



### CONTRACT

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

<b>Begin Date</b> 10/1/22 6/1/2018	<b>End Date</b> 12/31/2023	<b>Agency Tracking #</b> 31786-00140	<b>Edison Record ID</b> 58560
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<b>Contractor Legal Entity Name</b> University Community Health Services, Inc. (UCHS) dba Connectus Health	<b>Edison Vendor ID</b> 78833
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**Goods or Services Caption (one line only)**  
ParTners for Health and Wellness Center management services

<b>Contractor</b> <input checked="" type="checkbox"/> Contractor	<b>CFDA #</b>
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Funding — FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2019			\$465,000		\$465,000
2020			\$935,000		\$935,000
2021			\$945,000		\$945,000
2022			\$950,000		\$950,000
2023			\$955,000		\$955,000
2024			\$478,000		\$478,000
<b>TOTAL:</b>			<b>\$4,728,000</b>		<b>\$4,728,000</b>

**Contractor Ownership Characteristics:**

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

Woman Business Enterprise (WBE)

Tennessee Service Disabled Veteran Enterprise (SDVBE)

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

Other:

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

Competitive Selection      RFP

Other

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

**Veronica Coleman Ivh**

Digitally signed by Veronica Coleman Ivh  
DN: cn=Veronica Coleman Ivh, o=Finance & Administration, ou=Office of Business and Finance,  
email=lisa.vonhaeger@tn.gov, c=US  
Date: 2018.05.15 13:28:10 -05'00'

<b>Speed Chart (optional)</b> FA00002638	<b>Account Code (optional)</b> 70804/70902/70899
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**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
STATE INSURANCE COMMITTEE  
AND**

**University Community Health Services, Inc, dba- Connectus Health**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Division of Benefits Administration, State Insurance Committee ("State") and University Community Health Services, Inc, dba- Connectus Health ("Contractor"), is for the provision of ParTNers for Health Center management, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is Non-Profit Corporation  
Contractor Place of Incorporation or Organization: Tennessee  
Contractor Edison Registration ID # 78833

**A. SCOPE OF SERVICES:**

Definitions. Defined terms shall be as follows and as set forth in the text of the Contract.

- a. **Affiliate:** A business organization or entity that, directly or indirectly, is owned or controlled by the Contractor, or owns or controls the Contractor, or is under common ownership or control with the Contractor.
- b. **Agency Benefits Coordinator (ABC):** An Agency Benefits Coordinator serves as the liaison between the Public Sector Plans and members.
- c. **Benefits Administration (BA):** The division of the Tennessee Department of Finance & Administration that administers the Public Sector Plans.
- d. **Business Days:** Traditional workdays, including Monday, Tuesday, Wednesday, Thursday, and Friday. State Government Holidays are excluded.
- e. **Calendar Days:** All seven days of the week.
- f. **CFR:** Code of Federal Regulations.
- g. **Consumer Driven Health Plan (CDHP):** A type of medical insurance plan that typically has a higher deductible and lower monthly premiums. The plan is coupled with a Health Savings Account (HSA) that members can use to pay health care expenses not covered by insurance.
- h. **Control Total Information:** A common form of integrity/completeness check whereby the sender provides the recipient with a mathematical total that the recipient can confirm by recalculating the total from the data actually received.
- i. **Day(s):** Calendar day(s) unless otherwise specified in the Contract.
- j. **Direct / Operating Costs:** Monthly costs paid by the State, to reimburse the Contractor for its actual cost for equipment, medical and office supplies, OTC and generic medications, IT systems/services, printing and postage of marketing and communications materials included in the Contractor's approved Communications and Marketing plan.
- k. **Decision Support System (DSS):** A database and query tool.
- l. **EAP/BHO:** Employee Assistance Program/Behavioral Health Organization.

- m. Eligible Member(s): Any active State employee who is enrolled in one the Public Sector Plans medical benefit options.
- n. Episodes of Care: Acute or specialist-driven health care delivered during a specified time period to treat a physical or behavioral condition.
- o. Full-Time: An employee working 5 working days a week during Center operating hours. FTE calculations: .2=1 working day a week; .4=2 working days a week; .6=3 working days a week; .8=4 working days a week; 1.0=5 working days a week.
- p. General, Administrative, and Management Fees: The general, administrative, and management fee is a fixed percentage of the staffing expenses of the Center paid on a monthly basis by the State to cover the Contractor's medical management services, risk management, finance, human resources/payroll, and margin.
- q. Implementation/Startup Costs: The State shall reimburse the Contractor for the costs associated with the implementation period prior to the Go-Live date, including the purchase of furniture, equipment, medical and official supplies, Over The Counter (OTC) medications, IT systems, printing and postage costs for marketing and communications materials and the services of any subcontractors.
- r. Information System(s): A combination of computing and telecommunications hardware and software that is used in: (a) the capture, storage, manipulation, movement, control, display, interchange and/or transmission of information, i.e., structured data (which may include digitized audio and video) and documents as well as non-digitized audio and video; and/or (b) the processing of information and non-digitized audio and video for the purposes of enabling and/or facilitating a business process or related transaction.
- s. In Writing: Written communication between the Contract parties, which may be in the form of an official memo, or documents sent via postal mail, fax, or email, or email communications.
- t. Operational Readiness Review: A pre- implementation audit conducted by the State, and/or its authorized representative, at least thirty (30) days prior to the Go-Live date in contract section A.19. , to ensure the contractor is ready to deliver all required services.
- u. Patient: A person receiving or registered to receive services from the Contractor.
- v. PBM: Pharmacy Benefits Manager.
- w. Population Health Activities: Population health activities may include health risk assessments, biometric screenings, individual health coaching, and group education classes. Examples of educational subjects discussed in classes are weight loss and maintenance, physical activity, nutrition, stress management, tobacco cessation, and management of chronic conditions such as diabetes.
- x. Primary Service Area: A defined geographic area which houses the State Agency employers of eligible members who have convenient access to the Center.
- y. PPO: Preferred Provider Organization
- z. Public Sector Plans: Refers to all benefit options sponsored by the State Insurance Committee, including the Standard PPO, the Premier PPO, and any other benefit options specified by the State.
- aa. RFP: Request for Proposals.

- bb. Span of Control: Information systems and telecommunications capabilities that the Contractor itself operates or for which it is otherwise legally responsible according to this Contract. The Contractor's span of control also includes systems and telecommunications capabilities outsourced by the Contractor.
  - cc. State: The State of Tennessee.
  - dd. State, Local Government, and Local Education Insurance Committees: Policy making bodies for the State, Local Government, and Local Education plans established under Tenn. Code Ann. § 8-27-101, 8-27-207, and 8-27-301 respectively.
  - ee. State Government Holidays: Days on which official holidays and commemorations, as defined in Tenn. Code Ann. § 15-1-101 *et seq.*, are observed.
  - ff. Subcontract: An agreement entered into by the Contractor with any other organization or person who agrees to perform any administrative function or service for the Contractor specifically related to securing or fulfilling the Contractor's obligations to the State under the terms of this Contract, when the intent of such an agreement is to delegate the responsibility for any major service or group of services required by this Contract.
  - gg. Subcontractor: Any organization or person who provides any function or service for the Contractor specifically related to securing or fulfilling the Contractor's obligations to the State under the terms of this Contract.
  - hh. TPA: Third party administrator. The State's contracted medical contractor(s) responsible for processing medical claims and providing other administrative support for the Contract.
  - ii. Transition Phase: Process of transitioning contracted services and activities from the incumbent contractor to the Contractor. The Transition Phase typically begins immediately following the contract effective date and lasts until the Go-Live date in Contract Section A.19.
  - jj. User: A registered individual authorized to access or utilize a patient portal, electronic health record, or other secure information system.
  - kk. Wellness Activities: Wellness activities may include health risk assessments, biometric screenings, individual health coaching, and group education classes. Examples of educational subjects discussed in classes are weight loss and maintenance, physical activity, nutrition, stress management, tobacco cessation, and management of chronic conditions such as diabetes.
  - ll. Wellness Site Champion(s): Site Champions support the ParTNers for Health Wellness program by communicating with co-workers about the program and available resources. They encourage fellow members to take advantage of these services, champion the creation of a healthy workplace culture and promote healthy habits.
  - mm. Compliance with Section 508: To ensure accessibility among persons with a disability, the Contractor's multimedia/video tools, website content shall comply with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) and implementing regulations at 36 CFR 1194 Parts A-D.
- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- a. The Contractor shall operate and manage the ParTNers for Health & Wellness Center (the "Center"), providing health services to eligible State employee health plan members ("Plan Members").

- b. Eligible State Employee Members. The Contractor shall make available all services described in this Contract to State Plan Members enrolled in the Public Sector Plans, regardless of the benefit option that the State offers to Plan Members.
- (1) The Contractor shall validate Patient eligibility when scheduling appointments. An eligibility file feed will be provided to the Contractor weekly (see Section A.15.a of this Contract).
  - (2) The Contractor shall require each Patient to show a valid Partner for Health identification card prior to treatment, unless otherwise approved In Writing by the State.
  - (3) Unless otherwise approved In Writing by the State, Plan Members enrolled in any benefit option, except a CDHP, shall not be charged for services received at the Center or for the receipt of over-the-counter ("OTC") or generic on-site medicines.
  - (4) Unless otherwise approved In Writing by the State, Plan Members enrolled in a CDHP benefit option shall be charged for services received at the Center with the exception of OTC medicines until their deductible has been met.
  - (5) The State retains sole authority to define and modify eligibility requirements, and establish or modify Plan Member cost sharing requirements for the Center.
- c. Center Location(s). The State shall provide a State owned or leased location for the Center.
- (1) The location of the ParTNers Health & Wellness Center is 312 Rosa L. Parks Avenue Third Floor Nashville, TN 37243.
  - (2) The Contractor must submit an itemized budget to the State during the Center Transition Phase. The Transition Phase shall be completed by December 31, 2018. The budget should include all proposed items for repair or replacement such as fixtures, equipment, painting, etc. for approval In Writing by the State within sixty (60) days of the Effective Date. Thereafter during the Term of the Contract all items (or individual units of items) costing over two hundred fifty dollars (\$250.00) shall be pre-approved by the State In Writing. Please refer to Contract Section C.3.i. The Contractor shall be reimbursed for the actual costs of all purchased items, which shall become the property of the State (see Section C.3.i.). At its discretion, the State may provide furniture, equipment and other supplies for the Center if the State is able to procure the item at a lower cost through a State purchasing Contract.
  - (3) The State reserves the right to add additional Center locations, including possible mobile unit(s), after Year 1 of this Contract. The State and Contractor shall work with State of Tennessee Real Estate and Asset Management to ensure compliance with the State Building Commission rules and policies and all other applicable State rules and regulations. Any additional centers will be subject to the same payment structure outlined in Section C.3., with the State providing the location and the Contractor providing the same set of services given at the current Center or any other requested services for which the Contractor and State have an agreed upon rate as detailed in this Contract.
    - i. Should the State request an additional Center(s) to be established, the Contractor shall collaborate on the schematic design costs of the new Center(s) or mobile units. The Contractor shall provide input on a schematic design package that confirms the space plan and

any required design elements of the space as well as HVAC and power requirements of the Center, subject to State approval In Writing, within thirty (30) days after proposed location is identified. The Contractor shall participate in interviews, meetings and promptly respond to other informational requests from the State as necessary for the Center's construction by the State. The State shall be responsible for the construction (including any required demolition), renovation and ongoing maintenance of the additional locations or mobile units. The Contractor shall purchase all fixtures, equipment and other removable items necessary for establishing operations of the new center(s) in accordance with purchasing and invoicing requirements outlined in this contract.

A.2. Implementation

- a. The Contractor's programs, services and systems, including the Contractor's website shall be fully operational on the applicable dates specified in Contract Section A.19. (See also Contract Attachment C.) The "Go-Live" date for this Contract shall be **January 1, 2019**.
- b. The Contractor shall implement the information systems and other processes required to perform all services described herein. The Contractor shall work with the State to ensure that the Contractor satisfies applicable requirements of this Contract, and state and federal law including, but not limited to, the electronic health record (EHR), computers, wireless router, and internet service.
- c. The Contractor shall have a designated Full-Time implementation team to service this account. All of the Contractor's implementation team members shall have participated, as team members, in the implementation and management of an on-site health clinic for at least one other employer with at least 10,000 employees and shall have participated in drafting the request for proposal response and oral presentation. The Contractor's implementation team shall include a, designated project manager ready to begin work immediately following the Contract signing until thirty (30) days after the Go-Live date. The team shall also include a designated Account Manager, who will be the main contact with the State for all of the day-to-day matters relating to the implementation and ongoing operations of this Contract. Implementation team members shall be available as needed during the implementation as well as after the Go-Live date.
- d. All key Contractor project staff shall attend a project kick-off meeting at the State of Tennessee offices in Nashville, TN within the first thirty (30) days after the Effective Date.
- e. The Contractor shall provide a project implementation plan to the State no later than forty-five (45) days after the Effective Date. The Contractor shall maintain the plan and ensure that it is updated at least weekly. The plan shall be in a Microsoft Excel- or Microsoft Project-formatted file and shall be made available to State staff as it is updated or upon the State's request. (See also Contract Attachment C.)
- f. The project implementation plan shall comprehensively detail all aspects of implementation, which includes all tasks with deliverable dates necessary to satisfactorily implement all services no later than the Go-Live date specified above and in Contract Section A.19. The plan shall also include a description of the members on the implementation team and their roles with respect to each item/task/function. The plan shall include a detailed timeline description of all work to be performed both by the Contractor and the State. The Contractor's implementation plan shall require written approval by the State by the date specified in Contract Section A.19. The implementation plan shall also provide specific details on the following:
  - (1) Identification, timing, and assignment of significant responsibilities and tasks;

- (2) Names and titles of key implementation staff;
  - (3) Identification and timing of the State's responsibilities;
  - (4) Data and system requirements (indicate type and format of data required);
  - (5) Identification and timing for the testing, acceptance and certification of exchange of data between the Contractor and other relevant information systems and State vendors;
  - (6) Member communications and their timing (consistent with Benefits Administration's larger member communication strategy); and
  - (7) Schedule of in-person meetings and conference calls with the State.
- g. The Contractor shall provide for a comprehensive Operational Readiness Review (pre-implementation audit) by the State, and/or its authorized representative, at least thirty (30) days prior to the Go-Live date as specified in Contract Section A.19. Such review by the State, and/or its authorized representative, may include, but not be limited to, an onsite review of the Contractor's readiness operational readiness for all services required in this Contract, including the website described in Section A.12.
- h. In a format determined by the State, the Contractor shall conduct status meetings with the State concerning project development, project implementation and Contractor performance at least once a week during implementation and the first month following the Go-Live date, unless otherwise approved by the State In Writing. Such meetings may, at the discretion of the State, take place telephonically.
- i. No later than forty-five (45) days post-implementation, the Contractor shall provide the State with an implementation performance assessment survey, to be completed by the State and results provided to the Contractor. This assessment will be used to document the State's satisfaction with the implementation process and identify any necessary corrective action(s).

A.3. Center Operation and Management

- a. **Mandatory Health Services.** Unless otherwise specified by the State, the Center shall serve as a medical home for Eligible Members when Patient selected, and shall provide uncomplicated primary and acute care services for all members which, at a minimum, include:
- (1) Episodic primary care;
  - (2) Preventive care (including annual physicals);
  - (3) Uncomplicated disease management;
  - (4) Acute/urgent care;
  - (5) Flu vaccinations and flu clinics in the Nashville area and areas in close proximity to future clinic sites (when/if applicable);
  - (6) OTC and pre-packaged generic medications (as limited by Contract Section A.7.)
  - (7) Basic lab tests (Clinical Laboratory Improvement Amendments (CLIA) waived tests);
  - (8) Allergy injections;

- (9) Immunizations;
- (10) Biometric screenings (including the completion and submission of any State requested biometric screening forms);
- (11) EAP counseling (as specified in Section A.6.);
- (12) Wellness education; and
- (13) Depression screening (as described in Section A.6.)

An example scope of center services is included as Contract Attachment B; please note this does not cover every service detailed in this Contract but is an example of the mandatory and optional services. The Contractor shall not suspend or add any new health service without the prior written approval of the State.

- b. **Optional Health Services.** If requested by the State In Writing, the Contractor shall provide the following services to Eligible Members:
  - (1) Distribution and facilitation of member completion of the state population health contractor's health risk assessments;
  - (2) The ability to hold flu clinics outside of Nashville;
  - (3) The ability to provide services at other locations, including possible mobile unit(s), at the request of the State as described in Section A.1.c.(3).; and/or
  - (4) Physical therapy services.
- c. **Hours of Operation.** The Center shall be open to Eligible Members Monday through Friday, from 8:00 a.m. through 4:30 p.m., excluding State holidays. The State reserves the right to request additional hours and flexible schedules from the Contractor (such as 7:30 a.m. through 5:00 p.m.) if wait times and Center capacity warrant schedule changes. The Center shall treat Patients via scheduled appointment, unless otherwise approved by the State In Writing.
- d. Contractor shall have an ongoing designated account team that was also part of the implementation team, approved by the State, which can provide daily operational support as well as strategic planning and analysis. All members of the account team shall have previous experience administering on-site health clinics for large employers. The account team shall be available for consultation with the State during the regular business hours of the ParTNers for Health Center (8:00 a.m. to 4:30 p.m. Central Standard Time, Monday through Friday, and any other hours designated by the State), as required to fulfill the scope of services specified in this Contract. Should the State decide to expand the clinic hours for any reason as mentioned above in A.3.c, the account team shall be available for consultation during expanded hours as well. The Contractor must also ensure that any State initiated contact, with the Contractor, not immediately answered be responded to within 24 hours of the initial contact attempt.
- e. The Contractor and its providers delivering services at the Center shall be contracted in-network providers with the State contracted medical and behavioral health plan carriers. For CDHP enrolled members the Contractor will implement a process to submit claims and receive payments from the medical and behavioral health contractors and enrolled members, unless otherwise directed by the State In Writing. If requested In Writing by the State, the Contractor shall implement an electronic system to collect payments from Patients in the Center. The Contractor shall track and report on any payments collected by the Contractor as described in Section A.10. Any payments collected by the



Contractor from the health plan carriers and enrolled members shall be deducted from the monthly direct costs invoice as described in C.3.i(2)(i).

A.4. Contractor Staff

- a. The Contractor shall ensure that the personnel performing work under this Contract are employee(s) of the Contractor or the Contractor's subcontractor approved, In Writing, by the State. Contract personnel shall not be deemed for any purpose to be employees of the State. With respect to Contract personnel, the Contractor shall be responsible for payroll, benefits, worker's compensation, withholding of all state and federal taxes, and depositing of same at the appropriate times and places.
- b. The Contractor shall provide and maintain qualified staff at a level that enables the Contractor to perform the requirements of this Contract. The Contractor shall ensure that all persons, including independent contractors, subcontractors and consultants assigned to perform under the Contract, shall have the experience and credentials necessary (such as, licensed and bonded, as required) to perform the work required herein. The Contractor shall include a similar provision in any contract with any subcontractor selected to perform work hereunder. The Contractor shall interview and consider the existing staff at the ParTNers for Health Employee Clinic as part of its initial staffing process. Minimum qualifications for Center staffing positions include:
  - (1) Physician services shall be provided by a licensed and board certified, M.D. in the State of Tennessee.
  - (2) Midlevel Nurse Practitioner or Physician Assistant services shall be provided by either a Tennessee licensed registered nurse who has a master's degree or higher in a nursing specialty and has national specialty certification as a nurse practitioner; or provided by a person who is a graduate of a physician assistant training program accredited by Committee on Allied Health Education and Accreditation ("CAHEA"), Commission on Accreditation of Allied Health Education Programs ("CAAHEP") or Accreditation Review Commission on Education for Physician Assistant ("ARCPA"); has successfully completed the examination of the National Commission on the Certification of Physician Assistants, and is licensed in The State of Tennessee.
  - (3) Registered Nurse services – provided by a nurse who has completed a course of study from an approved nursing program at a college or university and is licensed in the State of Tennessee.
  - (4) Licensed Practical Nurse services – provided by a nurse who has graduated from a school approved by a Board of Nursing and is licensed in the State of Tennessee.
  - (5) Certified Medical Assistant services – provided by a medical assistant who has graduated from a medical assisting program accredited by CAAHEP or Accrediting Bureau of Health Education Schools ("ABHES").
- c. The Contractor agrees that its personnel shall not provide any services pursuant to this Contract until the following conditions are met:
  - (1) Contract personnel shall have been screened and deemed qualified and suitable by the Contractor and can otherwise perform the duties as specified in this Contract.
  - (2) Contract personnel shall be experienced, certified, and/or licensed as required by the State.

- (3) The Contractor shall submit all applicable and verifiable documentation as to education and experience, such as transcripts and curriculum vitae, licenses and certificates, personal and professional references to the State.
- d. Contract personnel shall not have been convicted or have current charges outstanding which would constitute a felony or misdemeanor conviction in Tennessee – to the extent such conviction or charges are related to their duties under the Contract. The Contractor shall verify through the State of Tennessee website or other appropriate databases that each person having direct contact with, or direct responsibility for, service recipients, is not listed on:
  - (1) the Tennessee Department of Health Elderly or Vulnerable Abuse Registry as provided at (Tenn. Code Ann. § 68-11-1001 – 1006,;
  - (2) the Tennessee Sexual Offender List (as provided at Tenn. Code Ann. § 40-39-201 – 218;
  - (3) the Tennessee Felony Offender Information Lookup (“FOIL”) (NOTE: Information available on this list pertains to Tennessee felony offenders who are or who have been in the custody of the Tennessee Department of Correction or under the Supervision of the Tennessee Board of Probation and Parole and is submitted by various jurisdictions within Tennessee. Confirmation and/or elaboration should be obtained from the originating jurisdiction); and
  - (4) U.S. Department of Health and Human Services’ Office of Inspector General (OIG) exclusions list unless the Contractor receives prior, written approval from the State.
- e. The Contractor shall ensure that all staff receives initial and ongoing training regarding all applicable requirements of this Contract, as well as appropriate licensure and any continuing education needed to maintain current licensure. The Contractor shall ensure that the staff who provide services under this Contract have received comprehensive orientations and training regarding their functions, are knowledgeable about the Contractor’s operations, and are knowledgeable about their functions and how those functions relate to the requirements of this Contract, and the Public Sector Plans, including the population health and EAP programs (see Contract Sections A.5. and A.6.).
- f. The Contractor’s staff (performing services under this Contract) shall not have been dismissed for cause, with, or without cause during a probationary period or resigned not in good standing from employment with the State of Tennessee.
- g. The State shall have the right to disapprove the use of any employee assigned to this Contract, prior to the proposed assignment, including any additional wellness staff or behavioral health consultants requested by the State. The State may also direct the Contractor to replace staff members as the State deems necessary and appropriate. The Contractor shall receive written approval from the State prior to expanding staff or adding positions not included in the Project Implementation Plan. The decision of the State on these matters shall be final.
- h. Key personnel commitments made in the Contractor’s proposal shall not be changed unless prior approved by the State In Writing. The Contractor shall notify the State at least fifteen (15) business days in advance, or as soon as the information is available, of proposed changes and shall submit justification (including proposed substitutions) in sufficient detail regarding education and experience equal to previous staff to the State to evaluate the impact upon the Contract.
- i. The Contractor shall provide a replacement with commensurate experience and required professional credentials within sixty (60) days of the vacancy unless the State grants an

exception to this requirement In Writing. The Center shall be staffed appropriately to ensure that prescribing authority does not lapse at any time.

- j. The Contractor shall provide a written customer satisfaction survey of the State users of the Contract, as provided in Attachment D.
- k. The Contractor shall not be in breach of this Contract if a key employee resigns employment with the Contractor provided the vacancy is filled within sixty (60) days.

A.5. Population Health Program

- a. The Center shall provide one (1) dedicated Full-Time office for Population Health Activities. This office will be made available to, and staffed by, the State's population health contractor.
- b. Unless otherwise directed by the State, the Contractor shall integrate a wellness discussion into every Patient visit. The Contractor shall perform a basic wellness screening at each visit by asking questions concerning tobacco use, weight gain or loss, physical activity, nutrition and any chronic condition identified on the Patient's record. The Contractor shall implement a process to educate on, screen for and refer members to the Diabetes Prevention Program ("DPP"). The Contractor shall coordinate with the State's population health contractor to establish a process to refer Patients to the population health program for lifestyle counseling or disease management coaching.
- c. The Contractor's staff shall have a working knowledge of the State's population health program, and attend any annual orientation or trainings offered by the State's population health contractor as referenced in Section A.13.e(5). The Contractor shall make and track referrals to the State's population health contractor; such referrals shall be reported to the State as specified in Contract Section A.10.
- d. The State's population health contractor is responsible for scheduling Patients and managing the Patient records for population health appointments in the Center. The State's population health contractor will only have access to the Center and schedule Patient appointments during normal Center hours.
- e. The Contractor shall provide monthly lunch and learns in the Center conference room on various physical and behavioral health topics, as approved by the State. At a minimum, one of those lunch and learns shall be a collaboration with the EAP/BHO provider.

A.6. Employee Assistance Program

- a. The Contractor shall provide at least one office that shall be open three (3) days per week for EAP counseling at the Center. The Contractor shall staff this office with an approved licensed behavioral health provider who is an approved provider in the State's EAP/BHO network. The Contractor shall schedule and track EAP visits, in accordance with A.10.
- b. The Contractor shall protect the privacy of Patients, comply with all applicable laws, rules, regulations and policies regarding Patient privacy, and shall establish a process to integrate EAP Patients into the Center's schedule. The Contractor shall cooperate with the State's EAP/BHO supplier establish a process for authorizing and tracking the five EAP visits per issue per year per member benefit. The Contractor's staff shall have a working knowledge of the State's behavioral health program, and attend any annual orientation or trainings offered by the EAP/BHO contractor as referenced in Section A.13.e(5).
- c. The Contractor shall follow the US Preventive Services Task Force (USPSTF) guidelines for screening adults for depression with the Patient Health Questionnaire-2 (PHQ2), or

other evidence-based assessment tool approved by the State, as a part of their intake/evaluation process.

- d. The Contractor shall integrate behavioral health into medical office visits as applicable. The providers shall collaborate on Patient care as needed while maintaining Patient privacy to ensure holistic care is provided to the Patient.

#### A.7. Pharmacy Services

- a. The Contractor shall dispense a limited amount of over-the-counter (OTC) medications. The Contractor shall develop a list of OTC drugs based upon data tracked at the Center, and data supplied by the State from previous clinic operations. The Contractor shall receive prior written approval from the State before adding or eliminating, any OTC medication. Unless otherwise specified by the State, all OTC medications shall be offered at no charge to Patients and shall be sample size or smaller. The Contractor shall track the number and type of OTC medications dispensed and report to the State on a monthly, quarterly and annual basis, as provided in Contract Attachment D. The State shall reimburse the Contractor for the actual costs of the OTC medications, which shall be billed as a direct operating cost for the Center. At no time shall the Contractor dispense any controlled substances at the Center.
- b. The Contractor shall dispense a limited number of pre-packaged, generic medications (including an approved brand inhaler) to Patients. The Contractor shall develop a list of suggested pre-packaged medications, along with cost estimates, based upon data tracked at the Center, and data supplied by the State from previous clinic operations. The Contractor shall receive prior written approval from the State of the generics that the Contractor shall dispense. The Contractor shall obtain any required state licenses for the dispensing of such drugs at the Center. The Contractor shall track the number and type of generic medications dispensed and report to the State on a monthly, quarterly and annual basis (see Contract Attachment D).
- c. If requested by the State In Writing, the Contractor shall implement an electronic system to collect payment for the pre-packaged medications from Patients. All prices charged to Patients shall be prior approved In Writing by the State. The State shall reimburse the Contractor for the actual costs of purchasing the pre-packaged medications which shall be billed as a direct operating cost of the Center (see Section C.3.i.).
- d. The Contractor shall be familiar with the pharmacy benefits available under the State Plan, including, but not limited to, which drugs may or may not be covered and where nearby in-network pharmacies are located. The State will provide timely updates to the Contractor on any changes in pharmacy benefits.
- e. The Contractor shall offer e-prescribing services to a network pharmacy of the Patient's choice. Contractor must have the ability to access the State PBM's online listing of pharmacies participating in the State's network, and provide such information to the Patient. The Contractor shall track and report all prescriptions ordered, but not dispensed, by the Center (see Contract Attachment D).

#### A.8. Patient Satisfaction

- a. Patient Satisfaction Survey. The Contractor shall develop and administer an annual patient satisfaction survey. The survey instrument shall be prior approved by the State.
- b. Formal Patient Complaint Process. The Contractor shall develop and administer a process to track and resolve Patient complaints. The complaint process shall be approved In Writing by the State, and shall include a process to resolve informal complaints by phone, as well as written complaints. The Contractor shall submit a

quarterly and annual report listing the number and type of complaints, along with the resolution(s).

A.9. Quality Improvement

The Contractor shall develop and implement a clinical services quality improvement program which must be approved In Writing by the State as specified in Contract Section A.19.

- a. The quality improvement program shall, at a minimum, include:
- (1) National Committee for Quality Assurance (NCQA) equivalent credentialing process for clinical staff, including initial and ongoing;
  - (2) Joint Commission Accreditation and core certificate for primary care medical home – ambulatory care (PCMH), accreditation association for ambulatory health care (AAHC), accreditation for primary care or medical home, or NCQA PCMH.
  - (3) Evidence-based clinical guidelines and decision support;
  - (4) Monthly clinical meetings including case discussions and best practice sharing;
  - (5) Disease registry to enable tracking of high-risk Patients;
  - (6) At least monthly medical record review/audit involving concurrent and retrospective review;
  - (7) Log to report medical care service issues, Patient dissatisfaction, and procedural errors;
  - (8) Clinical metrics scorecard, in format approved by the State, for internal use and to share with State;
  - (8) Outcomes based processes for selecting high performing primary care physicians (PCPs) and specialists to receive referrals;
  - (9) Patient safety initiatives, including informing Patients of rights and responsibilities; and
  - (10) Patient satisfaction surveys (see Contract Section A.8.).
- b. The Contractor shall have a working knowledge of the PCPs and specialists participating in the State's network, and have online access to provider directories. The Contractor shall track each Patient's PCP designation (or lack thereof), and work with the State to develop a PCP and specialist referral program. The Contractor shall track all referrals made to PCPs and specialists. The Contractor shall follow all referral guidelines of the State's TPAs, and take any necessary steps recommended by the State to ensure no preference is given to any provider, facility or network of providers that may be affiliated with the Contractor.
- c. The Contractor shall work with the State to develop protocols and guidelines for the termination of care to Center Patients for medical and other defined reasons (i.e. pharmacy noncompliance, loss of eligibility, abuse of Center services, etc.). Such protocols and guidelines shall not be implemented unless prior approved by the State. The reasons for Patient terminations, and the number of terminations, shall be included on the quality improvement report.
- d. The Contractor shall work with the State to identify which clinical, behavioral health and/or wellness services are appropriate to be provided remotely, and develop protocols and

guidelines for such services, including integration into the Contractor's electronic health record system.

- e. In addition to flu clinics, the Contractor shall work with the State to identify which clinical, behavioral health and/or wellness services are appropriate to offer through a mobile health services unit, and how those services could be integrated into the Center's electronic health record system. Travel costs incurred in the provision of mobile health services shall be compensated according to State travel regulations as set forth in Contract Section C.3.c).
- f. The Contractor shall support the State's Tennessee Health Care Innovation Initiative (program overview located on the Bureau of TennCare's website as of contract signing) by participating in all Patient Centered Medical Home and Episodes of Care programs as available and applicable to all of its providers and facilities.
- g. The Contractor shall submit a quarterly and annual report to the State detailing its compliance with the quality improvement program, in a format approved by the State. The Contractor shall comply with all recommendations/requirements made In Writing by the State within thirty (30) days of receipt of the State's recommendations/requirements.

A.10. Reporting

The Contractor shall provide to the State monthly, quarterly and annual reports, in an electronic format approved by the State, which includes the following data (see also Contract Attachment D):

- a. Number of unique Patients treated at the Center, organized by State agency employer (including address), and Plan membership;
- b. Number of unique Patients treated via mobile services outside of the Center, organized by location of services (if different from employee address), State agency employer (including address) and Plan membership;
- c. Number of Patient visits, organized by CPT and ICD-10 code, location of service (Center or employee location), method of treatment (in person or other), State agency employer (including address) and Plan membership;
- d. Number of prescriptions ordered, to be filled by an outside pharmacy, broken down by drug name and drug class;
- e. Number of prescriptions filled by the Center, broken down by drug name and drug class;
- f. Number of OTC medications and prescriptions dispensed by the Center, broken down by drug name;
- g. Number of wellness activities including lunch and learns performed by the Contractor as referenced in Contract Section A.5., broken down by type of activity, subject of activity, number of participants, location of activity (Center or employee location), method of treatment (in person or other), State Agency employer (including address) and Plan membership;
- h. Number of behavioral health counseling sessions performed by the Contractor as referenced in Contract Section A.6., broken down by type of problem assessed, location of session (Center or employee location), method of treatment (in person or other), State Agency employer (including address) and Plan membership;

- i. Number of Center referrals to outside vendors, broken down by State Agency employer (including address), Plan membership and referral vendor (i.e. population health or EAP contractor) (quarterly and annually);
- j. Number of Center referrals to primary care physicians and specialists, broken down by State Agency employer (including address), Plan membership and reason for referral;
- k. Patient satisfaction survey results (annually);
- l. Patient complaints and resolution (quarterly and annually);
- m. Number and amount of payments collected by the Center (if any), broken down by the amount of payment, reason for payment, State Agency employer (including address), and Plan membership; and
- n. Other information requested by the State.

A.11. Marketing and Communications

- a. The Contractor shall develop a written marketing and communications plan by the date specified in Contract Section A.19; See also Contract Attachment C. In addition, the Contractor shall update this plan on at least a quarterly basis, to reflect any changes in marketing strategy to meet the utilization targets for the Center. All plan updates shall be approved In Writing by the State.
- b. The Contractor shall, in consultation with and following written approval by the State, conduct marketing and communication efforts for the Center. All efforts and materials, including web materials, must be prior approved by the State. These efforts shall include, but are not limited to, the addition of new clinical services, availability of biometric screenings, wellness promotions requested by the State, EAP/BHO promotions requested by the State, annual flu clinics, and other health events requested by the State. The Contractor shall also conduct regular communications that includes the Center's contact information with members located in the Center's Primary Service Area (defined below) and Patient visitors of the Center (defined below) to promote and expand utilization of the Center. The frequency and type of communications shall be defined in the marketing and communications plan.
  - (1) The Contractor shall work with the State as needed to obtain or utilize contact information for State plan members who work within close proximity to the Center, referred to as the Center's Primary Service Area. As needed, the State will provide the Contractor with a home address for all State plan members working in Davidson County, and/or any additional email addresses or phone numbers that are available. The Contractor shall accept the contact information and format provided by the State.
  - (2) The Contractor shall develop and regularly update a list of all Patient visitors to the Center, including State Agency, employer address, work and/or home phone number, home and email addresses, and ensures that all Patient visitors are receiving the appropriate communications from the Contractor, as defined in the marketing and communications plan.
  - (3) The Contractor shall work with the State as needed to obtain or utilize contact information for eligible State plan members working within close proximity to any additional centers or those receiving mobile health services as described in Contract Section A.1.c.(3).
- c. The Contractor shall develop all member materials in conformance with the style, formatting, and other related standards developed by the State and its marketing staff.

The Contractor shall also ensure continuity of the State's "ParTNers for Health" branding across all education and outreach materials, website, and any other communications information. This branding shall include, but is not limited to, use of the "ParTNers for Health" logo, color scheme and applicable taglines. All member communications materials as well as uses of these branding elements shall be subject to prior approval by the State. All marketing and communications materials, including any contact information for eligible State plan members, developed pursuant to this section shall become property of the State.

- d. The Contractor shall provide text and graphics, if applicable, for the State's communications to members.
- e. With the State's approval, the Contractor may include its brand or other information on any individualized member materials, as long as, such materials also reflect the State's "ParTNers for Health" brand. With respect to pre-printed, large-volume stock materials, the Contractor may include its brand provided that it also includes the "ParTNers for Health" logo or receives prior approval from the State that the material does not have to include the "ParTNers" brand. The Contractor shall receive the State's prior written approval for all communications materials.
- f. Unless otherwise specified by the State, the Contractor shall be responsible for all costs related to the design, development and revision of all marketing and communication materials approved by the State. All approved costs shall be reimbursed by the State pursuant to contract section C.3. The Contractor shall ensure that up-to-date versions of all printed education and outreach materials can be downloaded from its website or accessible via a mobile device app.
- g. As part of its submission to the State, the Contractor shall specify how the materials will be sent (for instance, email, text, regular mail, other).
- h. The Contractor shall have the exclusive responsibility to write, edit, and arrange for clearance of materials, such as securing full time use of a stock photograph used in brochures for perpetuity, for any and all marketing and communication materials within the applicable timeframe.
- i. The Contractor shall ensure that its marketing and communication materials are culturally sensitive and professional in content, appearance, and design.
- j. The Contractor shall, to the extent practicable, use relatively large and legible fonts in its marketing and communication materials. Additionally, the Contractor shall make maximum use of graphics to communicate key messages. The Contractor shall also prominently display the Contractor's telephone number and hours of operation in large, bolded typeface on all marketing and communication materials.
- k. Unless otherwise prior approved In Writing by the State, the Contractor shall design all printed marketing and communication materials at the sixth (6.0) grade reading level or lower using the Flesch-Kincaid Index or other suitable metric that the State prior approves In Writing. The Contractor shall evaluate materials using the entire text of the materials (except return addresses). When submitting draft materials to the State for approval, the Contractor shall provide a reading level analysis and certification of the reading level of each piece of material.
- l. The Contractor shall provide electronic templates of all finalized marketing and communication materials in a format that the State can easily alter, edit, revise, and update. Absent gross negligence or malfeasance by the Contractor, the Contractor has no liability for errors on other deliverables that the State did not find or correct before giving final approval for the individual materials. However, the Contractor shall produce corrected versions of the individual materials at the State's direction. Costs incurred by



the Contractor for producing and mailing corrected versions of materials as directed by the State shall be paid by the State pursuant to Contract Section C.3.

- m. The Contractor shall ensure that all marketing and communication materials distributed to members and prepared or produced by the Contractor are accurate in all material respect. Unless otherwise directed by the State, the Contractor shall seek and obtain prior written authorization from the State before using or disseminating any general (non-individualized) member communications, notices, and marketing and communication materials.

A.12. Website

- a. The Contractor shall host and maintain a website dedicated to and customized for this Contract. The design of the website, inclusive of the site map, page layout, color/font scheme and branding, static content and any documents that can be accessed via or downloaded from the website, must be prior approved In Writing by the State. Additionally, the Contractor shall obtain prior, written approval from the State for any links from the site to an external (governmental and non-governmental) website or webpage.
- b. The website shall be fully operational on or before the date specified in Contract Section A.19.
- c. The Contractor shall update content and/or documents posted to or accessed via the website within five (5) business days of the State's written approval of changes to said content and/or documents.
- d. The Contractor shall grant the State access to the website test environment for the State's review and approval prior to the launch of the website by the date specified in Contract Section A.19.
- e. The Contractor shall host the website on a non-governmental server which shall be located within the United States (inclusive of backup data).
- f. The Contractor shall ensure that the website meets all of the capacity, availability, performance and security requirements outlined in Contract Section E.14.
- g. To ensure accessibility among persons with a disability, the Contractor's member website shall comply with Section 508 of the Rehabilitation Act of 1973 (29 USC Section 794d) and implementing regulations at 36 CFR 1194 Parts A-D.
- h. At a minimum the website shall contain both interactive and non-interactive tools including:
  - (1) A home page with general information about services available at the Center;
  - (2) Frequently asked questions ("FAQs") and answers to said questions;
  - (3) Patient decision aids, member-oriented educational and outreach materials including information about specific health management, wellness and EAP services available to members;
  - (4) Electronic health record access (may be limited as defined in the Contractor's Response to RFP #31786-00140, Attachment 6.2 Section C (Technical Proposal) item C.14.);
  - (5) Information about how to access the Contractor's services;
  - (6) Information on screening and other special events;

- (7) Online appointment scheduling functionality (if not included in the EHR);
  - (8) Links to the State's population health and EAP/BHO contractors, and other sites as desired by the State;
  - (9) A secure vehicle through which members can post questions to the Contractor, the Contractor can answer said questions, and the Contractor can push relevant information, event updates and event reminders to specific groups of members or to a specific member; and
  - (10) Contact information, including mail and email addresses, member services telephone numbers, and fax number for the Contractor.
- i. At the State's request, the Contractor shall implement a single sign-on and sign-off feature for the website, thereby allowing members to access multiple sites, tools and programs managed by the Contractor without the need to maintain separate log-in IDs and passwords.
  - j. The Contractor shall:
    - (1) Provide a website and portal system that have the ability to sustain ninety-nine point nine percent (99.9%) continuous uptime.
    - (2) Provide a one hundred percent (100%) secure web-based application that requires only a web-browser and an Internet connection to use with the addition of an Adobe Acrobat web-browser plug-in.
    - (3) Maintain a secure host site that is available twenty-four (24) hours a day, three hundred sixty-five (365) days a year except for maintenance windows.
    - (4) Maintain nightly data backups of all data.
    - (5) Provide adequate server processing capacity to keep user response times within normal latency boundaries as specified.
    - (6) Develop a user access security approval process and manage the approval of user access and permissions. The Contractor shall submit a written plan detailing the process including the security form to be used by individuals to gain access. The State must review and approve this plan prior to implementation.
    - (7) Require all users to submit the user access security approval form annually to maintain access to the portal system.
  - k. The Contractor may include a mobile application for use by Eligible Members with prior written approval by the State. If applicable, the Contractor's mobile application(s) shall be linked with other web applications to allow for seamless data linkage of Patient information, including the ability for Patients to access and upload their information (through a mobile device).

A.13. Coordination and Collaboration

- a. The Contractor shall coordinate with all other State contractors, including but not limited to, the DSS contractor, the EAP/BHO contractor and the population health contractor, as necessary to ensure that members receive appropriate services. This coordination shall include, but is not limited to, making referrals, providing and receiving member information, and attending and participating in meetings.
- b. Consistent with Section A.15., the Contractor shall transmit electronic files, subject to the security provisions of this Contract and any applicable regulations, laws, or rules, to the

State's DSS contractor on a monthly basis, in a file format approved In Writing by the State. (See Contract Attachment C.)

- (1) Specifically, the Contractor shall submit ICD10, CPT, HCPCS or other clinical data requested by the State for all procedures performed and diagnoses received for Patient visits performed by Center staff, including any appropriate demographic or member data included on the file format approved by the State.
  - (2) The Contractor shall be solely responsible for any fees charged by the DSS contractor associated with initial set-up and implementation and Contractor-initiated changes to the transmission of data feed(s).
- c. If requested by the State In Writing, the Contractor shall receive and integrate EAP as well as wellness information and biometric data collected at the Center (whether by the State's population health contractor or EAP contractor or the Center staff) into the Center's electronic health record system. Such data may be transmitted to the Contractor by the State and/or its population health and EAP contractors.
- d. The Contractor and its providers shall work with the health and behavioral health contractors to be in-network contracted providers to ensure billing and reimbursement for eligible plan members enrolled in a CDHP. The Contractor shall submit claims to the health contractor directly for adjudication.
- e. Meetings
- (1) The parties shall meet periodically, but no less than monthly, to discuss any problems and/or progress on matters outlined by the State. In addition, either party may request, In Writing, a meeting with the other outside of the regularly scheduled monthly meetings. The Contractor shall have in attendance the staff requested by the State, which may include a Program Director and representatives from the Contractor's organizational units required to respond to topics indicated by the State's agenda. The Contractor shall provide information to the State concerning its efforts to engage members and improve administrative activities, as well as trends in the Center's services. These meetings will take place at the State of Tennessee offices in Nashville, TN. However, at its discretion, the State may allow the Contractor to participate in such meetings by teleconference.
  - (2) If requested by the State, the Contractor shall attend a State-sponsored contractor summit with representatives from the State, the medical TPAs, the PBM, the DSS contractor and the EAP/BHO. The purpose of the contractor summit is to identify issues, develop solutions, share information, leverage resources, and discuss and develop policies and procedures as necessary to ensure collaboration among contractors and the State.
  - (3) If requested by the State, qualified members of the Contractor's staff shall participate in meetings and/or conference calls with the State and representatives from the medical TPAs, the EAP/BHO contractor, the DSS contractor, and the PBM to improve coordination of their services to members.
  - (4) If requested In Writing by the State, qualified members of the Contractor's staff shall participate in conference calls and/or in person meetings with Agency Benefits Coordinators ("ABC"s) and/or Wellness Site Champions. In person meetings may include ABC trainings and/or benefits fairs and attendance may include a booth and/or educational materials.

- (5) If requested In Writing by the State, qualified members of the Contractor's staff shall attend annual training and orientations held by the State's population health and behavioral health contractor.
- f. Prior to Contract termination, at the written request of the State, the Contractor shall actively participate in the creation and implementation of a transition of care plan in order to seamlessly transition active program participants to a new incoming contractor. The Contractor shall continue to provide uninterrupted care to Eligible Members until they are properly established with the new incoming contractor.

A.14. Information Systems

a. Core Information Systems Functionality

At a minimum, the Contractor shall possess the following information system functionality with processing capacity and availability sufficient for it to meet the requirements of this Contract:

- (1) Event and appointment scheduling – web-accessible;
- (2) Service tracking, recording and verification;
- (3) Education and outreach materials management;
- (4) Electronic health records that meet the specifications defined in Section A.14.b.;
- (5) Member, medical, and behavioral health plan billing and payment collection systems;
- (6) Payment to subcontractors; and
- (7) Website functionality as described in Contract Section A.12.

b. The Contractor shall operate a State-approved electronic health record system that, shall be certified and maintain current certification under the Centers for Medicare and Medicaid Services ("CMS") electronic health record certification program or State-approved equivalent. If requested by the State, the Contractor shall submit a copy of its annual certificate from CMS and a recent audit log. The electronic health record system shall be operational on the date specified in Contract Section A.19. The EHR system shall include the following:

- (1) HIPAA compliant system that captures and maintains Patient history, diagnostic and procedure coding and clinical notes documentation;
- (2) Computerized Physician Order Entry ("CPOE") including ability to store and manage lab, and medications/pharmacy orders;
- (3) Tracking of referrals to State population health and behavioral health contractors, primary care physicians, and to specialists and prompt follow-up to Patients to discuss referral outcomes, lab results, etc.;
- (4) The ability to accept member-specific biometrics and health risk questionnaire information or enable manual entry;
- (5) Electronic prescribing with medication lists;
- (6) Evidence-based clinical care plans, guidelines and protocols;

- (7) Generation of Patient-specific instructions written at appropriate reading level;
- (8) Online scheduling;
- (9) Daily generation of "To Do" lists for clinical staff, including generation of Patient lists for outreach and follow up;
- (10) Generation of encounter summaries for transmission to Patient's PCP;
- (11) Secure member portal to allow the member to access their health information, lab results, and appointments as well as contacting their provider, and
- (12) Facilitation of data exchanges with data warehouses, health plans and other State contractors.

c. Retention and Accessibility of Information

- (1) The Contractor shall provide and maintain a comprehensive information and records retention plan that is in compliance with State and federal requirements.
- (2) The Contractor shall maintain information and records relating to this Contract for a minimum of five (5) years, based on the last date of update activity, and update detailed and summary history data monthly for up to five (5) years to reflect adjustments.
- (3) The Contractor shall provide five (5) business days turnaround or better on the State's requests for access to information and records that is between five (5) years and seven (7) years old, and seven (7) business days turnaround or better on requests for access to information and records in machine readable form that is between eight (8) and ten (10) years old. The Contractor shall provide three (3) business days turnaround or better on requests for access to information and records less than five (5) years old. Such requests for information and records shall be made by the State or its authorized designee.
- (4) If Contractor has been notified that an audit or administrative, civil or criminal investigation or prosecution is in progress or audit findings or administrative, civil or criminal investigations or prosecutions are unresolved, relevant information and records shall be kept in electronic form until all tasks or proceedings are completed.

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

e. The Contractor shall ensure that its electronic data processing ("EDP") and electronic data interchange ("EDI") environments (both hardware and software), data security, and internal controls meet all applicable federal and state standards, including HIPAA and HITECH. Said standards shall include but not be limited to the requirements specified under each of the following HIPAA subsections:

- (1) Electronic Transactions and Code Sets;
- (2) Privacy;
- (3) Security;
- (4) National Provider Identifier;
- (5) National Employer Identifier;

- (6) National Individual Identifier;
- (7) Claims attachments;
- (8) National Health Plan Identifier; and
- (9) Enforcement.

f. Upon termination of this Contract or request by the State, the Contractor shall provide to the State or its designated agent, pertinent data identified by the State for Patients to effect a transition of the Center from the Contractor. The information and records shall be furnished in a format and medium as is compatible with the data processing system maintained by the State or its designated agent. Additionally, the Contractor shall provide all information and records necessary to properly interpret the data supplied. To ensure the continuous operation of the Program and upon thirty (30) days' notice, this information and records shall be provided to the State or its designated agent at least forty-five (45) days prior to the termination date of this Contract; further, the State may require the Contractor to provide this information at various other times prior to or after the termination date of this Contract. Upon termination of the Contract, all Eligible Member, Patient, and Center information and records in the Contractor's possession shall be returned to the State or destroyed in accordance with NIST Special Publication 800-88.

g. System and Information Security and Access Management Requirements

- (1) The Contractor's IT systems and physical space in the Center shall employ an access management function that restricts access to varying hierarchical levels of functionality and information. The access management function shall:
  - i. Restrict access on a "least privilege" basis, e.g., users permitted inquiry privileges only will not be permitted to modify information and records;
  - ii. Restrict access to specific functions, information, and records based on an individual user profile, including inquiry only capabilities and the ability to create, change or delete certain data (global access to all functions shall be restricted to specified staff jointly agreed to by the State and the Contractor);
  - iii. Restrict unsuccessful attempts to access functions to three (3), with a function that automatically prevents further access attempts and records these occurrences; and
  - iv. Ensure that authentication credentials are not passed in clear text or otherwise displayed or presented.
- (2) Audit trails shall be incorporated into all systems to allow information on source data files and documents to be traced through the processing stages to the point where the information is finally recorded. The audit trails shall:
  - i. Contain a unique log-on or terminal ID, the date, and time of any create/modify/delete action and, if applicable, the ID of the system job that effected the action;
  - ii. Have the date and identification "stamp" displayed on any online inquiry;
  - iii. Have the ability to trace data from the final place of recording back to its source data file and/or document;
  - iv. Be supported by listings, transaction reports, update reports, transaction logs, or error logs; and
  - v. Facilitate batch audits as well as auditing of individual records.
- (3) The Contractor's IT systems shall have inherent functionality that prevents the alteration of finalized records.
- (4) The Contractor shall provide for the physical safeguarding of its data processing facilities and the systems and information housed therein. The Contractor shall

provide the State with access to data facilities upon request. The physical security provisions shall be in effect for the life of this Contract. .

- (5) The Contractor shall restrict perimeter access to equipment sites, processing areas, and storage areas through a card key or other comparable system, as well as provide accountability control to record access attempts, including attempts of unauthorized access.
- (6) The Contractor shall include physical security features designed to safeguard processor site(s) through required provision of fire retardant capabilities, as well as smoke and electrical alarms, monitored by security personnel.
- (7) The Contractor shall put in place procedures, measures and technical security to prohibit unauthorized access to the regions of the data communications network inside of the Contractor's span of control.
- (8) To maintain the privacy of PHI, the Contractor shall enable Transport Layer Security (TLS) on the mail server used for daily communications between the State and the Contractor. TLS shall be enabled no later than the Go-Live date specified in Section A.2.a. and shall remain in effect throughout the Term.

#### A.15. Data Integration and Technical Requirements

- a. The Contractor shall establish and maintain systems and processes to receive a file of Eligible Members in a format provided by the State, such as excel or comma delineated. The eligibility file will contain Eligible Member information and shall be loaded into a searchable database so the Contractor can confirm eligibility of the Patient when scheduling appointments and registering the Patient at appointment intake. .
- b. The Contractor shall establish and maintain an electronic data interface with the State's Edison System for the purpose of retrieving and processing Member enrollment records and any other files which may be identified and generated by the State. The Contractor shall be responsible for providing and installing the hardware and software necessary to allow for transferring and receiving file information. The State requires the use by the Contractor of second level authentication for the exchange of member personal information. This is accomplished using the State's standard software product, which supports Public Key Infrastructure ("PKI"). The Contractor shall design a solution, in coordination with the State, to connect to the State's Secure File Transfer Protocol ("SFTP") server using a combination of the password and the authentication certificate. The initial sign-on and transmission testing will use a password. Certificate testing may also be performed during the test cycle. Subsequent production sign-on will be done using the authentication certificate. The Contractor will then download the file and decrypt the file in its secure environment. The State of Tennessee uses public key encryption with Advanced Encryption Standard ("AES") to encrypt PHI. If the State adopts a different or additional encryption standard or tool in the future, the Contractor shall, with adequate notice, cooperate with the State to maintain the security of protected information according to all applicable state and federal standards
- c. If requested by the State, the Contractor shall establish and maintain systems and processes to receive and provide all appropriate and relevant data from the State and the DSS contractor and integrate such data into Contractor's systems and processes as appropriate.
- d. The Contractor shall transmit information/data, as defined by the State, to the State's current health care decision support system ("DSS") contractor in a format approved by the State. (See Contract Section A.13.) The Contractor shall submit a test data file to the State's DSS contractor at least two (2) months prior to the Go-Live date. Accompanying each data transmission, the Contractor must supply the State's DSS contractor with

Control Total Information related to all data files including but not limited to date range, file length information, record totals, and any financial totals. The Contractor is solely responsible for fees charged by the DSS contractor associated with any initial set-up and implementation and Contractor-initiated changes to the ongoing transmission of data feed(s), which shall be provided at no additional charge to the State. The Contractor shall transmit the data, via a State approved secure methodology, no later than fifteen (15) days following the end of each calendar month, or more frequently as directed by the State. The Contractor shall ensure that the data includes all of the variables as contained in the file layout approved by the State. (See RFP Appendix 7.2)

- e. The Contractor shall adhere to the additional requirements related to the State's DSS contractor in Contract Section C.3(f).
- f. Data provided to the DSS contractor shall meet the quality standards detailed in the Liquidated Damages section of this Contract (Contract Attachment C) as determined by the State's DSS contractor.
- g. Within sixty (60) days of notice of termination of this Contract, the Contractor shall transfer to the State and/or its contractor all required data and records necessary to administer the plan(s)/program(s), subject to state and federal confidentiality requirements. The transfer shall be made electronically via secure medium, in a file format to be approved by the State. .
- h. By the start of systems testing activities with the State, the Contractor's systems shall be able to transmit, receive and process data in HIPAA-compliant or agency-specific methods and formats where applicable. Any state-specific methods and formats not otherwise specified in this Contract and associated references and attachments will be detailed in documents that will be provided to the Contractor within thirty (30) days of the Effective date.
- i. The Contractor's systems shall conform to future federal and state specific standards for data exchange by the standard's effective date.
- j. The Contractor shall partner with the State and member agencies in the management of current and future data exchange formats and methods and in the development and implementation planning of future data exchange methods.
- k. The Contractor's system(s) shall possess mailing address standardization functionality in accordance with U.S. Postal Service conventions.
- l. The Contractor shall integrate, as needed, to the State websites and/or the State's contractor websites. The Contractor shall conform to the applicable State or contractor standard for website structure, design/layout, navigation and usability.

A.16. Audit Authority

- a. Notwithstanding the records provision contained in Section D.11 of this Contract, with provision by the State of thirty (30) days' notice, and with the execution of any applicable third party confidentiality agreements, the State and/or its authorized representative has the right to examine and audit the Contractor to ensure compliance with all applicable requirements.
- b. The Contractor shall provide access, with thirty (30) days' notice from the State, at any time during the term of this Contract, and for three (3) years after final Contract payment (longer if required by law), to the State and/or its authorized representative to examine and audit the services provided under this Contract. The State reserves the right to request that documentation be provided for review at the authorized representative's location, the State's location, or at the Contractor's corporate site.



- c. The Contractor shall, at its own cost, provide the State and/or its authorized representative with prompt and complete access to any data, documents, access to systems, and other information necessary to ensure the Contractor is complying with all requirements of this Contract.
- d. The Contractor shall provide reasonable cooperation with requests for information, which includes but is not limited to the timing of the audit, deliverables, data/information requests and the Contractor's response time to the State's questions during and after the process. The Contractor shall also provide a response to all "findings" received within thirty (30) days, or at a later date if determined by the State to be more reasonable based on the number and type of findings.
- e. The State shall not be responsible for time or any costs incurred by the Contractor in association with an audit including, but not limited to, the costs associated with providing data, reports, documentation, systems access, or space.
- f. If the outcome of the audit results in an amount due to the State, one hundred percent (100%) of the payment of such settlement will be made by the Contractor within thirty (30) days of the Contractor's receipt of the final audit report. The Contractor shall also pay the State interest on any overcharge(s) by multiplying the amount of the overcharge by the Tennessee State Pooled Investment Fund's Gross Total Portfolio Average Earnings Rate for the month(s) in the overcharge period, times the number of days in the overcharge period(s), divided by 365 days/year. Any amount due the State which is not paid by the Contractor within thirty (30) days of the Contractor's receipt of the final audit report shall be subject to a compounding interest penalty of one percent (1%) per month. Once an audit report is issued the Contractor shall have an opportunity to comment on any findings in the report. If the Contractor disagrees with a finding resulting in a payment to the State, the State will review the Contractor's comments, but if the State retains the original audit findings the Contractor will be responsible for any payment to the State.
- g. Security Audit. The State may conduct audits of Contractor's compliance with the State's Enterprise Information Security Policy ("The Policy") and additional security requirements set forth under this Contract, including those obligations imposed by federal or state law, regulation or policy. The Policy, as may be periodically revised and will be provided to the Contractor by the State. The State's right to conduct security audits is independent of any other audit or monitoring required by this Contract. The timing and frequency of such audits shall be at the State's discretion and may, but not necessarily shall, be in response to a security incident.

A security audit may include the following: (i) review of access logs, screen shots and other paper or electronic documentation relating to Contractor's compliance with the Policy. This may include review of documentation relevant to subcontractors or suppliers of security equipment and services used with respect to State data; (ii) physical inspection of controls such as door locks, file storage, communications systems, and employee identification procedures; and (iii) interviews of responsible technical and management personnel regarding security procedures.

Contractor shall provide reports or additional information upon request of the state and access by the State or the State's designated staff to Contractor's facilities and/or any location involved with providing services to the State or involved with processing or storing State data, and Contractor shall cooperate with State staff and audit requests submitted under this Section. Any confidential information of either party accessed or disclosed during the course of the security audit shall be treated as set forth under this Contract or federal or state law or regulations. Each party shall bear its own expenses incurred in the course of conducting this security audit. Contractor shall at its own

expense promptly rectify any non-compliance with the Policy or other requirements identified by this security audit and provide proof to the State thereof.

A.17. Reporting & Systems Access

- a. The Contractor shall submit reports in a mutually agreeable electronic format (e.g., Microsoft Word or Microsoft Excel), of the type, at the frequency, and containing the detail described in Contract Section A.10. and Contract Attachment D. Reporting shall continue for the twelve (12) month period following termination of this Contract, if applicable.
- b. The Contractor shall provide the State access to an ad-hoc reporting liaison to assist in the development of reports that cannot be generated using the Contractor's standard reporting package. The Contractor shall deliver such reports to the State within five (5) business days of the State's request. If requested by the State, the Contractor shall deliver up to five (5) reports annually deemed as urgent by the State within two business days. All ad-hoc reports shall be provided at no additional cost to the State.
- c. The Contractor shall ensure that reports submitted by the Contractor to the State shall meet the following standards:
  - (1) The Contractor shall verify the accuracy and completeness of data and other information in reports submitted.
  - (2) The Contractor shall ensure delivery of reports or other required data on or before scheduled due dates.
  - (3) Reports or other required data shall conform to the State's defined written standards.
  - (4) All required information shall be fully disclosed in a manner that is responsive and with no material omission.
  - (5) Each report shall be accompanied by a brief narrative that describes the content of the report and highlights salient findings of the report.
  - (6) The Contractor shall notify the State regarding any significant changes in its ability to collect information relative to required data or reports.
  - (7) The submission of late, inaccurate or otherwise incomplete reports shall be considered failure to report within the specified timeframe (see Contract Attachment C.)
  - (8) State requirements regarding reports, report content and frequency of submission may change during the term of the Contract. The Contractor shall have at least forty-five (45) days to comply with changes specified In Writing by the State.

A.18. Additional Work/Optional Services

The State may request In Writing, at its sole discretion, additional work/optional services involving the enhancement or modification of a deliverable under the Contract Scope of Services, provided that this Contract is amended, pursuant to applicable State regulations, laws, or rules. Remuneration for any such additional work shall be based on the applicable "contingent," payment rate(s) detailed in Section C.3 of this Contract.

A.19. Due Dates for Project Deliverables/Milestones

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

Deliverables/Milestones:		Contract Reference(s):	Deliverable Due Dates & Milestone Target Dates:
<b>Implementation</b>			
1.	Kick-off Meeting for all key Contractor staff	A.2.d	Within the first 30 days after Contract start date
2.	Implementation Plan	A.2.e	45 days after Contract start date (on or before)
3.	Center Itemized Budget and Specifications	A.1.c.(2)	Within 60 days after Contract start date
4.	Marketing and Communications Plan	A.11.	Within 60 days after Contract start date; updated quarterly
5.	Website content approved for Go-Live.	A.12	December 1, 2018
6.	Programs, Service, and Information Systems (including website and EHR) are Fully Operational	A.2.a. A.12. A.14.	January 1, 2019
7.	Operational Readiness Review	A.2.g.	December 1, 2018 (on or before)
8.	Quality Improvement Program	A.9.	December 1, 2018
9.	Go-live	A.2.a.	January 1, 2019
10.	Weekly Implementation Status Meetings	A.2.h.	Contract start date through 30 days after Go-Live
11.	Implementation Performance Assessment	A.2.i.	February 15, 2019 (on or before)
12.	Annual Patient Satisfaction Survey	A.8.	Administered 12 months after Go-Live date and annually
13.	Reports	A.10.	All reports due monthly, quarterly and annually as specified
14.	Data Flow to DSS contractor	A.13.	Beginning 1 month after Go-Live date and monthly
15.	Monthly Status Meetings	A.13.e.(1)	30 days after Go-Live through Contract period
16.	BC-DR Plan	E.14	At least 1 month prior to Go-Live, annually thereafter
17.	Security Risk Assessment	E.14	Prior to Go-Live, annually thereafter

**B. TERM OF CONTRACT:**

This Contract shall be effective on June 1, 2018 ("Effective Date") and extend for a period of sixty-seven (67) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed Four Million Seven Hundred Twenty Eight Thousand Dollars (\$4,728,000) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. **Compensation Firm.** The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
  - b. The Contractor shall be compensated based upon the following payment methodology:

<b>Table A</b>	<b>CY2019: 1/1/2019 - 12/31/2019</b>	<b>CY2020: 1/1/2020 - 12/31/2020</b>	<b>CY2021: 1/1/2021- 12/31/2021</b>	<b>CY2022: 1/1/2022- 12/31/2022</b>	<b>CY2023: 1/1/2023 - 12/31/2023</b>
<b>General, Administrative, and Management (GAM) Fees<sup>1</sup></b>	24% monthly staffing costs	24% monthly staffing costs	24% monthly staffing costs	24% monthly staffing costs	24% monthly staffing costs
<b>Staff Position</b>	The per hour cost of each staff position inclusive of benefits, based on 40 hour, Full Time Employee (FTE) for each CY				
Physician	\$113 per hour	\$113 per hour	\$113 per hour	\$113 per hour	\$113 per hour
Mid-level Nurse Practitioner/ Physician Assistant	\$57.45 per hour	\$57.45 per hour	\$58.02 per hour	\$58.60 per hour	\$59.19 per hour
Registered Nurse	\$40.12 per hour	\$40.12 per hour	\$40.92 per hour	\$41.74 per hour	\$42.57 per hour
Licensed Practical Nurse	\$25 per hour	\$25 per hour	\$25.50 per hour	\$26.01 per hour	\$26.53 per hour
Medical Assistant	\$22.10 per hour	\$22.10 per hour	\$22.54 per hour	\$22.99 per hour	\$23.45 per hour
EAP Counselor	\$34.90 per hour	\$34.90 per hour	\$35.60 per hour	\$36.31 per hour	\$37.04 per hour
Administrative Assistant	\$22.10 per hour	\$22.10 per hour	\$22.54 per hour	\$22.99 per hour	\$23.45 per hour
Billing Services	\$22.10 per hour	\$22.10 per hour	\$22.54 per hour	\$22.99 per hour	\$23.45 per hour

<b>Table A</b>	<b>CY2019:</b> 1/1/2019 - 12/31/2019	<b>CY2020:</b> 1/1/2020 - 12/31/2020	<b>CY2021:</b> 1/1/2021 - 12/31/2021	<b>CY2022:</b> 1/1/2022 - 12/31/2022	<b>CY2023:</b> 1/1/2023 - 12/31/2023
<sup>1</sup> GAM fees are invoiced and paid as a percentage of total invoiced monthly staffing costs. <sup>2</sup> FTE calculations: .2=1 working day a week; .4=2 working days a week; .6=3 working days a week; .8=4 working days a week; 1.0=5 working days a week.					

<b>Table B</b> <b>Monthly Operating Expenses<sup>1</sup></b>	<b>12/1/2018- 12/31/2019</b>	<b>1/1/2020- 12/31/2020</b>	<b>1/1/2021- 12/31/2022</b>	<b>1/1/2022- 12/31/2022</b>	<b>1/1/2023- 12/31/203</b>
Medical Supplies	\$4,700 / per month	\$4,723.50 / per month	\$4,747.12 / per month	\$4,770.85 / per month	\$4,794.71 / per month
Office Supplies	\$130 / per month	\$131.30 / per month	\$132.61 / per month	\$133.94 / per month	\$135.28 / per month
Lab charges	\$475 / per month	\$479.75 / per month	\$484.55 / per month	\$489.39 / per month	\$494.29 / per month
Electronic Medical Record	\$2,010 / per month	\$2,010 / per month	\$2,010 / per month	\$2,010 / per month	\$2,010 / per month
IT Systems and Services	\$1,900 / per month	\$1,900 / per month	\$1,900 / per month	\$1,900 / per month	\$1,900 / per month
Marketing / Communications	\$1,500 / per month	\$1,515 / per month	\$1,530.15 / per month	\$1,545.45 / per month	\$1,560.91 / per month
Non-Capital equipment	\$0.00 / per month	\$0.00 / per month	\$0.00 / per month	\$0.00 / per month	\$0.00 / per month
Misc fees and other <sup>2</sup>	\$115 / per month	\$115 / per month	\$115 / per month	\$115 / per month	\$115 / per month
1.	Costs in this table are estimated monthly operating expenses and are used only for maximum liability calculation purposes and do not reflect the actual costs which will be provided with invoices by the Contractor and approved for payment by the State as outlined in C.3.i below.				
2.	For example, any required website registrations or initial startup costs.				

- c. The Contractor shall not be compensated for travel time to the primary location of service provision (i.e. the Center), parking, or to meetings with the State except for expenses associated with the mobile unit (such as gas and parking) as set forth in state travel regulations.
- d. The State reserves the right to review files prior to issuing payment and to hold or adjust any payment that is not satisfactory to the State.
- e. The Contractor shall reconcile, within ten (10) business days of receipt, payment information provided by the State. Upon identification of any discrepancies, the Contractor shall immediately advise the State, which for purposes of this subsection, shall mean two (2) business days. Notwithstanding the aforementioned, should any discrepancy be identified in which there was an overpayment by the State, regardless of the amount of time elapsed, the State will be granted a refund of any such funds.

- f. The Contractor shall pay during the term of this Contract all applicable fees as assessed by the State's DSS contractor related to initial set-up and implementation and any data format changes which are Contractor-initiated. The Contractor shall also pay all applicable fees related to any DSS contractor efforts to correct Contractor data quality errors that occur during the term of this Contract.
- g. If member materials containing an error had been approved by the State In Writing and the error was detected after the materials have been mailed, the State will reimburse the Contractor the production and postage cost of mailing the corrected version pursuant to Contract Section C.3.h.
- h. For materials and mailings above those identified in the Contract and not included in the Contractor's Marketing and Communications plan and updates, the State shall reimburse the Contractor for the following, selected actual costs in the performance of this Contract upon Contractor providing documentation of actual costs incurred.
  - (1) Postage. The State shall reimburse the Contractor for the actual cost of postage for mailing materials produced under the terms of this Contract and as directed and authorized by the State.
  - (2) Printing/Production. The State shall reimburse the Contractor an amount equal to the actual cost of document printing/production as required and authorized by the State and as detailed by the Contract Scope of Services.

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

- i. The State shall reimburse the Contractor for actual, reasonable, and necessary costs for implementation/startup and direct operating costs. The costs listed above in C.3.b Table B are for maximum liability calculation purposes and do not reflect the actual costs which will be provided by the Contractor and approved by the State. The Contractor shall attach receipts and other written documentation with the invoice verifying payments on such purchases and expenses. The Contractor shall submit invoices for these costs as outlined below in Section C.5. For the purpose of defining the reimbursed costs:
  - (1) Implementation / Start-Up Costs refer to costs incurred to get the Center ready for the Go-Live date. This includes the purchase of furniture, equipment, medical and office supplies, OTC and generic medications, IT systems, printing and postage of marketing and communications materials included in the Contractor's approved Communications and Marketing plan, and the hiring of any subcontractors. Please see definition in Contract Section A.
  - (2) Operating (Direct) Costs refer to monthly costs paid by the State, to reimburse the Contractor for its actual cost for equipment, medical and office supplies, OTC and generic medications, IT systems/services, printing and postage of marketing and communications materials included in the Contractor's approved Communications and Marketing plan. For costs exceeding (Two hundred fifty dollars) \$250.00 per line item, prior approval from the State is required before purchase. Please see Contract Section A.1.c(2).
    - i. Any payments from the health contractors and enrolled members collected by the Contractor shall be itemized and deducted from the monthly direct costs invoice.

- j. The Contractor shall be compensated for optional services requested and performed pursuant to Contract Section A.3.b., without a formal amendment of this Contract based upon the payment rates detailed in the schedule detailed in Section C.3.b and below. PROVIDED THAT compensation to the Contractor for such work shall not exceed SEVEN PERCENT (7%) of all monthly operating expenses listed in Table A and Table B in C.3.b. If, at any point during the Contract period, the State determines that additional locations and mobile units pursuant to Contract Section A.1.c(3) should be implemented, the State shall amend this Contract. Staffing, GAM fees, and monthly operating expenses for additional locations and mobile units will be paid at the same rates listed in C.3.b. ...

<b>Table C Optional Services (Contract Section A.3.b(4))</b>	<b>1/1/2019- 12/31/2019</b>	<b>1/1/2020- 12/31/2020</b>	<b>1/1/2021- 12/31/2022</b>	<b>1/1/2022- 12/31/2022</b>	<b>1/1/2023-12/31/203</b>
Physical Therapist*	\$46 / per hour	\$46.92 / per hour	\$47.86 / per hour	\$48.82 / per hour	\$ 49.79/ per hour
*Optional services – may or may not be implemented at the State's discretion					

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

Seannalyn Brandmeir, Procurement and Contracting Manager  
Tennessee Department of Finance & Administration  
Division of Benefits Administration  
312 Rosa L. Parks Avenue, Suite 1900  
Nashville, Tennessee 37243

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
- (1) Invoice number (assigned by the Contractor);
  - (2) Invoice date;
  - (3) Contract number (assigned by the State);
  - (4) Customer account name: Finance and Administration, Benefits Administration;
  - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
  - (6) Contractor name;
  - (7) Contractor Tennessee Edison registration ID number;
  - (8) Contractor contact for invoice questions (name, phone, or email);
  - (9) Contractor remittance address;
  - (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
  - (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
  - (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
  - (13) Amount due for each compensable unit of good or service; and
  - (14) Total amount due for the invoice period.

- b. Contractor's invoices shall:
  - (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
  - (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
  - (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
  - (4) Include shipping or delivery charges only as authorized in this Contract.
- c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

#### **D. MANDATORY TERMS AND CONDITIONS:**

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be In Writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to



the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided In Writing by a Party.

The State:

Seannalyn Brandmeir, Procurement and Contracting Manager  
Tennessee Department of Finance & Administration  
Division of Benefits Administration  
312 Rosa L. Parks Avenue, Suite 1900  
Nashville, Tennessee 37243  
Seannalyn.Brandmeir@tn.gov  
Telephone: 615.532.4598  
Fax: 615.253.8556

The Contractor:

Caroline Portis-Jenkins, MSN, FNP  
Co-Chief Executive Officer  
601 Benton Avenue  
Nashville, TN 37204  
(PH) 615-932-7631  
(FAX) 615-385-1842

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

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.

D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, In Writing, by submitting to the State a completed and signed copy of the document at Attachment A, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.

- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract

providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.

- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.

- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
- c. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.
- d. The Contractor shall not sell Public Sector Plan member information or use member information unless it is aggregated blinded data, which is not identifiable on a member basis.
- e. The Contractor shall not use Public Sector Plan member identified or non-aggregated information for advertising, marketing, promotion or any activity intended to influence sales or market share of any product or service except when permitted by the State, such as advertisements of the Program for enrollment purposes.
- f. The Contractor shall have full financial responsibility for any penalties, fines, or other payments imposed or required as a result of the Contractor's non-compliance with or violation of HIPAA or HITECH requirements, and the Contractor shall indemnify the State

with respect to any such penalties, fines, or payments, including the cost of credit protection.

- g. At the request of the State, the Contractor shall offer credit protection for those times in which a Member's PHI is accidentally or inappropriately disclosed as defined in Contract Attachment E.

D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.

D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

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

D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The

non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

- D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
  - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes:
    - i. Contract Attachment A Attestation Re Personnel Used in Contract Performance;
    - ii. Contract Attachment B Employee Center Scope of Services
    - iii. Contract Attachment C Performance Guarantees and Liquidated Damages;
    - iv. Contract Attachment D Reporting Requirements; and
    - v. Contract Attachment E HIPAA Business Associate Agreement
  - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
  - e. any technical specifications provided to proposers during the procurement process to award this Contract;
  - f. the Contractor's response seeking this Contract; and

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

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3<sup>rd</sup> floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This

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

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

a. Commercial General Liability Insurance

- 1) The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).  
The Contractor shall maintain bodily injury/property damage with a combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least two million dollars (\$2,000,000).

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
  - i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
  - i. The Contractor employs fewer than five (5) employees;
  - ii. The Contractor is a sole proprietor;
  - iii. The Contractor is in the construction business or trades with no employees;
  - iv. The Contractor is in the coal mining industry with no employees;
  - v. The Contractor is a state or local government; or
  - vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).



- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

d. Professional Liability Insurance

- 1) Professional liability insurance shall be written on an occurrence basis. This coverage may be written on a claims-made basis but must include an extended reporting period or "tail coverage" of at least two (2) years after the Term;
- 2) Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- 3) If the Contract involves the provision of services by medical professionals, a policy limit not less than one million (\$1,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

e. Cyber Liability Insurance

- 1) The Contractor shall maintain cyber liability insurance in an amount not less than five million dollars (\$5,000,000) per occurrence or claim and five million dollars (\$5,000,000) annual aggregate, covering all acts, errors, omissions, negligence, and infringement of intellectual property (except patent and trade secret). Coverage shall be sufficiently broad to respond to all duties and obligations as is undertaken by the Contractor in the Contract and shall include network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage, destruction, or alteration of electronic information, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential and private information, and including coverage for related regulatory fines, defenses, and penalties.
- 2) Such coverage shall include data breach response expenses, in an amount not less than five million dollars (\$5,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the State or on behalf of the State hereunder.

D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

**E. SPECIAL TERMS AND CONDITIONS:**

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.

E.2. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the

confidentiality of such material or information in conformance with applicable state and federal law.

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

- E.3. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.
- E.4. Intellectual Property Indemnity. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.
- E.5. Software License Warranty. Contractor grants a license to the State to use all software provided under this Contract in the course of the State's business and purposes.
- E.6. Software Support and Maintenance Warranty. Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.
- E.7. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State for the Contractor's use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less reasonable wear and tear. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the fair market value of the property at the time of loss.
- E.8. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- E.9. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to RFP 331786-00140 (RFP Attachment 6.2 Section B.15) and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

- E.10. Liquidated Damages. If the Contractor fails to perform in accordance with any term or provision of this contract, only provides partial performance of any term or provision of the Contract, violates any warranty, or any act prohibited or restricted by the Contract occurs, ("Liquidated Damages Event"), the State may assess damages on Contractor ("Liquidated Damages"). The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The Parties

agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for Contractor's failure to fulfill its obligations regarding the Liquidated Damages Event as these amounts are likely to be uncertain and not easily proven. Contractor has carefully reviewed the Liquidated Damages contained in Attachment B and agrees that these amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of a Liquidated Damages Event, and are a reasonable estimate of the damages that would occur from a Liquidated Damages Event. The Parties agree that the Liquidated Damages represent solely the damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the Liquidated Damages are in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or any other sections of this Contract.

The State is not obligated to assess Liquidated Damages before availing itself of any other remedy. The State may choose to discontinue Liquidated Damages and avail itself of any other remedy available under this Contract or at law or equity.

- E.11. Partial Takeover of Contract. The State may, at its convenience and without cause, exercise a partial takeover of any service that the Contractor is obligated to perform under this Contract, including any service which is the subject of a subcontract between Contractor and a third party (a "Partial Takeover"). A Partial Takeover of this Contract by the State shall not be deemed a breach of contract. The Contractor shall be given at least thirty (30) days prior written notice of a Partial Takeover. The notice shall specify the areas of service the State will assume and the date the State will be assuming. The State's exercise of a Partial Takeover shall not alter the Contractor's other duties and responsibilities under this Contract. The State reserves the right to withhold from the Contractor any amounts the Contractor would have been paid but for the State's exercise of a Partial Takeover. The amounts shall be withheld effective as of the date the State exercises its right to a Partial Takeover. The State's exercise of its right to a Partial Takeover of this Contract shall not entitle the Contractor to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.
- E.12. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State.
- E.13. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its

employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law.

E.14. Contractor Hosted Services and Confidential Data.

a. "Confidential State Data" is defined as data deemed confidential by state or federal statute or regulation. The Contractor shall protect Confidential State Data as follows:

- (1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.
- (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 validated encryption technologies.
- (3) The Contractor's processing environment containing Confidential State Data shall be in accordance with at least one of the following security standards: (i) International Standards Organization ("ISO") 27001; (ii) Federal Risk and Authorization Management Program ("FedRAMP"); or (iii) American Institute of Certified Public Accountants ("AICPA") Service Organization Controls ("SOC") 2 Type II certified. The Contractor shall provide proof of current certification annually and upon State request.
- (4) The Contractor must comply with the State's Enterprise Information Security Policies. This document is found at the following URL:  
<https://www.tn.gov/content/dam/tn/finance/documents/Enterprise-Information-Security-Policies-ISO-27002-Public.pdf>
- (5) In the event that the operating system is an integral part of the application, the Contractor agrees to maintain Operating Systems at current, manufacturer supported versions. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- (6) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Application" shall mean the computer code that supports and accomplishes the State's requirements as set forth in this Contract. The Contractor shall make sure that the Application is at all times fully compatible with a manufacturer-supported Operating System; the State shall not be required to run an Operating System that is no longer supported by the manufacturer.

- (7) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully compatible with current versions of the Operating System and Application, to ensure that security vulnerabilities are not introduced.
- (8) With advance notice from the State, and no more than one (1) time per year the Contractor agrees to allow the State to perform logical and physical audits of the Contractor's facility and systems that are hosting Confidential State Data.
- (9) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. "Processing Environment" shall mean the combination of software and hardware on which the Application runs. "Penetration Tests" shall be in the form of software attacks on the Contractor's computer system, with the purpose of discovering security weaknesses, and potentially gaining access to the computer's features and data. The "Vulnerability Assessment" shall have the goal of defining, identifying, and classifying the security holes (vulnerabilities) in the Contractor's computer, network, or communications infrastructure. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Contractor's Processing Environment. The assessment shall be conducted in accordance with the following: requirements for administrative, physical, and technical safeguards to protect health data (45 CFR §§164.304 - 318); rules for conducting risk analysis and risk management activities (45 CFR §164.308); requirements for security awareness training (45 CFR §164.308(a)(5)); requirements for entities to have security incident identification, response, mitigation and documentation procedures (45 CFR §164.308(a)(6)).
- (10) The State shall have ownership, right, title, and interest in all data stored and generated under this Contract, both historical and current.

b. Business Continuity Requirements.

- (1) The Contractor shall ensure that critical member, Patient and other web-accessible and/or telephone-based functionality and information including the website described in Section A.12 and the electronic health record system described in Section A.14.b. are available to the applicable System users twenty-four (24) hours a day, seven (7) days a week, except during periods of scheduled System unavailability agreed upon by the State and the Contractor. Unavailability caused by events outside of the Contractor's span of control is outside of the scope of this requirement. Any scheduled maintenance shall occur between the hours of midnight and 5:00 a.m. Central Standard Time and shall be scheduled in advance with notification on the member website. The Contractor shall make efforts to minimize any down-time between 5:00 a.m. and 12:00a.m. Central Standard Time.

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

- a. Central and/or satellite data processing, telecommunications, print and mailing facilities and functions therein, hardware and software are destroyed or damaged;
- b. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of transactions that are active in a live system at the time of the outage; and

- c. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of data maintained in a live or archival system.
- (2) The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations ("Business Continuity Requirements"). Business Continuity Requirements shall include:
  - a. "Disaster Recovery Capabilities" refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:
    - i. Recovery Point Objective ("RPO"). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: seventy-two (72) hours
    - ii. Recovery Time Objective ("RTO"). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: shall be restored within seventy-two (72) hours of the failure's or disaster's occurrence
- (3) The Contractor shall perform at least one Disaster Recovery Test every three hundred sixty-five (365) days. A "Disaster Recovery Test" shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The Disaster Recovery Test shall use actual State Data Sets that mirror production data, and success shall be defined as the Contractor verifying that the Contractor can meet the State's RPO and RTO requirements. A "Data Set" is defined as a collection of related sets of information that is composed of separate elements but can be manipulated as a unit by a computer. The Contractor shall provide written confirmation to the State after each Disaster Recover Test that its Disaster Recovery Capabilities meet the RPO and RTO requirements (see Contract Attachment D).
- (4) In the event that the Contractor fails to demonstrate in the tests of its BC-DR plan that it can restore system functions per the standards outlined in this Contract, the Contractor shall submit to the State a summary of its BC-DR corrective action plan, within ten (10) business days of the conclusion of the BC-DR test, that describes how the failure will be resolved. If the summary results show failure or that remedial action is necessary, the Contractor shall also provide a timeline of how long exposure is and when remediation will be implemented.
- (5) Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State.
- (6) The Contractor shall maintain a duplicate set of all records relating to this Program in electronic medium, usable by the State and the Contractor for the purpose of disaster recovery. Such duplicate records are to be stored at a secure fire, flood, and theft-protected facility located away from the storage location of the originals. The Contractor shall update duplicate records, at a minimum, on a daily basis and shall retain said records for a period of sixty (60) days from the date of creation. At the end of the term of this Contract or upon notice of termination of this Contract prior to the term date, the Contractor shall convey the original and the duplicate records medium and the information they contain to the State on or before the date of termination.

(7) Upon termination of this Contract and in consultation with the State, the Contractor shall provide originals and/or duplicates to the State in accordance with Contract Section A.15.g. and then destroy all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology ("NIST") Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) business days after destruction.


(8) Contractor must enter into a BAA with the State (see Contract Attachment E).

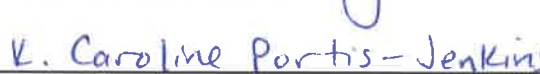
E.15. Extraneous Terms and Conditions. Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor.

E.16. Survival. The terms, provisions, representations, and warranties contained in this Contract which by their sense and context are intended to survive the performance and termination of this Contract, shall so survive the completion of performance and termination of this Contract.

**IN WITNESS WHEREOF,**

**University Community Health Services, Inc. (UCHS) dba Connecticut Health:**

  
\_\_\_\_\_  
CONTRACTOR SIGNATURE 5/14/18  
DATE

 / CO-CEO  
\_\_\_\_\_  
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

**STATE INSURANCE COMMITTEE,  
LOCAL EDUCATION INSURANCE COMMITTEE,  
LOCAL GOVERNMENT INSURANCE COMMITTEE:**

  
\_\_\_\_\_  
LARRY B. MARTIN, CHAIRMAN 5/21/18  
DATE

## ATTACHMENT A

## ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
EDISON VENDOR IDENTIFICATION NUMBER:	

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

*K. Caroline Portis-Jenkins*

CONTRACTOR SIGNATURE

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

*K. Caroline Portis-Jenkins / Co-CEO*

PRINTED NAME AND TITLE OF SIGNATORY

*5/14/18*

DATE OF ATTESTATION



## Contract Attachment B

## Employee Center Scope of Services

SERVICES	MANDATORY/ OPTIONAL
<b>Primary Care</b>	
- Episodic primary care	Mandatory
- Managing chronic conditions (limited)	Mandatory
- Allergy injections	Mandatory
- Depression screening - PHQ2 or comparable tool	Mandatory
- Ability to provide mobile health services	Optional
<b>Preventive Health Services</b>	
- Immunizations (Influenza, Tetanus, Pneumococcal, etc.)	Mandatory
- Onsite CLIA waived lab tests	Mandatory
<b>Acute/Urgent Care Services</b>	
- Onsite CLIA-waived lab tests	Mandatory
- Triage/referrals to emergency department, specialist, PCP etc.	Mandatory
- Emergency response	Mandatory
- Minor sterile procedures (e.g. sutures)	Mandatory
- Urgent care	Mandatory
- Integrate with national lab provider (e.g. Quest or Lab Corp) for non CLIA-waived services	Mandatory
<b>Health Coaching/Education</b>	
- Incorporate wellness coaching/education into office visit w/out individual health coach	Mandatory
- Group Lunch and Learn education classes	Mandatory
- Diabetes Prevention Program (DPP) education, screening and enrollment	Mandatory
<b>Biometric Screenings</b>	
- At onsite clinic	Mandatory
<b>Coordination with Population Health Contractor</b>	
- Ability to receive biometric screening and other wellness data from population health contractor	Mandatory
- Ability to incorporate wellness data into the EHR	Mandatory
<b>EAP Counseling</b>	
- Offer part-time (3 days) or full-time EAP counseling services	Mandatory
<b>Prescription Drug</b>	
- Limited FREE OTC meds (e.g. Tylenol, ibuprofen, guaifenesin, aspirin, hydrocortisone)	Mandatory

- Provide electronic Rx for clinic Patients	Mandatory
- Common generic medications (top generics recommended by Contractor)	Mandatory
<b>Technology Services</b>	
- Capability to offer electronic health record	Mandatory
- Center Website including maintenance and content updates	Mandatory
- Member portal	Mandatory
- Allow online scheduling for Patients	Mandatory
- Data warehouse interfaces with DSS contractor	Mandatory
- Operate State-approved electronic health record (EHR)	Mandatory
- Receive CMS certification for EHR	Mandatory
- Contractor electronic interfaces (e.g. population health contractor)	Optional
- Single Sign On	Optional
- Electronic payment system	Optional
<b>Marketing and Communications</b>	
-Marketing and communications plan development and updates	Mandatory
-Development and distribution of marketing materials	Mandatory
-Ongoing marketing and communications	Mandatory
-Development and maintenance of Patient and member database	Mandatory

**Contract Attachment C****PERFORMANCE GUARANTEES AND LIQUIDATED DAMAGES**

To effectively manage contractual performance, the State has established performance guarantees to evaluate the Contractor's obligations with respect to the Contract. The Contractor is expected to perform according to a certain level of standards. If these standards are not met, the State is entitled to impose liquidated damage assessments. The list of Performance Guarantees and associated Liquidated Damages are included in this Attachment.

1. **Performance Reporting:** The Contractor shall develop a Performance Report Card as a means to measure compliance on a quarterly basis. The Contractor shall provide the quarterly performance report card in a manner acceptable to the State, on or before the 20th day of the month following the reporting quarter. Supporting documentation used to calculate the performance guarantees shall be provided with the Performance Report Card. The Performance Report Card shall include cumulative data over the life of the contract.
2. **Payment of Liquidated Damages:** It is agreed by the State and the Contractor that any liquidated damages assessed by the State shall be due and payable to the State within forty-five (45) calendar days after Contractor receipt of the Invoice containing an assessment of liquidated damages. If payment is not made by the due date, said liquidated damages may be withheld from future payments by the State without further notice.
3. **Maximum Assessment:** The maximum amount of Liquidated Damages payable over any twelve (12) month period shall not exceed twenty percent (20%) of the annual staffing, general, administrative, and management billings. In the event that a single occurrence subjects the Contractor to Liquidated Damages in multiple subsections of this provision, the State is entitled to assess a single Liquidated Damage selected at the discretion of the State.
4. **Waiver of Liquidated Damages:** The State, in its sole discretion, may elect not to assess Liquidated Damages against the Contractor in certain instances, including but not limited to the following:
  - a. Where the State determines that only inconsequential damage has occurred, unless the deficiency is part of a recurring or frequent pattern of deficiency, with regard to one (1) or more Contract deliverables or requirements
  - b. For performance measures that are resolved based on the Contractor's corrective action plan
  - c. If the failure is not due to Contractor fault (i.e. caused by factors beyond the reasonable control and without any material error or negligence of the Contractor, its staff or subcontractors)
  - d. Where no damage or injury has been sustained by the State or its members
  - e. Where the failure does not result in increased Contract management time or expense
  - f. Where the failure results from the State's failure to perform
  - g. For other reasons at the State's sole discretion
5. The Contractor shall pay to the State the indicated total dollar assessment upon notification by the State that an amount is due, through the term of this Contract.

<b>1. Implementation Plan</b>	
Guarantee	The Contractor shall provide a project implementation plan that meets the requirements of Contract Section A.2(e) and A.2.(f). to the State no later than forty-five (45) days after the Contract start date.
Liquidated Damages	Five hundred dollars (\$500) for each day beyond the deadline that the plan is not provided to the State.
Measurement	Measured, reported, assessed and paid no later than three (3) months after the Go-Live date.
<b>2. Operational Readiness Review</b>	
Guarantee	The Contractor shall resolve all findings identified by the State during its operational readiness review, as required in Contract Section A.2. prior to the Go-Live date.
Liquidated Damages	One thousand dollars (\$1,000) per finding if the standard is not met. Ten thousand dollar (\$10,000) maximum.
Measurement	Measured, reported, assessed and paid no later than three (3) months after the Go-Live date.
<b>3. Program Go-Live Date</b>	
Guarantee	The Contractor shall be ready to Go-Live according to the date in Contract Section A.2. and A.19.
Liquidated Damages	Ten thousand dollars (\$10,000) if Go-Live date is not met; an additional one thousand dollars (\$1,000) per day that the standard continues to not be met, with a maximum cap of \$25,000.
Measurement	Measured, reported, assessed and paid no later than three (3) months after the Go-Live date.
<b>4. Website</b>	
Guarantee	The Contractor's website shall be available on the internet and fully operational, on or before the date specified in Contract Section A.19.
Liquidated Damages	Five hundred dollars (\$500) per day that the standard is not met, with a maximum cap of ten thousand dollars (\$10,000).
Measurement	Measured, reported, assessed and paid no later than three (3) months after the Go-Live date.
<b>5. Electronic Health Record</b>	
Guarantee	The Contractor's electronic health record system shall be fully operational, on or before the date specified in Contract Section A.19, shall maintain CMS certification annually under the CMS certified electronic health record program or a State-approved equivalent.
Liquidated Damages	Five hundred dollars (\$500) per day that the initial standard is not met, with a maximum cap of five thousand dollars (\$5,000); one thousand dollars (\$1,000) for each year that the certification is not achieved.

Measurement	Measured, reported, assessed and paid no later than three (3) months after the Go-Live date, and then measured, reported, and assessed annually.
<b>6. Marketing and Communications</b>	
Guarantee	The Contractor shall prepare and receive State approval for a written marketing and communications plan, provide quarterly updates, conduct ongoing communications to members and Patient visitors, and develop Patient contact information databases as required in Contract Section A.11.
Liquidated Damages	Five thousand dollars (\$5,000) for the failure to deliver a timely initial written plan, one thousand dollars (\$1,000) for the failure to deliver a timely quarterly plan update, and five thousand dollars (\$5,000) for each year that the Contractor fails to comply with the State approved marketing and communications plan.
Measurement	Measured, reported, assessed and paid no later than 30 days after the Contract signing date, and then measured, reported, and assessed quarterly and annually; quarterly assessments are paid annually.
<b>7. Patient Satisfaction Survey</b>	
Guarantee	A minimum of 90% of respondents to the Patient satisfaction survey report "very good" or "excellent" (or comparable) rating of their visit at the Center, based on State of Tennessee specific results and sent to all Patients as required by Contract Section A.8.
Liquidated Damages	Five thousand dollars (\$5,000) for each year that the standard is not met.
Measurement	Measured, reported, assessed and paid annually.
<b>8. Account Management Satisfaction</b>	
Guarantee	Achieve a 90% satisfaction or better (defined as "top two-box" satisfaction/ approval using an approved standard 5 pt. survey tool) on a survey completed by the State assessing account management performance including but not limited to timely response to questions - refer to Contract section A.4.j., successful marketing efforts, and resolution of issues.
Liquidated Damages	Ten thousand dollars (\$10,000) for each year that the standard is not met.
Measurement	Measured, reported, assessed and paid annually.
<b>9. Ongoing Data Transfer to DSS Contractor</b>	
Guarantee	Commencing with the first month after the data is available and each month thereafter, the Contractor shall submit all required information to the State's DSS contractor no later than fifteen (15) days following the end of each calendar month, or more frequently as directed by the State (see Contract Sections A.13. and A.15.).
Liquidated Damages	Five hundred dollars (\$500) per day for the first (1 <sup>st</sup> ) and second (2 <sup>nd</sup> ) business days out of compliance; one thousand dollars (\$1,000) per business day thereafter, not to exceed \$10,000.00 per year.
Measurement	Measured, reported, and assessed quarterly; quarterly assessment paid annually.

10. Data Quality		
Guarantee	As measured by the State's DSS contractor, the Contractor's data submission to said contractor shall meet the following Data Quality measures. (See Contract Section A.15.f.).	
Definition	Measure	Benchmark
	Gender	Data missing for <=/ .5% of records
	Social Security Number or other personal identifier(s) as directed by the State	Data missing for <=/ .5% of records
	Date of birth	Data missing for <=/ .5% of records
	Date of Service	Data missing for <=/ .5% of records
Liquidated Damages	Five hundred dollars (\$500) if any of the above listed standards is not met, either individually or in combination. Quarterly Guarantee, not to exceed Five thousand dollars (\$5,000) per year.	
Measurement	The State will notify the Contractor of any such occurrence. Any amounts due for the Contractor's noncompliance with this pre-approval provision shall be paid annually upon request by the State.	
11. Reporting		
Guarantee	The Contractor shall distribute to the State all reports required in Contract Sections A.1 through A.19. and Contract Attachment D within the time frame specified in the Contract.	
Liquidated Damages	Five hundred dollars (\$500) for each report not delivered to the State within the time frame specified in the Contract, not to exceed fifteen thousand dollars (\$15,000) per year.	
Measurement	Measured, reported, assessed and paid after each occurrence.	
12. Privacy and Security of Protected Health Information		
Guarantee	In accordance with Contract Section D.20 and the BAA., the Contractor shall not violate the Privacy and Security Rules (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191 as amended by Public Law 111-5, Division A, Title XIII (the HITECH Act).	
Liquidated Damages	One thousand dollars (\$1,000) for the first violation, two thousand and five hundred dollars (\$2,500) for the second violation and five thousand dollars (\$5,000) for the third and any additional violations with a maximum cap at fifty thousand dollars (\$50,000) annually. The assessment will be imposed on a per incident basis meaning regardless of how many members are impacted and the assessment will be levied on the graduated basis detailed above.  ***In the event the Contractor is responsible for Federal Penalties related to a Privacy or HIPAA violation, the State may, at their discretion waive any Liquidated Damages due the State in association with the same violation.***	
Measurement	Measured, reported, assessed and paid after each occurrence.	
13. Accreditation		
Guarantee	The Contractor shall maintain accreditation as specified in Contract Section A.9.a(2).	

Liquidated Damages	Five thousand dollars (\$5,000) for each year that the standard is not met.
Measurement	Measured, reported, assessed and paid annually.
<b>14. Unauthorized Usage of Information</b>	
Guarantee	Unless prior approved In Writing by the State, and in compliance with State and Federal law, the Contract shall not use information gained through this contract, including but not limited to utilization and pricing information, in marketing or expanding non-State business relationships or for any pecuniary gain.
Liquidated Damages	One hundred dollars (\$100) per impacted member unless that cannot be determined in which case the assessment shall be on hundred dollars per enrollee. Not to exceed maximum liquidated damage assessment.
Measurement	Measured, reported, reconciled and paid upon identification of occurrence.

**CONTRACT ATTACHMENT D****REPORTING REQUIREMENTS**

As required by this Contract, the Contractor shall submit reports to the State. Reports shall be submitted electronically, in the format approved by the State, and shall be of the type and at the frequency indicated below. Reports submitted in a format other than the approved template will be deemed late until resubmitted in the proper format. The State reserves the right to modify reporting requirements as deemed necessary to monitor Contract implementation. The State will provide the Contractor with at least sixty (60) days' notice prior to implementation of a report modification.

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

- Monthly reports shall be submitted by the 15<sup>th</sup> of the following month;
- Quarterly reports shall be submitted by the 20<sup>th</sup> of the following month; and
- Annual reports shall be submitted within ninety (90) days after the end of the calendar year.

Reports shall include, at a minimum:

1. **Performance Report Card**, submitted quarterly as a means to measure compliance. The Performance Report Card shall include cumulative data over the life of the contract.
2. **Patient Utilization Report**, submitted monthly, quarterly and annually using the template prior approved In Writing by the State. The report shall include, at a minimum:
  - a. the number of unique Patients treated at the Center by Plan type (e.g., PPO, CDHP, etc.) and State Agency employer (including address);
  - b. the number of Patient visits, organized by CPT and ICD-10 codes, State agency employer (including address), location of service (Center or employee location), method of treatment (in person or other) and Plan membership;
  - c. the number of unique Patients (if any) receiving mobile services by Plan type (e.g., PPO, CDHP, etc.) and State Agency employer (including address).
3. **Marketing and Communications Report**, submitted quarterly and/or after plan updates. The report shall summarize the Contractor's marketing activities during the reporting period, noting compliance and/or noncompliance and level of success with the Marketing and Communications Plan and any updates. The report shall also provide updates on the development of the Primary Service Area target member database, and the Patient database, noting the number of individuals listed in each, and the type of contact information included in the database.
4. **Wellness Report**, submitted monthly, quarterly and annually using the template prior approved In Writing by the State. The report shall include, at a minimum, the number of wellness activities including lunch and learns staffed by the Contractor (if any), broken down by the number of participants, the type of wellness activity, the subject of wellness activity, location of activity (Center or employee location), method of treatment (in person or other), State Agency employer (including address) and Plan membership.
5. **Behavioral Health Report**, submitted monthly, quarterly and annually using the template prior approved In Writing by the State. The report shall include, at a minimum, the number of EAP and other behavioral health sessions staffed by the Contractor (if any), broken down by the types of problems assessed, location of session (Center or employee location), method of treatment (in person or other), State Agency employer (including address) and Plan membership.
6. **Pharmacy Report**, submitted monthly, quarterly and annually using the template prior approved In Writing by the State. The report shall include, at a minimum, the number of prescriptions ordered but not dispensed by the Center, the number of OTC medications dispensed by the



Center, and the number of generic prescriptions dispensed by the Center, broken down by drug name and drug class.

7. **Quality Improvement Report**, submitted quarterly and annually using the template prior approved In Writing by the State. The report shall include the State-approved scorecard, a summary of compliance and noncompliance issues encountered during the reporting period, and the number and reason of Patient terminations, broken down by State agency employer (including address) and Plan membership. The quality improvement report may also include the Referral, Patient Satisfaction, and Patient Complaints Reports described below.
8. **Referral Report**, submitted quarterly and annually using the template prior approved In Writing by the State. The report shall include the number of PCP referrals, the number of specialist referrals, the reason for referral, and specialty (if applicable).
9. **Patient Satisfaction Report**, submitted annually using the template prior approved In Writing by the State. The report shall, at a minimum, report on compliance with the established Patient satisfaction standards and survey results.
10. **Patient Complaints Report**, submitted quarterly and annually using the template prior approved In Writing by the State. The report shall, at a minimum, summarize the number of grievances raised by Patients, by type, the timeframes for resolving grievances, and the resolution.
11. **Account Team Satisfaction Survey Report**, submitted annually using the template prior approved In Writing by the State. The report shall, at a minimum, summarize the methodology and results and identify improvement activities.
12. **BC-DR Results Report**, submitted annually using the template prior approved In Writing by the State. Corrective action plan must be submitted within ten (10) business days of the conclusion of BC-DR test, if necessary. The corrective action plan must describe how any system function failure will be resolved, if BC-DR testing does not provide the restoration of system function per the standards outlined in the contract recovery.
13. **Security Risk Assessment**, submitted annually using the template prior approved In Writing by the State.
14. **Data Files to State DSS Contractor**, submitted monthly, quarterly and annually to the DSS contractor using the template prior approved In Writing by the State.
15. **Contractor Referrals**, submitted quarterly and annually using the template prior approved In Writing by the State. The report shall, at a minimum, include information about the number of members who have been referred to other third party contractors of the State (i.e. population health and EAP/BHO contractors), broken down by State agency employer (including address), Plan membership, third party contractor receiving referral, and reason for referral.
16. **Payments Report**, submitted monthly, quarterly and annually using the template prior approved In Writing by the State. The report will summarize the number and amount of payments collected by the Contractor, broken down by the amount of payment, reason for payment, source of payment (member or health contractor), and Plan membership.
17. **Accreditation**, submit proof of accreditation annually In Writing as specified in Contract Section A.9.a(2).
18. **Electronic Health Record**, submit proof of CMS certification annually under the CMS certified electronic health record program or a State-approved equivalent.
19. **Other Reports**, as specified in this Contract and using templates prior approved In Writing by the State.

**CONTRACT ATTACHMENT E****HIPAA BUSINESS ASSOCIATE AGREEMENT  
COMPLIANCE WITH PRIVACY AND SECURITY RULES**

THIS BUSINESS ASSOCIATE AGREEMENT (hereinafter "Agreement") is between **The State of Tennessee, Finance and Administration, Division of Benefits Administration** (hereinafter "Covered Entity") and \_\_\_\_\_ (hereinafter "Business Associate"). Covered Entity and Business Associate may be referred to herein individually as "Party" or collectively as "Parties."

**BACKGROUND**

Parties acknowledge that they are subject to the Privacy and Security Rules (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191 as amended by Public Law 111-5, Division A, Title XIII (the HITECH Act), in certain aspects of its operations.

Business Associate provides services to Covered Entity pursuant to one or more contractual relationships detailed below and hereinafter referred to as "Service Contracts."

**LIST OF AGREEMENTS AFFECTED BY THIS BUSINESS ASSOCIATE AGREEMENT:****Contract Name:****Execution Date:****ParTNers Health Center Management Services****June 1, 2018**

In the course of executing Service Contracts, Business Associate may come into contact with, use, or disclose Protected Health Information ("PHI"). Said Service Contract(s) 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 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 and, therefore, make this Agreement.

**DEFINITIONS**

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR §§ 160.103, 164.103, 164.304, 164.402, 164.501, and 164.504.

- 1.1 "Breach of the Security of the [Business Associate's Information] System" shall have the meaning set out in its definition at T.C.A. § 47-18-2107
- 1.2 "Business Associate" shall have the meaning set out in its definition at 45 C.F.R. § 160.103.
- 1.3 "Covered Entity" shall have the meaning set out in its definition at 45 C.F.R. § 160.103.
- 1.4 "Designated Record Set" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.
- 1.5 "Electronic Protected Health Information" shall have the meaning set out in its definition at 45 C.F.R. § 160.103.
- 1.6 "Genetic Information" shall have the meaning set out in its definition at 45 C.F.R. § 160.103.

- 1.7 "Health Care Operations" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.
- 1.8 "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- 1.9 "Information Holder" shall have the meaning set out in its definition at T.C.A. § 47-18-2107
- 1.10 "Marketing" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.
- 1.11 "Personal information" shall have the meaning set out in its definition at T.C.A. § 47-18-2107
- 1.12 "Privacy Official" shall have the meaning as set out in its definition at 45 C.F.R. § 164.530(a)(1).
- 1.13 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A, and E.
- 1.14 "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- 1.15 "Required by Law" shall have the meaning set forth in 45 CFR § 164.512.
- 1.16 "Security Incident" shall have the meaning set out in its definition at 45 C.F.R. § 164.304.
- 1.17 "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160 and 164, Subparts A and C.

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

2.1 Business Associate is authorized to use PHI for the purposes of carrying out its duties under the Services Contract. In the course of carrying out these duties, including but not limited to carrying out the Covered Entity's duties under HIPAA, 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 Contracts, or as Required By Law. Business Associate is subject to requirements of the Privacy Rule as required by Public Law 111-5, Section 13404 [designated as 42 U.S.C. 17934] In case of any conflict between this Agreement and the Service Contracts, this Agreement shall govern.

2.2 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 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 Associate shall use appropriate administrative, physical, and technical safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement, Services Contract(s), 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. The Business Associate shall maintain appropriate documentation of its compliance with the Privacy

Rule, including, but not limited to, its policies, procedures, records of training and sanctions of members of its Workforce.

2.4 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 information, to agree, by written contract with Business Associate, to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

2.5 Business Associate shall 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.

2.6 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. Business Associate shall report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement. Business Associate will also provide additional information reasonably requested by the Covered Entity related to the breach.

2.7 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.

2.7.1 Business Associate shall provide to Covered Entity notice of a Potential or Actual Breach of Unsecured PHI immediately upon becoming aware of the Breach.

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

2.7.3 Covered Entity shall make the final determination whether the Breach requires notification and whether the notification shall be made by Covered Entity or Business Associate.

2.8 If Business Associate receives PHI from Covered Entity in a Designated Record Set, Business Associate shall provide access, at the request of Covered Entity, to PHI in a Designated Record Set to Covered Entity, in order to meet the requirements under 45 CFR § 164.524, provided that Business Associate shall have at least 30 business days from Covered Entity notice to provide access to, or deliver such information.

2.9 If Business Associate receives PHI from Covered Entity in a Designated Record Set, then Business Associate shall make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to the 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity, provided that Business Associate shall have at least 30 business days from Covered Entity notice to make an amendment.

2.10 Business Associate shall make its internal practices, books, and records including policies and 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 Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the Secretary, for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule.

2.11 Business Associate shall document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosure of PHI in accordance with 45 CFR § 164.528.

2.12 Business Associate shall provide Covered Entity or an Individual, 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 and accounting of disclosures of PHI in accordance with 45 CFR

§ 164.528, provided that Business Associate shall have at least 30 business days from Covered Entity notice to provide access to, or deliver such information which shall include, at minimum, (a) date of the disclosure; (b) name of the third party to whom the PHI was disclosed and, if known, the address of the third party; (c) brief description of the disclosed information; and (d) brief explanation of the purpose and basis for such disclosure. Business Associate shall provide an accounting of disclosures directly to an individual when required by section 13405(c) of Public Law 111-5 [designated as 42 U.S.C. 17935(c)].

2.13 Business Associate agrees it must 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.

2.13.1 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.

2.13.2 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.

2.13.3 Business Associate acknowledges that if Business Associate is also a covered entity, as defined by the Privacy Rule, Business Associate is required, independent of Business Associate's obligations under this Memorandum, to comply with the Privacy Rule's minimum necessary requirements when making any request for PHI from Covered Entity.

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

2.15 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 and notify the Covered Entity of such action. If Business Associate receives a request for PHI 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 notify Covered Entity of such request and forward the request to Covered Entity. Business Associate shall then assist Covered Entity in responding to the request.

2.16 Business Associate shall fully cooperate in good faith with 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 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 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 and Public Law 111-5. 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 to certify its compliance with the Security Rule.

3.3 Business Associate shall ensure that any agent, including a subcontractor, to whom it provides electronic PHI received from 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, to agree, by written contract (or the appropriate equivalent if the agent is a government entity) with Business Associate, to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

3.4 Business Associate shall require its employees, agents, and subcontractors to report to Business Associate within five (5) business days, any Security Incident (as that term is defined in 45 CFR § 164.304) of which it becomes aware. 45 CFR 164.314(a)(2)(C) requires that business associate shall report to the covered entity any security incident of which it becomes aware, including breaches of unsecured protected health information as required by 164.410. Business Associate shall promptly report any Security Incident of which it becomes aware to Covered Entity. Provided however, that such reports are not required for attempted, unsuccessful Security Incidents, including trivial and routine incidents such as port scans, attempts to log-in with an invalid password or user name, denial of service attacks that do not result in a server being taken off-line, malware, and pings or other similar types of events.

3.5 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 Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the Secretary, for purposes of determining Covered Entity's or Business Associate's compliance with the Security Rule.

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

3.7 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:

State of Tennessee  
Benefits Administration  
HIPAA Privacy & Security Officer  
312 Rosa L. Parks Avenue  
1900 W.R.S. Tennessee Towers  
Nashville, TN 37243-1102  
Phone: (615) 770-6949  
Facsimile: (615) 253-8556

With a copy to:

State of Tennessee  
Benefits Administration  
Contracting and Procurement Manager  
312 Rosa L. Parks Avenue  
1900 W.R.S. Tennessee Towers  
Nashville, TN 37243-1102  
Phone: (615) 532-4598  
Facsimile: (615) 253-8556

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

Caroline Portis-Jenkins, MSN, FNP  
Co-Chief Executive Officer  
601 Benton Avenue  
Nashville, TN 37204  
(PH) 615-932-7631

(FAX) 615-385-1842

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

#### **4. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

4.1 Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Service Contract(s), provided that such use or disclosure would not violate the Privacy and Security Rule, if done by Covered Entity. Business Associate's disclosure of PHI shall be subject to the limited data set and minimum necessary requirements of Section 13405(b) of Public Law 111-5, [designated as 42 U.S.C. 13735(b)]

4.2 Except as otherwise limited in this Agreement, Business Associate may use PHI as required for Business Associate's proper management and administration or to carry out the legal responsibilities of the Business Associate.

4.3 Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or 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 Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).

4.5 Business Associate may use PHI to report violations of law to appropriate Federal and State Authorities consistent with 45 CFR 164.502(j)(1).

4.6 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 member's personal or financial information with affiliates, even if such sharing would be permitted by federal or state laws, is prohibited.

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

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

#### **5. OBLIGATIONS OF COVERED ENTITY**

5.1 Covered Entity shall provide Business Associate with the Notice of Privacy Practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to such notice. Covered Entity shall notify Business Associate of any limitations in its notice that affect Business Associate's use or disclosure of PHI.

5.2 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 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 CFR § 164.522, to the extent that such restriction may affect Business Associate's use of PHI.

## 6. PERMISSIBLE REQUESTS BY COVERED ENTITY

6.1 Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy or Security Rule, if done by Covered Entity.

## 7. TERM AND TERMINATION

7.1 Term. This Agreement shall be effective as of the date on which it is signed by both parties and shall terminate when all of the PHI provided 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 it is infeasible to return or destroy PHI, Section 7.3. below shall apply.

### 7.2 Termination for Cause.

7.2.1. This Agreement authorizes and Business Associate acknowledges and agrees Covered Entity shall have the right to immediately terminate this Agreement and Service Contracts in the event Business Associate fails to comply with, or violates a material provision of, requirements of the Privacy and/or Security Rule or this Memorandum.

7.2.2. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- 7.2.2.1. Provide a reasonable opportunity for Business Associate to cure the breach or end the violation, or
- 7.2.2.2. If Business Associate has breached a material term of this Agreement and cure is not possible or if Business Associate does not cure a curable breach or end the violation within a reasonable time as specified by, and at the sole discretion of, Covered Entity, Covered Entity may immediately terminate this Agreement and the Service Agreement.
- 7.2.2.3. If neither cure nor termination is feasible, Covered Entity shall report the violation to the Secretary of the United States Department of Health in Human Services or the Secretary's designee.

### 7.3 Effect of Termination.

- 7.3.1. Except as provided in Section 7.3.2. below, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of, Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- 7.3.2. In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction unfeasible. Upon mutual agreement of the Parties that return or destruction of PHI is unfeasible, Business Associate shall extend



the protections of this Memorandum 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.

## 8. MISCELLANEOUS

8.1 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.

8.2 Amendment. The Parties agree to take such action as is necessary 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, including any amendments required by the United States Department of Health and Human Services to implement the Health Information Technology for Economic and Clinical Health 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.

8.3 Survival. The respective rights and obligations of Business Associate under Section 7.3. of this Memorandum shall survive the termination of this Agreement.

8.4 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.

8.5 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 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.

### COVERED ENTITY:

State of Tennessee  
 Department of Finance and Administration  
 Benefits Administration  
 ATTN: Chanda Rainey  
 HIPAA Privacy & Security Officer  
 312 Rosa L. Parks Avenue  
 1900 W.R.S. Tennessee Towers  
 Nashville, TN 37243-1102  
 Phone: (615) 770-6949  
 Facsimile: (615) 253-8556  
 E-Mail: [benefits.privacy@tn.gov](mailto:benefits.privacy@tn.gov)

### With a copy to:

ATTN: Seannalyn Brandmeir  
 Procurements & Contracting Manager  
 At the address listed above  
 Phone: (615) 532-4598  
 Facsimile: (615) 253-8556  
 E-Mail: [seannalyn.brandmeir@tn.gov](mailto:seannalyn.brandmeir@tn.gov)

### BUSINESS ASSOCIATE:

Suzanne Hurley  
 Co-Chief Executive Officer  
 601 Benton Avenue  
 Nashville, TN 37204  
 (PH) 615-932-7631  
 (FAX) 615-385-1842  
[suzanne.hurley@connectus.org](mailto:suzanne.hurley@connectus.org)

Caroline Portis-Jenkins, MSN, FNP  
 Co-Chief Executive Officer  
 601 Benton Avenue  
 Nashville, TN 37204  
 (PH) 615-932-7631  
 (FAX) 615-385-1842  
[caroline.portis@connectus.org](mailto:caroline.portis@connectus.org)

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.

8.6 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

8.7 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.

8.8 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.

8.9 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 contracts referenced herein.

8.10 Security Breach. A violation of HIPAA or the Privacy or Security Rules constitutes a breach of this Business Associate Agreement and a breach of the Service Contract(s) listed on page one of this agreement, and shall be subject to all available remedies for such breach.

**IN WITNESS WHEREOF,**

*K. Caroline Postle Jenkins*

University Community Health Services, Inc. dba Connectus Health

*5/14/18*  
Date:

*Larry B. Martin*

Larry B. Martin, Commissioner of Finance & Administration

*5/21/18*  
Date: