNCARE
AND
GRANTEE NAME**

This Grant Contract, by and between the State of Tennessee, Department of Finance and Administration, Division of TennCare, hereinafter referred to as the "State" or "TennCare" and **Contractor Legal Entity Name**, hereinafter referred to as the "Grantee," is for the provision of outreach and advocacy services to TennCare applicants and members, as further defined in the "SCOPE OF SERVICES."

The Grantee is **a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation Or Association, Partnership, Joint Venture, Or Limited Liability Company.**

Grantee Place of Incorporation or Organization: **Location**

Grantee Edison Vendor ID # **Number**

A. SCOPE OF SERVICES AND DELIVERABLES:

- A.1. The Grantee shall provide all services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.
- A.2. Definitions. For purposes of this Grant Contract, terms and definitions shall be as set forth in Attachment A.
- A.3. The Grantee shall provide TennCare applicants and members assistance with creating and maintaining an online account using TennCare Connect during advocacy, outreach, or other forms of services provided under the applicable grant. This specifically includes providing TennCare applicants and members with assistance selecting the individual's communication preferences whether by mail, text, email, or some combination thereof. Work under this contract shall begin when the State initiates the first ex parte review after the Public Health Emergency ends.
- A.4. The Grantee shall perform statewide community outreach to assist TennCare members through the renewal process once the federal public health emergency ends. Community outreach shall consist of assisting individuals with the renewal process and establishing TennCare Connect accounts for members able to use the self-service portal. The Grantee shall conduct community outreach events at least once a month for the duration of the grant. This shall include, but not be limited to, hosting an educational booth at a community fair or gathering in an area with a concentrated TennCare population.
- A.5. Renewal Outreach. The Grantee shall provide Renewal Outreach services to TennCare members prior to the due date of their annual Renewal Packet including but not limited to the following:
- a. The Grantee shall assist TennCare members who receive a renewal packet by helping them to complete the packet and submit requested verifications through any available modality.
 - b. The Grantee shall inform the member of the requirements for returning requested verifications, as well as reporting changes in addresses and household circumstances. The Grantee shall also provide assistance or instruction on how to upload documents and report changes through the TennCare Connect online account, mobile app, by mail, by fax or in person at Department of Human Services offices.

- A.6. Advocacy Services. The Grantee shall operate a call center using a statewide toll-free advocacy phone line for the purpose of providing information and assistance pertaining to TennCare eligibility and the annual renewal process. While this phone line will constitute the majority of incoming contact, the Grantee shall accept contacts made by TennCare applicants and members, and persons or agencies on behalf of TennCare applicants and members via telephone, mail, fax, and/or secure e-mail. Information and assistance provided shall include but is not limited to the renewal process, eligibility categories and requirements, and eligibility appeals. Information and assistance provided shall exclude eligibility verification for providers.
- a. This phone line shall be staffed by fluent English-speaking advocates who are trained and knowledgeable in customer service, conflict resolution, crisis de-escalation, and interpersonal and problem-solving skills. In addition, staff shall acquire and maintain proficiency in their knowledge of the TennCare program.
 - b. At no additional cost to the State, the Grantee shall provide culturally and linguistically appropriate statewide TennCare assistance through the call center, specifically to persons with Limited English Proficiency (LEP) or to persons or agencies who act on behalf of TennCare applicants and members with LEP. For purposes of this grant, "persons with LEP" shall be defined as TennCare applicants and members who need assistance in a language other than English.
 - (1) The Grantee shall operate a separate, menu-driven split/skill of the toll-free phone line for TennCare assistance for Spanish-speaking TennCare applicants and members staffed by bilingual advocates fluent in Spanish and English, who are trained and knowledgeable as specified in Section A.6.a.
 - (2) The Grantee shall provide and maintain access to free Interpreter Services for callers with LEP.
 - (3) Interpreter Services shall be available during hours of operation as specified in Section A.6.e.
 - (4) If the Grantee utilizes an outside source in providing Interpreter Services, this outside source shall be considered a subcontractor and shall comply with subcontractor requirements specified Section D.5, as well as the following additional requirements:
 - i. The subcontractor shall ensure interpreters are trained according to professional and ethical standards, including confidentiality and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").
 - ii. The subcontractor shall ensure interpreters have training in health care, legal, and social services terminology and the ability to utilize TennCare program terminology and reference materials; and
 - iii. The subcontractor shall have measurable quality control standards in place to ensure effective communication with individuals during the provision of interpretation services.
 - c. The Grantee shall obtain Telecommunications Relay Services (TRS) in order to provide statewide TennCare assistance to individuals with hearing and/or speech disabilities. These services shall be provided free of charge to individuals with disabilities and at no additional cost to the State.
 - d. This phone line shall be staffed and comply with the following Service Level Agreements (SLAs):
 - (1) Weekly Average Abandonment Rate less than or equal to five percent (5%)

- (2) Weekly Average Speed of Answer less than or equal to sixty (60) seconds
- e. This phone line shall be staffed and operational at least eight (8) hours a day, five (5) days a week, with the schedule to be approved by TennCare, and shall provide live telephone assistance during these hours. The Contractor shall be required to adjust hours of operation in performing special outreach services specified in Section A.7, as agreed upon by the State. Beyond these hours, the phone line shall be answered by an answering machine with message recording availability in the English and Spanish languages. Recorded calls/messages shall be logged and returned within two (2) business days; if message volume exceeds fifty (50) per day, recorded calls shall be logged and returned within five (5) business days of the date of receipt of each message.
- f. The Grantee shall provide ongoing support and assistance with completing a new application to any member who may lose TennCare eligibility during the course of the year due to failure to provide the Renewal Packet or other information to TennCare.
- g. For TennCare assistance, the Grantee shall provide and maintain both an Automated Call Distribution (ACD) system and a manual/electronic call data collection system that are capable of permitting 3-way conference calls to include the advocate, the interpreter, and the caller; and tracking at a minimum, the following call data in accordance with TennCare requirements.
 - (1) At a minimum, the ACD system shall be capable of collecting on a daily basis: total number of incoming calls per toll-free phone line and per split/skill, total number of incoming calls abandoned per toll-free phone line and per split/skill, total number of incoming calls answered within sixty (60) seconds per toll-free phone line and per split/skill, and average number of staff available to answer calls per toll-free phone line and per split/skill.
 - (2) At a minimum, the manual/electronic call data collection system shall be capable of collecting on a daily basis specific case information including but not limited to the following: caller name and demographics, TennCare member or applicant name and demographics, TennCare member or applicant's representative and demographics, subject matter of call, research results and actions taken by the advocate, total number of cases and their disposition (opened, pending, closed).
 - (3) The Grantee shall modify its data tracking systems to gather additional information as requested by TennCare.

A.7. Special Outreach Services. The Grantee shall provide statewide targeted telephone outreach services to TennCare applicants and/or members as requested and/or approved by TennCare. Outreach projects may include but are not limited to targeted populations subject to renewal.

- a. Targeted populations may include but are not limited to TennCare members who have experienced the following change of circumstances:
 - (1) Inactive Supplemental Security Income (SSI) recipients (TennCare members who no longer receive SSI from the Social Security Administration),
 - (2) Individuals who no longer reside in a nursing facility or no longer receive nursing facility care in their own home,
 - (3) Recipients of the Medicare Savings Program (MSP), or
 - (4) Members who receive services through community mental health centers.
- b. Outreach projects may include required research attempts to locate correct phone numbers and mailing addresses. Outreach projects may be conducted on an On Request basis, as well as ongoing.

- c. The Grantee shall provide adequate phone lines and staff for Outreach Services so that receipt of incoming calls to the TennCare assistance toll-free phone lines, and SLAs as specified in Section A.6.d., are not compromised.
 - d. The Grantee shall maintain adequate staffing and resources for On Request outreach projects each year.
- A.8. Reporting Requirements. The Grantee shall submit electronically monthly statistical reports no later than the 15th of the following month to TennCare.
- a. This report shall consist of the following elements:
 - (1) total number of online accounts opened per month;
 - (2) total number of completed renewal packets per month;
 - (3) total number of completed applications per month;
 - (4) total number of community outreach events performed and the number of people assisted at each event.
 - (5) total number of incoming calls received per toll-free phone line and per split/skill per day/week/month;
 - (6) total number of incoming calls answered per toll-free phone line and per split/skill per day/week/month;
 - (7) total number and percentage of incoming calls abandoned per toll-free phone line and per split/skill per day/week/month;
 - (8) average speed of answers of incoming calls answered per toll-free phone line, per split/skill, and per day/week/month;
 - (9) total number and percentage of incoming calls answered within 60-seconds per toll-free phone line and per split/skill and per day/week/month; average number of staff available to answer calls per toll-free phone line and per split/skill per day/week/month;
 - (10) total number of cases opened per month;
 - (11) total number of cases pending per month; and
 - (12) total number of cases closed per month.
 - b. For Special Outreach Services, the Grantee shall provide an electronic data collection system that shall be capable of collecting specified data on a daily basis, as necessary.
 - (1) Data collection shall include specific outreach projects, TennCare member name and demographics, TennCare member's representative and demographics, updated demographics, number of contact attempts, date/time of each contact attempt, total number of target population individuals reached, outcome of each contact attempt. The data shall also include total number of members contacted with a breakdown of assistance provided as well as total number of members not contacted along with the breakdown of reasons for no contact.
 - (2) The Grantee shall modify its data tracking systems to gather additional information as requested by TennCare.
 - c. The Grantee shall provide reports in the format requested by TennCare and modify its reporting formats to report additional information as requested by TennCare.
 - d. The Grantee shall provide TennCare access to all project data and records as requested within timeframes established by TennCare and shall not release individual or summary data concerning services provided under this grant without specific approval of TennCare. The Grantee shall also provide ad hoc reports at the request of TennCare within specified timeframes.

- A.9. Written Materials. The Grantee shall submit all electronic and written information, including but not limited to web-based information, protocols, scripts, and training materials, and modifications of such information, to TennCare for approval prior to their implementation. Materials must be submitted to TennCare at least thirty (30) days prior to implementation and revisions must be submitted at least ten (10) days prior to implementation.
- a. The Grantee shall ensure that all information intended for TennCare applicants and members use Plain Language best practices and comply with the requirements set forth in Section E. 14. TennCare shall provide technical assistance and training of Plain Language best practice guidelines upon request.
 - b. Written protocols, timelines, call center scripts, training materials and reporting formats for all Outreach projects shall be developed by the Grantee for review and approval by TennCare, at minimum thirty (30) days prior to project implementation.
 - c. The Grantee shall be responsible for ensuring that all electronic and written information, including web-based information, scripts, and training materials, is consistent with applicable federal court orders, federal and state laws and regulations, the TennCare approved 1115 Waiver, including all subsequent amendments, and TennCare rules and policies.
 - d. TennCare shall notify the Grantee regarding all relevant modifications to public health emergency unwinding processes.
 - (1) Once unwinding processes are modified by TennCare, the Grantee shall be responsible and fully accountable for compliance as it relates to such modifications.
 - (2) The Grantee shall, upon request by TennCare, modify electronic and written information including but not limited to web-based information, scripts, and training materials as necessary to ensure consistency with applicable federal and state laws and regulations, the TennCare State Medicaid Plan and approved 1115 Waiver, including all subsequent amendments, and TennCare rules and policies. The Grantee shall complete such modifications promptly and shall provide updated versions of these materials to TennCare upon completion. All earlier versions of revised materials shall be retired, and the Grantee shall thereafter use only updated versions of these materials upon TennCare approval.
 - (3) The Grantee shall keep all records in compliance with TennCare's Record retention policies.
- A.10. Website. The Grantee shall develop and maintain a website to facilitate online access for TennCare applicants and members and for persons or agencies working on behalf of TennCare applicants and members to contact the advocacy call/contact center, and to provide TennCare relevant information, education, and referral links.
- a. All email capabilities accessed through this website, including but not limited to a "Contact Us" option, shall be developed and maintained as "secure email" to ensure HIPAA compliance as specified in Section D.11.
 - b. Pursuant to Section E. 14, the Grantee's website shall be operational and accessible to TennCare applicants and members and to persons or agencies that interact with TennCare applicants and members, including individuals with disabilities and LEP individuals.

- c. On an on-going basis, the Grantee shall submit all changes or modifications to website content related to this contract to TennCare for approval prior to implementation of changes.
- A.11. Training Program. The Grantee shall develop and maintain training materials for in-service education for existing Advocacy and Outreach staff and for newly hired Advocacy and Outreach staff that encompass all facets of Advocacy and Outreach Service delivery to TennCare applicants and members. TennCare will provide TennCare-specific training materials. Training topics shall include but not be limited to: TennCare policies, customer service, conflict resolution, de-escalation, interpersonal and problem-solving skills, and cultural and linguistic awareness of the LEP population and individuals with disabilities. Training materials for the TennCare program shall include but not be limited to; TennCare Connect, application and renewal processes, eligibility categories and requirements, program policies and procedures, appeals, and appropriate application of such knowledge to specific advocacy and outreach work.
- a. TennCare shall make available TennCare program information and materials to be used for training program development, and a TennCare representative to provide consultation to the Grantee in a Train-the-Trainer capacity.
 - b. The Grantee shall ensure that TennCare Connect training is subsequently included in their training program for in-service continuing education and for newly hired staff.
 - c. The Grantee shall provide specialized training staff to develop and administer a training program as specified in this Section. At the Grantee's discretion, Training staff may also function as specialized Quality Control staff as required in Section A.12.a.
 - d. The Grantee shall provide all Advocacy and Outreach staff with on-going in-service training and education in some or all of the topics as specified in this Section on a semi-annual basis at minimum.
- A.12. Quality Control Program. The Grantee shall develop and maintain on-going Quality Control processes that measure Advocacy and Outreach staff performance for productivity, quality and call handling techniques, accuracy in call resolution, and accuracy in data entry.
- a. The Grantee shall provide specialized Quality Control staff to develop and administer a Quality Control program as specified in this Section. At the Grantee's discretion, Quality Control staff may also function as specialized Training staff as required in Section A.11.c.
 - b. The Grantee shall develop a process to ensure that performance issues are promptly addressed, with a Corrective Action Plan (CAP) made available to TennCare upon request.
 - c. Quality Control data shall be reviewed by the Grantee on at least a monthly basis and shall be made available to TennCare upon request.
 - d. TennCare shall host a quarterly call with the Grantee to discuss the ongoing work under this Grant Contract.
 - e. The Grantee shall, upon request by TennCare, remove staff from their specific job function or project based on performance deficiencies such as but not limited to the lack of knowledge and skills necessary to perform granted activities.
- A.13. Limitations. The Grantee shall ensure that all services provided under this grant are limited to those pertaining to the TennCare programs. If, in the course of service delivery, the Grantee learns that a person is not a TennCare applicant or member, the Grantee shall make appropriate referral to other entities for assistance.

- a. Separate funding sources apart from this grant shall be secured for other Advocacy or Outreach services unrelated to TennCare: including but not limited to Federal Exchange, Families First, Food Stamps, Cover Tennessee, Social Security, Medicare, Medicare Part D, Safety Net, immigration and permanent residency assistance, ESL instruction, and employment and/or driver's license assistance.
- b. The Grantee shall not undertake a fiduciary responsibility to persons and/or agencies for whom Advocacy and Outreach services are provided.
- c. The Grantee shall not release individual or summary data or reports concerning services provided under this grant to the public or any entity without specific written approval from TennCare.
- d. The Grantee shall comply with all applicable confidentiality requirements as specified in federal law or regulation and/or defined herein.
- e. The Grantee shall notify TennCare within one (1) hour of any occurrence of interruption in call center operations.
 - (1) This notification shall include an explanation of the cause of the interruption and the CAP in place to regain operational status and to prevent future interruptions of the same kind from occurring.
 - (2) Failure to provide such notification may result in a CAP for each instance in which the Grantee fails to notify TennCare within one (1) hour of any occurrence of interruption in call/contact center operations and/or for each instance in which the Grantee fails to implement the CAP to prevent future interruptions of the same kind from occurring.
- f. The Grantee shall maintain an office within the State of Tennessee throughout the duration of the Term for this Grant Contract.
- g. The Grantee shall provide any and all equipment and space necessary to conduct the services provided under this grant, including but not limited to telephones, computers, and computer hardware and software to be used in the operation of the call center.
- h. The Grantee shall be responsible for maintenance of all call center equipment, including but not limited to, all computer hardware and software, ACD systems, and data collection systems.

A.14. Control Memorandum Process.

- a. The Control Memorandum ("CM") process shall be utilized by the State to clarify Grant Contract requirements, issue instruction to the Grantee, document action required of the Grantee, or request information from the Grantee. This process will be used to address issues or matters that do not require a Grant 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 Grantee's reply or other action. All CMs submitted to the Grantee must be signed and approved by the State's Project Director (or his/her designee).
- b. A CM may include either of the following components of the CM process described below:
 - i. On Request Report (ORR) – a request directing the Grantee to provide information by the time and date set out in the CM.

- ii. Control Directive (CD) – instructions that require the Grantee 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 Grant Contract. A CD may also provide clarification of certain Grant Contract terms. Once a CM/CD has been issued, it shall be considered as incorporated into this Grant Contract.

A.16. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as Attachment B, is incorporated in this Grant Contract.

B. TERM OF GRANT CONTRACT:

B.1. This Grant Contract shall be effective for the period beginning on April 1, 2023 (“Effective Date”) and ending on March 30, 2025, (“Term”). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.

B.2. Renewal Options. This Grant 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 sixty (60) months.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed **One Million Dollars (\$1,000,000.00)** (“Maximum Liability”). The Grant Budget, attached and incorporated hereto as Attachment C and C.1, shall constitute the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

The Grantee shall be Compensated as Follows:

- a. **\$Dollar Amount** per (**Enter Value**) completed annual renewals and/or applications;
 - (1) A completed renewal for the purposes of obtaining payment under this provision shall constitute a renewal packet that has all required fields completed; is signed and dated by the appropriate party; includes all supporting documentation required by TennCare including technical and financial requirements that results in a substantive notice of decision. The completed renewal packet must be returned by the due dates provided in the member’s notice, during the 90-day reconsideration period, or during an appeal.
 - (2) A completed application for the purposes of obtaining payment under this provision shall be limited to applications for individuals who have lost coverage through the renewal process during the unwinding period after the public health emergency ends. The application must have all required fields completed, be signed by the appropriate party, and include all supporting documentation required by TennCare including technical and financial requirements that results in a substantive notice of decision.
 - (3) A completed renewal packet or application as defined above shall only be counted once per household.
- b. **\$Dollar Amount** Flat Fee for each community outreach event held;
- c. Payment of services under (a) and (b) above are limited to **\$500,000.00** per year of the term, not to exceed the maximum liability as outlined in Section C.1.

- C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the Term and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

Division of TennCare
 Fiscal – 4 East
 310 Great Circle Road
 Nashville, Tennessee 37243

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
 - (1) Invoice/Reference Number (assigned by the Grantee).
 - (2) Invoice Date.
 - (3) Invoice Period (to which the reimbursement request is applicable).
 - (4) Grant Contract Number (assigned by the State).
 - (5) Grantor: Department of Finance and Administration, Division of TennCare..
 - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
 - (7) Grantee Name.
 - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
 - (9) Grantee Remittance Address.
 - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
 - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
 - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
 - ii. The amount reimbursed by Grant Budget line-item to date.
 - iii. The total amount reimbursed under the Grant Contract to date.
 - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.
 - (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
 - (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.

- (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Grant Budget and Revisions to Grant Budget Line-Items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget.

- a. The Grantee may vary from a Grant Budget line-item amount by up to twenty percent (20%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amounts. The net result of any changes to Grant Budget line-item amounts shall not result in funding for a line-item that was previously funded at zero dollars (\$0.00) or increase the total Grant Contract amount detailed by the Grant Budget.
- b. The Grantee may request in writing Grant Budget line-item revisions exceeding the limitation set forth in section C.6. a., above, giving full details supporting the Grantee's request, provided that such revisions do not result in funding for a line-item that was previously funded at zero dollars (\$0.00) and do not increase the total Grant Contract amount. Grant Budget line-item revisions may not be made without prior, written approval of the State in which the terms of the approved revisions are detailed. Any approval of a revision to a Grant Budget line-item greater than twenty percent (20%) shall be superseded by a subsequent revision of the Grant Budget by Grant Contract amendment.
- c. Any increase in the total Grant Contract amount shall require a Grant Contract Amendment.

C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within ninety (90) days of the Grant Contract end date, in form and substance acceptable to the State.

- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by Section C of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit said refund with the final grant disbursement reconciliation report.
- b. The State shall not be responsible for the payment of any invoice submitted to the state after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
- c. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the state pursuant to this Grant Contract.
- d. The Grantee must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal

agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.

- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute non-allowable costs.
- C.12. State's Right to Set Off. The State reserves the right to deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or any other contract between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.
 - a. The Grantee shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
 - b. The Grantee 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 Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

- D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.
- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Grantee violates any terms of this Grant Contract ("Breach Condition"), the State shall have the right to immediately terminate the Grant Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Grant Contract.
- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.

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

- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

- c. The Grantee 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.

- D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant 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 as set out below:

The State:

Deputy Commissioner
Department of Finance and Administration
Division TennCare
310 Great Circle Road
Nashville, TN 37243
Telephone # 615-507-6443
FAX # 615-253-5607

The Grantee:

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

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

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

- D.9. Subject to Funds Availability. This Grant 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 Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal,

Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. This Section D.10. shall not be deemed to limit or abridge any requirement set forth in Section E. 14.

D.11. HIPAA Compliance. The State and the Grantee 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 Grant Contract.

- a. The Grantee 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 Grant Contract.
- b. The Grantee 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 this Grant Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Grantee 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 the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Grant 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 Grantee will indemnify the State and hold it harmless for any violation by the Grantee 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.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a Grant Contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

D.14. Licensure. The Grantee and its employees and all sub-grantees shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant 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 Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification, Public Company Accounting Oversight Board (PCAOB) Accounting Standards Codification, or Governmental Accounting Standards Board (GASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Audit Requirements, and Cost Principles for Federal Awards*.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.

D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.

D.19. Audit Report. For purposes of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

The Grantee shall provide audited financial statements to the Tennessee Comptroller of the Treasury ("Comptroller") if during the Grantee's fiscal year, the Grantee: (1) expends seven hundred fifty thousand dollars (\$750,000) or more in direct and indirect federal financial assistance and the State is a pass-through entity; (2) expends seven hundred fifty thousand dollars (\$750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars (\$750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity.

At least ninety (90) days before the end of its fiscal year, the Grantee shall complete Attachment D to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed document during the Grantee's fiscal year. Any Grantee that is subject to an audit and so indicates on Attachment D shall complete Attachment E. If the Grantee is subject to an audit, Grantee shall obtain the Comptroller's approval before engaging a licensed, independent public accountant to perform the audit. The Grantee may contact the Comptroller for assistance identifying auditors.

The audit contract between the Grantee and the Auditor shall be on a contract form prescribed by the Comptroller. The Grantee shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Grantee shall be subject to the provision relating to such fees contained within this Grant Contract. The Grantee shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.

All audits shall be performed in accordance with the Comptroller's requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public. The Grantee shall also submit a copy of the Notice of Audit Report, Parent Child Form, and audit report to the State contact listed in D.8.

- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.326 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be

construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Grantee, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Grantee's employees, and to pay all applicable taxes incident to this Grant Contract.

- D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant 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 Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee 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 Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.
- D.25. Tennessee Department of Revenue Registration. The Grantee 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 Grant Contract.
- D.26. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.

- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract.
- D.29. Governing Law. This Grant 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 Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.
- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. 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 Grant Contract. The Grantee 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.34. Debarment and Suspension. The Grantee 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 Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals

or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.35. 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 Grant Grantee by the State or acquired by the Grant Grantee 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 Grant Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grant Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. The Grantee shall only use Confidential Information for activities pursuant to and related to the performance of the Grant Contract, including limited disclosures of information to subcontractors to satisfy the requirements of the Grant Contract. Grant Grantee 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 Grant 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 Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.
- E.2. Personally Identifiable Information. While performing its obligations under this Grant Contract, Grantee may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Grant 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"). Grantee agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Grantee 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 Grantee and in accordance with this Grant 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. Grantee shall immediately notify State: (1) of any disclosure or use of any PII by Grantee or any of its employees, agents and representatives in breach of this Grant Contract; and (2) of any disclosure of any PII to Grantee or its employees, agents and representatives where the purpose of such disclosure is not known to Grantee or its employees, agents and representatives. The State reserves the right to review Grantee's policies and procedures used to maintain the security and confidentiality of PII and Grantee 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 Grantee is in full compliance with its obligations under this Grant Contract in relation to PII. Upon termination or expiration of the Grant Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Grantee shall immediately return to the State any and all PII which it has received under this Grant Contract and shall destroy all records of such PII.

The Grantee shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Grantee ("Unauthorized Disclosure") that come to the

Grantee's attention. Any such report shall be made by the Grantee within forty-eight (48) hours after the Unauthorized Disclosure has come to the attention of the Grantee. Grantee shall take all necessary measures to halt any further Unauthorized Disclosures. The Grantee, 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 Grantee 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 Grant Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Grant Contract.

E.3. Federal Funding Accountability and Transparency Act (FFATA).

This Grant Contract requires the Grantee to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Grantee is responsible for ensuring that all applicable FFATA requirements, including but not limited to those below, are met and that the Grantee provides information to the State as required.

The Grantee shall comply with the following:

a. Reporting of Total Compensation of the Grantee's Executives.

- (1) The Grantee shall report the names and total compensation of each of its five most highly compensated executives for the Grantee's preceding completed fiscal year, if in the Grantee's preceding fiscal year it received:
 - i. 80 percent or more of the Grantee'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 sub awards); 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 sub awards); 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 § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

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

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Grantee's preceding fiscal year and includes the following (for more information see 17 CFR § 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Grantee must report executive total compensation described above to the State by the end of the month during which this Grant Contract is established.
 - c. If this Grant Contract is amended to extend its term, the Grantee must submit an executive total compensation report to the State by the end of the month in which the amendment to this Grant Contract becomes effective.
 - d. The Grantee will obtain a Unique Entity Identifier (SAM) and maintain its number for the term of this Grant Contract. More information about obtaining a Unique Entity Identifier can be found at: <https://www.gsa.gov>.

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

- E.4. Applicable Legal Authority. The Grantee agrees to comply with all applicable legal authority including federal and State laws, rules, regulations, policies, sub-regulatory guidance, executive orders, TennCare waivers, the State Medicaid Manual, 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.5. Business Associate. As the Grantee will provide services to TennCare pursuant to which the Grantee will have access to, receive from, create, or receive on behalf of TennCare Protected Health Information, or Grantee 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), Grantee 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 F).
- E.6. Notification of Breach and Notification of Suspected Breach. The Grantee shall notify TennCare's Privacy Office immediately upon becoming aware of and in no case later than forty-eight (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 a TennCare enrollee's Protected Health Information (PHI) maintained or held by the Grantee including any unauthorized acquisition of enrollee PHI by an employee or otherwise authorized user of the Grantee's system. This includes, but is not limited to, loss or suspected loss of remote computing or telework devices such as laptops, Personal Digital Assistants (PDAs), Blackberry devices (or other Smartphones), Universal Serial Bus (USB) drives, thumb drives, flash drives, Compact Discs (CDs), and/or hard disks.
- E.7. Transmission of Contract Deliverables. All information or data that is necessary for one or more deliverable set forth in this Grant Contract shall be transmitted between TennCare and Grantee via the data transfer method specified in advance by TennCare. This may include, but shall not be limited to, transfer through the TennCare Secure File Transfer Protocol (SFTP) system. Failure by the Grantee to transmit information or data that is necessary for a deliverable in the manner specified by TennCare, may, at the option of TennCare, result in liquidated damages as set forth in this Grant Contract.

E.8. Social Security Administration (SSA) Required Provisions for Data Security.

- a. Definitions.
 1. 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.
- b. The Grantee 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, which provide the requirements that the SSA stipulates that the Grantee must follow with regard to use, treatment, and safeguarding data in the event data is exchanged with a federal information system. In addition, the Grantee shall have in place administrative, physical, and technical safeguards for data. The Grantee shall also comply with Section 1106(a) of the Act (42 U.S.C. 1306) and the regulations promulgated pursuant to that section (20 C.F.R. Part 401).
- c. The Grantee 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 Grantee pursuant to this Section;
- d. The Grantee shall not duplicate in a separate file or disseminate, without prior written permission from TennCare, the data governed by the Grantee for any purpose other than that set forth in this Grant Contract for the administration of the TennCare program. Should the Grantee propose a redisclosure of said data, the Grantee must specify in writing to TennCare the data the Grantee 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.
- e. The Grantee agrees to abide by all relevant federal laws, restrictions on access, use, and disclosure, and security requirements in this Grant Contract.
- f. The Grantee shall maintain a current list of the employees of such grantee with access to SSA data and provide such lists to TennCare upon request and at any time there are changes.
- g. The Grantee 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 Grant Contract. The Grantee shall not further duplicate, disseminate, or disclose such data without obtaining TennCare’s prior written approval.
- h. The Grantee shall ensure that its employees:
 1. Properly safeguard SSA-supplied data furnished by TennCare under this Grant 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 Grantee 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.
- i. Grantee employees who access, use, or disclose TennCare or TennCare SSA-supplied data in a manner or purpose not authorized by this Grant Contract may be subject to civil and criminal sanctions pursuant to applicable federal statutes.
 - j. Loss or Suspected Loss of Data - If an employee of the Grantee becomes aware of suspected or actual loss of SSA-supplied data, the Grantee must notify TennCare immediately upon becoming aware to report the actual or suspected loss. The Grantee must provide TennCare with timely updates as any additional information about the loss of SSA-supplied data becomes available. If the Grantee 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 Grantee shall bear any costs associated with the notice or any mitigation.
 - k. TennCare may immediately and unilaterally suspend the data flow under this Grant Contract, or terminate this Grant Contract, if TennCare, in its sole discretion, determines that the Grantee has: (1) made an unauthorized use or disclosure of TennCare SSA-supplied data; or (2) otherwise violated or failed to follow the terms and conditions of this Grant Contract.

E.9. Internal Revenue Service (IRS) Safeguarding of Return Information:

- a. Performance - In performance of this Grant Contract, the Grantee 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 Grant 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 Grantee or the Grantee's employees. The Grantee and the Grantee'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 Grant 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 Grant Contract. Disclosure to anyone other than an officer or employee of the Grantee 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 Grantee certifies that the data processed during the performance of this Grant Contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the Grantee at the time the work is completed. If immediate purging of all data storage components is not possible, the Grantee 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 TennCare or its designee. When this is not possible, the Grantee will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide 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 Grant Contract will be Subcontracted without prior written approval of the IRS.
- (9) The Grantee will maintain a list of employees authorized access. Such list will be provided to TennCare and, upon request, to the IRS reviewing office.
- (10) TennCare will have the right to void the Grant Contract if the Grantee 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 Grant 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 Grant 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 Grantee 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 Grantees by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a Grantee, 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 Grantee access to FTI must be preceded by certifying that each individual understands TennCare's security policy and procedures for safeguarding IRS information. Grantees 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, Grantees 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 Grantee 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 its officers and employees into the offices and plants of the Grantee for inspection of the facilities and operations provided for the performance of any work with FTI under this Grant 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 Grantee is found to be noncompliant with contract safeguards.

E.10. Employees Excluded from Medicare, Medicaid or CHIP. The Grantee does hereby attest, certify, warrant, and assure that the Grantee shall not knowingly employ, in the performance of this Grant Contract, employees who have been excluded from participation in the Medicare, Medicaid, and/or CHIP programs pursuant to the Social Security Act, Section 1128 (Exclusion of Certain Individuals and Entities from Participation in Medicare and State Health Care Programs).

E.11. Medicaid and CHIP. The Grantee must provide safeguards that restrict the use or disclosure of information concerning Medicaid and Children's Health Insurance Plan (CHIP) 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 Grantee 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 said information, and
 2. Information received under the Internal Revenue Code (Title 26 of the United States Code (USC)) is exchanged only with parties authorized to receive that information under that section of the United States Code; and, the information is adequately stored and processed so that it is protected against unauthorized disclosure for other purposes.
- c. The Grantee must have criteria that govern the types of information about applicants and beneficiaries that are safeguarded. This information must include, at minimum, the following:
1. Names and addresses;
 2. Medical services provided;
 3. Social and economic conditions or circumstances;
 4. Grantee 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 the Social Security Administration (SSA) or the Internal Revenue Service (IRS);
 7. Income information received from SSA or the IRS 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 Grantee must have criteria approved by TennCare specifying:
1. Conditions for release and use of information about applicants and beneficiaries;
 2. Access to information concerning applicants or beneficiaries must be restricted to Grantee representatives or other individuals who are subject to standards of confidentiality that are comparable to those of TennCare;
 3. The Grantee shall not publish names of applicants or beneficiaries;
 4. The Grantee 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, or if, because of an emergency situation, time does not permit obtaining consent before release, the Grantee shall notify TennCare, the family, or individual immediately after supplying the information.
 5. The Grantee's policies must apply to all requests for information from outside sources, including governmental bodies, the courts, or law enforcement officials.
 6. The Grantee 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 Grantee representative to testify concerning an applicant or beneficiary, the Grantee 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 Grantee 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.12. Offer of Gratuities. By signing this Grant Contract, the Grantee 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 Grant Contract. This Grant Contract may be immediately terminated by TennCare if it is determined that gratuities of any kind were offered to or received by any of the aforementioned officials or employees from the Grantee, its agent, or employees.
 - E.13. Discovery and Litigation. TennCare is frequently involved in litigation as either a party or a non-party with relevant information. If any such litigation should arise, the Grantee shall cooperate fully and timely with any State attorneys or paralegals at no additional cost to the State, which shall include the following responsibilities:
 - a. **Litigation Support**. The Grantee shall make its personnel available to testify in Tennessee, whether in person before a tribunal or by deposition. The Grantee agrees to waive any objections to any subpoena issued by a Tennessee tribunal, in any case relating to this Grant Contract.
 - b. **Discovery and Litigation Hold Requirements**. The Grantee shall cooperate with all TennCare requests to aid in data and document retention and collection, as required for litigation. The Grantee shall promptly provide the State with all information within the Grantee's control if required to do so by a discovery demand or court order. The State will exert its best effort to narrow the scope of any discovery request.

The obligation to meet the requirements listed above shall survive the termination of the Grant Contract.

- E.14. Nondiscrimination Compliance Requirements
 - a. General Requirements. The Grantee shall comply with all applicable federal and state civil rights laws, regulations, rules, and policies and protocols, as well as Section D.10. of this Grant 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 Grantee shall designate a Nondiscrimination Compliance Coordinator ("NCC") who shall be responsible for compliance with the nondiscrimination requirements set forth in this Grant Contract. Grantee agrees that its civil rights compliance staff member will work directly with TennCare's Director of Civil Rights Compliance ("DCRC") in order to implement and coordinate nondiscrimination compliance activities.
 2. *Readiness Review*. Prior to implementation of this Grant Contract, the NCC shall participate in a nondiscrimination/civil rights readiness review phase. The DCRC shall provide the NCC with the nondiscrimination/civil rights protocols and readiness review expectations for this Grant Contract and provide technical assistance to the NCC.
 3. *Complaint Forms*. The Grantee shall use and have available TennCare's discrimination complaint forms to provide to individuals who want to file a complaint and the Grantee

may direct the individual to TennCare's real-time complaint form at <https://www.tn.gov/tenncare/members-applicants/civil-rights-compliance.html>. Upon request, the Grantee shall mail the individual a copy of the TennCare Complaint form and post the forms on the Contractor's website that is specific to the TennCare program. TennCare's discrimination complaint forms are vital documents and must be available at a minimum in the English, Spanish, Arabic languages. The above link to TennCare's discrimination complaint forms may be placed on the Grantee's website, which will direct individuals to TennCare's complaint forms. The Grantee shall provide assistance to individuals that request that the Grantee assist them with filing discrimination complaints with the TennCare program(s) covered under this contract. The Grantee shall inform its employees and its providers and subcontractors that are considered to be recipients of federal financial assistance under this Grant Contract about how to assist individuals with obtaining discrimination complaint forms and assistance with submitting the forms to the DCRC.

4. *Nondiscrimination Notice and Taglines.* Should the Grantee create TennCare materials, the Grantee 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 tagline templates and the applicable federal civil rights laws, including 45 C.F.R. pt. 92 and 68 Fed. Reg. 47311-02. Written materials specific to TennCare program members shall be prior approved in writing by TennCare prior to the materials being sent to these individuals and at a minimum vital documents shall be translated and available in Spanish
- b. *Nondiscrimination Compliance Reports.* The Grantee shall submit the following nondiscrimination compliance deliverables to TennCare as follows:
1. *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 Grantee's Assurance of Nondiscrimination. The Nondiscrimination Compliance Questionnaire deliverables shall be in a format specified by TennCare and will gather data on the Grantee's annual compliance activities like the provision of language and communication assistance services and completing the annual civil rights and cultural compliance training requirements.
 2. *Quarterly Compliance Reports.* The NCC shall submit a quarterly Non-discrimination Compliance Report which shall include the following:
 - (i) A summary listing that captures the total number of the Grantee's new hires that have completed civil rights/nondiscrimination training and cultural competency training and the dates the trainings were completed for that quarter;
 - (ii) The NCC shall provide a listing of all discrimination claims that are reported to the Grantee that are claimed to be related to the provision of and/or access to TennCare's covered services provided by the Grantee.
 - (iii) The language and communication assistance report shall capture a summary listing of language and communication assistance services that were requested by members and/or participants (i.e. Arabic; Braille) and the methods used to provide those services.

- c. *Discrimination Complaint Investigations.* All discrimination complaints against the Grantee and its employees and its subcontractors that are considered to be recipients of federal financial assistance under this contract shall be resolved according to the provisions of this Section and TennCare's policies and protocols. When complaints concerning alleged acts of discrimination committed by the Grantee and/or its employees and subcontractors related to the provision of and/or access to one of TennCare's programs are reported to the Grantee, the NCC shall send such complaints within two (2) business days of receipt to the DCRC. The DCRC shall investigate and resolve all alleged acts of discrimination committed by the Contractor and/or its employees and subcontractors. The Grantee and/or its employees and subcontractors shall cooperate with TennCare during the investigation and resolution of such complaints. During the complaint investigation, the NCC shall have the opportunity to provide the DCRC with any information that is relevant to the complaint investigation. The Grantee shall take reasonable methods to keep such documentation and materials confidential and shall not disclose the documentation or materials related to such investigation, to any third party unless otherwise required by law.
- d. *Electronic and Information Technology Accessibility Requirements.*
1. The Grantee shall comply with the civil rights requirements set forth in 42 C.F.R. § 433.112 regarding the design, development, installation or enhancement of mechanized processing and information retrieval systems. In addition, the Grantee shall participate in the State's effort to comply with the nondiscrimination requirements for acquiring automatic data and processing equipment and services set forth in 45 C.F.R. § 95.633.
 2. To the extent that the Grantee is using electronic and information technology to fulfill its obligations under this Grant Contract, the Grantee 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, the Contractor shall use the most current W3C's Web Content Accessibility Guidelines ("WCAG") level AA or higher with a goal to transition to WCAG 3 level silver (For the W3C's guidelines see: <https://www.w3.org/WAI/standards-guidelines/>; and for Section 508 standards see: <https://www.access-board.gov/ict/>).
 3. Additionally, the Grantee agrees to comply with Title VI of the Civil Rights Act of 1964. As part of achieving 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 or translating the page into non-English languages as directed by TennCare.
- e. *Ethical/Moral/Religious Directives.* Should the Grantee or its subcontractor not perform services or activities pursuant to its obligations under this Contract because of moral/ethical or religious reasons, the Grantee shall provide a list of these services to TennCare. This list shall be used by TennCare to provide information to TennCare applicants and members about where and how the individuals can obtain the services that are not being delivered due to Ethical and Religious Directives.
- f. *Health Care Disparities.* The Grantee shall collaborate with TennCare and other entities designated by TennCare to develop and implement projects that identify, evaluate, and reduce, to the extent practicable, health disparities based on age, race, ethnicity, sex, primary language, and disability statuses.

- g. Culturally Competent Delivery of Program Services. The Grantee and its subcontractors that are providing services pursuant to this Grant Contract shall participate in the State's efforts to promote the delivery of services in a culturally competent manner to all applicants and enrollees, including those with Limited English Proficiency, disabilities and diverse cultural and ethnic backgrounds regardless of an individual's sex. This includes the Grantee emphasizing the importance of having the capabilities to ensure accommodations and accessible equipment or technologies for providing services to applicants and members with physical or mental disabilities.

IN WITNESS WHEREOF,

GRANTEE LEGAL ENTITY NAME:

GRANTEE SIGNATURE

DATE

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

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

JIM BRYSON, COMMISSIONER

DATE

TERMS & DEFINITIONS

Term	Definition
Automated Call Distribution (ACD) System	A telephone system capable of performing skills-based routing based on rules driven logic that assigns incoming calls to call representatives with the skills to handle the call based on the caller's touch tone response to recorded prompts.
Limited English Proficiency (LEP)	Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English.
Renewal Outreach	Providing assistance for members who need to complete the annual renewal certification process to include, but not be limited to, creating a TennCare Connect account, submitting responses to the renewal packet through any available modality, submitting all verifications requested by the state, plus any other actions necessary to ensure eligibility for TennCare coverage can be fully reviewed by the state.
Renewal Packet	The pre-printed notice and form sent to TennCare members on an annual basis that is necessary for state review of continued eligibility.
Telecommunications Relay Services (TRS)	The service offered by the Tennessee Regulatory Authority used to serve members with hearing and/or speech disabilities.
TennCare	The program administered by the Single State agency as designated by the State and CMS pursuant to Title XIX of the Social Security Act and the Section 1115 Research and Demonstration waiver granted to the State of Tennessee; also, the name of the Division within the Department of Finance and Administration which includes the Bureau of TennCare and CoverKids; and, the name of the Bureau which directly administers the program.
TennCare Connect	The online portal available for applicants and members to apply, maintain, and renew TennCare eligibility through self-service.

Federal Award Identification Worksheet

Subrecipient's name (must match name associated with its Unique Entity Identifier (SAM))	
Subrecipient's Unique Entity Identifier (SAM)	
Federal Award Identification Number (FAIN)	
Federal award date	
Subaward Period of Performance Start and End Date	
Subaward Budget Period Start and End Date	
Assistance Listing number (formerly known as the CFDA number) and Assistance Listing program title.	
Grant contract's begin date	
Grant contract's end date	
Amount of federal funds obligated by this grant contract	
Total amount of federal funds obligated to the subrecipient	
Total amount of the federal award to the pass-through entity (Grantor State Agency)	
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA))	
Name of federal awarding agency	
Name and contact information for the federal awarding official	
Name of pass-through entity	
Name and contact information for the pass-through entity awarding official	
Is the federal award for research and development?	
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	

GRANT BUDGET				
Additional Identification Information As Necessary				
The grant budget line-item amounts below shall be applicable only to expense incurred during the following				
Applicable Period:				
BEGIN: April 1, 2023 END: March 30, 2024				
POLICY 03 Object Line-item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
1. 2	Salaries, Benefits & Taxes	0.00	0.00	0.00
4, 15	Professional Fee, Grant & Award ²	0.00	0.00	0.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	0.00	0.00	0.00
11. 12	Travel, Conferences & Meetings	0.00	0.00	0.00
13	Interest ²	0.00	0.00	0.00
14	Insurance	0.00	0.00	0.00
16	Specific Assistance To Individuals	0.00	0.00	0.00
17	Depreciation ²	0.00	0.00	0.00
18	Other Non-Personnel ²	0.00	0.00	0.00
20	Capital Purchase ²	0.00	0.00	0.00
22	Indirect Cost	0.00	0.00	0.00
24	In-Kind Expense	0.00	0.00	0.00
25	GRAND TOTAL	0.00	0.00	0.00

¹ Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A.* (posted on the Internet at: <https://www.tn.gov/finance/looking-for/policies.html>).

² Applicable detail follows this page if line-item is funded.

ATTACHMENT C

GRANT BUDGET LINE-ITEM DETAIL:

PROFESSIONAL FEE, GRANT & AWARD	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

INTEREST	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

DEPRECIATION	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

OTHER NON-PERSONNEL	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

CAPITAL PURCHASE	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

GRANT BUDGET				
Additional Identification Information As Necessary				
The grant budget line-item amounts below shall be applicable only to expense incurred during the following				
Applicable				
Period: BEGIN: April 1, 2024 END: March 30, 2025				
POLICY 03 Object Line-item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
1. 2	Salaries, Benefits & Taxes	0.00	0.00	0.00
4, 15	Professional Fee, Grant & Award ²	0.00	0.00	0.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	0.00	0.00	0.00
11. 12	Travel, Conferences & Meetings	0.00	0.00	0.00
13	Interest ²	0.00	0.00	0.00
14	Insurance	0.00	0.00	0.00
16	Specific Assistance To Individuals	0.00	0.00	0.00
17	Depreciation ²	0.00	0.00	0.00
18	Other Non-Personnel ²	0.00	0.00	0.00
20	Capital Purchase ²	0.00	0.00	0.00
22	Indirect Cost	0.00	0.00	0.00
24	In-Kind Expense	0.00	0.00	0.00
25	GRAND TOTAL	0.00	0.00	0.00

¹ Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A.* (posted on the Internet at: <https://www.tn.gov/finance/looking-for/policies.html>).

² Applicable detail follows this page if line-item is funded.

ATTACHMENT C.1

GRANT BUDGET LINE-ITEM DETAIL:

PROFESSIONAL FEE, GRANT & AWARD	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

INTEREST	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

DEPRECIATION	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

OTHER NON-PERSONNEL	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

CAPITAL PURCHASE	AMOUNT
Specific, Descriptive, Detail (Repeat Row As Necessary)	Amount
TOTAL	Amount

Notice of Audit Report

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. **The Grantee should submit only one, completed “Notice of Audit Report” document to the State ninety (90) days prior to the Grantee’s fiscal year.**

- Grantee Legal Entity Name** is subject to an audit for fiscal year #.
- Grantee Legal Entity Name** is not subject to an audit for fiscal year #.

Grantee’s Edison Vendor ID Number:

Grantee’s fiscal year end:

Any Grantee that is subject to an audit must complete the information below.

Type of funds expended	Estimated amount of funds expended by end of Grantee’s fiscal year
Federal pass-through funds a. Funds passed through the State of Tennessee b. Funds passed through any other entity	a. b.
Funds received directly from the federal government	
Non-federal funds received directly from the State of Tennessee	

Auditor’s name:

Auditor’s address:

Auditor’s phone number:

Auditor’s email:

Parent Child Information

Send completed documents as a PDF file to cpo.auditnotice@tn.gov. **The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year if the Grantee indicates it is subject to an audit on the "Notice of Audit Report" document.**

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number:

Is **Grantee Legal Entity Name** a parent? Yes No

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is **Grantee Legal Entity Name** a child? Yes No

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____



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 _____ (“Business Associate”), located at, _____, including all office locations and other business locations at which Business Associate data may be used or maintained. Covered Entity and Business Associate may be referred to herein individually as “Party” or collectively as “Parties.”

BACKGROUND

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

LIST OF AGREEMENTS AFFECTED BY THIS HIPAA BUSINESS ASSOCIATE AGREEMENT:

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

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

1. DEFINITIONS

All capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms defined in 45 C.F.R. Parts 160 through 164 or other applicable law or regulation. A reference

in this Agreement to a section in the Privacy or Security Rule means the section as in effect or as amended.

1.1 “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:

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:

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.

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

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

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

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

DIVISION OF TENNCARE:

BUSINESS ASSOCIATE:

By: _____
Stephen Smith, Director

By: _____

Name: _____

Date: _____

Date: _____

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

