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Rick Scott, Governor

Chad Poppell, Secretary

Attachment A

DRAFT PROPOSED

CONTRACT

FOR

[INSURED HEALTH MAINTENANCE ORGANIZATION BENEFITS]

[SELF-INSURED HEALTH PLAN SERVICES]

DMS 15/16-005

BETWEEN

STATE OF FLORIDA

DEPARTMENT OF MANAGEMENT SERVICES

AND

[Vendor]

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Attachment 5: Reporting and Deliverables

Contract

This Contract is entered between [vendor], with its principal corporate offices at [location], and the Florida Department of Management Services, with its principal offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950 (each, a “Party” and collectively, the “Parties”).

Recitals

WHEREAS, the Department issued Invitation to Negotiate No. DMS 15/16-005 to solicit firms interested in providing Health Maintenance Organization (HMO) Employee Benefit Services; and

WHEREAS, vendor responded to the ITN, and after the procurement process the Department awarded a contract to the vendor.

NOW THEREFORE, in consideration of the premises and mutual covenants set forth herein, the Parties agree as follows:

Section 1 Definitions

1.1 Definitions

The following capitalized terms used in this Contract (including the Attachments and any attachments thereto) have the meanings ascribed below:

“Account Management Team” means the following individuals employed by the vendor: **[TBD]** Changes to the individuals listed above shall be sent to the Department in writing, and will not require a Contract amendment.

“Benefits Document” means the document approved by the Florida Legislature in accordance with subsection 110.123(5), Florida Statutes, describing the scope of coverage, benefits available, limitations, restrictions and exclusions of the Plan, and the conditions under which Service Provider will pay claims. The Benefit Document is subject to modification by the Florida Legislature and the Department at any time. The covered and excluded services in the Benefits Document will be equivalent to those set forth in the schedule of minimum benefits, (see Appendix ___), together with any additional services expressly approved by the Department. If there is a conflict between Appendix ___ and the Benefits Document, the Benefits Document controls.

“Business Day” means any day of the week excluding weekends and holidays observed by State agencies pursuant to subsection 110.117(1)(a)-(j), Florida Statutes.

“Calendar Day” means any day in a month, including weekends and holidays.

“Claim(s)” means an application for payment of or reimbursement for health care expenses incurred by Participants, which is filed in accordance with the Benefits Document and Services and the vendor and/or Department’s requirements.

“Confidential Information” means information in the possession or under control of the State or vendor that is exempt from public disclosure pursuant to section 24, Article I of the Constitution of the State; the Public Records Law, Chapter 119, Florida Statutes; or to any other Florida law or federal law or regulation that serves to exempt information from public disclosure.

“Contract” means this agreement between the Department and vendor including Attachments 1 – 5.

“Contract Administrator” means the person designated pursuant to subsection 11 of this Contract.

“Contract Manager” means those persons designated pursuant to subsection 11 of this Contract.

“Covered Benefits and Services” means the benefits and services described in the Benefits Documents.

“Department” means the Florida Department of Management Services.

“Deliverables” mean those services, items and/or materials provided, prepared and delivered to the Department in the course of performance under this Contract by the vendor.

“Division” means the Department’s Division of State Group Insurance.

“Effective Date” means January 1, 2017 at 12:00 A.M., Eastern Time, the first date Services are provided to Members.

“Eligible Dependents” means enrolled Dependents of Subscribers, as defined by the Florida Administrative Code and statutes.

“Enrollee” or “Subscriber” means those persons as defined in subsection 110.123(2)(b), Florida Statutes.

“Implementation Date” means the date the Contract is fully executed by all Parties.

“Implementation Plan” means the written description of the schedule of actions necessary to implement the services and begin fulfilling the Contract in a timely manner as approved by the Department.

“ITN” means Invitation to Negotiate No. DMS 15/16-005, HMO Services.

“Member” means those persons as defined in subsection 110.123(2)(e), Florida Statutes.

“Notice” means written notification from one Party to the other Party regarding performance under the Contract.

“Participants” means all Subscribers and their enrolled Eligible Dependents.

“Performance Guarantees” means specific measurement indicators assigned to Contract tasks representing timeliness and quality of task output.

“Plan” means the State Group Insurance Program’s preferred provider organization benefits plan, which is included in the State’s group insurance program established by section 110.123(3)(b), Florida Statutes, and implemented by Florida Administrative Code. The Plan is a preferred provider network plan as defined in section 627.6471, Florida Statutes.

“Plan Year” is based on the calendar year from January 1 to December 31.

“Run-Out Claims” will mean a Claim for medical expenses incurred by a Plan Participant during the term of the Contract which is received by the Service Provider after termination of the Contract and within sixteen (16) months from the date that the health care services relating to such Claim were rendered

“Services” means services to be performed by vendor as specified in this Contract. The term “Services” includes but is not limited to, any unspecified Service that is inherent in proper delivery of a specified Service. During the term of the Contract, the Department will have the right to add or delete Services. If the Department elects to add Services, the vendor and the Department will negotiate a mutually agreed amendment to the Contract.

“Service Provider,” or “Vendor” means [TBD].

“Subcontractor” refers only to vendor’s subcontractors and agents that deliver Services required by this Contract. The term “Subcontractor” does not include health care providers.

1.2 Rules of Interpretation

In this Contract, unless otherwise indicated or otherwise required by the context, the following rules of interpretation shall apply:

- Reference to, and the definition of, any document (including any attachments) shall be deemed a reference to such document as it may be amended, supplemented, revised or modified;
- The table of contents and section headings and other captions are for the purpose of reference only and do not limit or affect the content, meaning or interpretation of the text;
- Defined terms in the singular shall include the plural and vice versa and the masculine, feminine or neutral-genders shall include all genders;
- The words “hereof,” “herein,” “hereunder,” and words of similar import, shall refer to this Contract as a whole and not to any particular provision of this Contract;
- The words “include,” “includes” and “including” are deemed to be followed by the phrase “without limitation”;
- Any reference to a governmental entity or person shall include the governmental entity’s or person’s authorized successors and assigns; and
- The words “quarterly,” “on a quarterly basis,” “quarterly meeting” or other similar terms mean, unless otherwise stated herein, once every three (3) months, beginning January 1, 2017.

1.3 Hierarchy of Documents

- If the Contract terms are inconsistent with the Benefits Documents or statute, then the Benefits Document or statute will prevail.

Section 2 Term, Scope of Services and Payments

2.1 Term

2.1.1 Initial term

The initial Contract term is three (3) years and Services will commence on the Effective Date and end after 11:59:59 P.M., on December 31, 2019, unless extended, terminated or renewed as provided herein. The Parties acknowledge that the Plan will not be implemented and administered under this Contract until January 1, 2017. While pre-implementation services will be required, payment will be made only in accordance with the fees listed in the financial terms section of this Contract as due.

2.1.2 Renewals

At its sole option and discretion, the Department may renew the Contract for up to three (3) additional one (1) year renewal terms at the same, or lower, prices than those specified in this Contract. Such renewal will be binding on the vendor and may be in one (1) year or multiple year increments at the Department's sole option. If vendor agrees to pricing concessions or is obligated to provide alternate pricing terms pursuant, the renewal will specify the adjusted price. Renewal in whole or in part shall be at the sole discretion of the Department and shall be contingent upon the Department's determination that vendor has satisfactorily performed its obligations under the Contract. The Department shall also consider whether vendor has been subject to any performance violations and/or liquidated damages in complying with any of the Contract requirements. Any renewal shall be in writing and signed by both Parties.

The vendor shall not charge any costs for renewing the Contract. The renewal is subject to appropriations by the legislature and is contingent upon the availability of funds.

2.1.3 Department's Right to Terminate for Convenience

The Department, by written Notice to vendor, may terminate the Contract for any reason or not reason at all when the Department determines in its sole discretion that it is in the Department's interest to do so. Vendor shall not perform any Services after the effective date of the Notice of Termination, except as necessary to as necessary to complete the continued portion of the Contract, if any. Vendor will not be entitled to recover any lost profits, consequential or indirect damages, or any other damages other than the payment amounts due

for performance until the effective date of termination. If this Contract is terminated for convenience prior to January 1, 2017, the Department shall reimburse vendor for direct costs actually incurred for authorized Services satisfactorily performed prior to the Notice of termination.

2.2 Scope of Work

Vendor will provide all labor, materials and supplies necessary to provide the Services as described in this Contract, including but not limited to, providing all reports in Attachment 5: Reporting and Deliverables in the prescribed format, frequency, by the due date, and to the intended recipient. Vendor agrees to periodic reviews by the Department on vendor's performance to improve delivery of the scope of work.

Corrective work to comply with the requirements of this Contract will be performed by the vendor at its expense, and vendor will not be entitled to any compensation for such corrective work.

The Department, by written change order, may unilaterally require changes altering, adding to or deducting from the Services, provided that such changes are within the general scope of the Contract.

2.3 Department's Right to Suspend Work

The Department may in its sole discretion suspend any or all Services under the Contract, at any time, when in the best interests of the Department to do so. The Department will provide vendor written Notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency or other like circumstances. After receiving a suspension Notice, vendor will comply with the Notice.

2.4 Department's Obligation to Supply Data to Vendor

The Department shall supply all eligibility and personnel data and information necessary for vendor to provide the Services.

2.4.1 Bills for Travel

Bills for travel expenses are not permitted under this Contract.

2.4.2 Payments

The vendor agrees to perform all Services for the compensation and financial arrangements set forth in this Contract. No additional compensation will be allowed unless specifically set forth in Exhibit ____ [to be inserted after negotiations].

For payment of administrative fees, this Contract is subject to the transaction fee contained in subsection 287.057(22)(c), Florida Statutes, and the vendor will comply with the timely reporting and payment of such fee. Premiums and capitation fees are not subject to the transaction fee.

2.4.3 Specific Appropriation

The funds from which the state will make payment for administrative services and premiums under the Contract are identified from line number 2790 of the Fiscal Year 2016-2017 General Appropriations Act, Senate Bill 2500-A. The Department of Management Services is authorized to submit budget amendments in accordance with chapter 216, Florida Statutes, to increase Specific Appropriation 2790 in the event administrative service payments for health insurance exceed the amount of budget authority appropriated.

The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.

Section 3 Contract Administration

3.1 Ownership of Materials and Record Retention

All Deliverables, papers, documents, materials, work, and other items prepared by vendor and provided to the State for purposes of the Contract are the property of the Department and shall be available to the Department at any time. The Department has the right to use the same without restriction and without payments to vendor other than that specifically provided by the Contract. Data deemed proprietary, trade secret or confidential shall be subject to compliance with Florida Statutes and federal laws and regulations.

Vendor shall retain sufficient documentation to substantiate Claims for payment under this Contract, and all other records, electronic files, papers and documents which were made for purposes of the Contract. Such records shall include magnetic tapes, CD-ROM, diskettes or other electronic media files maintained by vendor directly relating to the Services, including file labels, complete file layouts, data element descriptions and detailed processing logic to assist the Department auditor in processing or utilizing files. Vendor shall retain all such records, papers and documentation in compliance with record retention schedules published by the State of Florida Department of State.

3.2 Vendor Obligations

3.2.1 General

Vendor will provide any and all labor, materials and supplies necessary to perform the Services in the manner prescribed by this Contract. Vendor will meet or exceed the Service requirements set forth in Attachment 2: Performance Guarantees.

3.2.2 Major Organizational Changes

The Parties agree that in order for efficient and effective communication to occur, clear lines of authority and areas of responsibility need to be identified for each Party. Each Party agrees to promptly notify the other in the event of any material change in personnel, address or phone number.

The vendor recognizes and agrees that award of the Contract was predicated upon features of vendor's business organization as represented by the vendor during the ITN. If the vendor transfers or sells fifty percent (50%) or more of its equity shareholder interests or allows a sale

of substantially all of its assets, the vendor shall notify the Department in writing no less than thirty (30) Calendar Days prior to such transfer or sale.

3.2.3 Subcontractors

Vendor is responsible for the acts or omissions of all Subcontractors, if any, it uses in the provision of the Services during the term of the Contract. The Department will have no liability of any kind for Subcontractor demands, loss, damage, negligence or any expense relating, directly or indirectly, to Subcontractors.

Vendor will not subcontract any of the Services or enter into any subcontracts or change approved Subcontractors (including their key personnel and/or location of processes for the Services) without the express written consent of the Department. In seeking such consent, vendor will give the Department prior Notice of at least sixty (60) Calendar Days or, in case of an emergency, as soon as practicable. Each approved subcontract will be subject to the same terms and conditions as the Contract.

3.2.4 Employee and Subcontractor Security Requirements

All vendor employees, Subcontractors and agents performing work under the Contract must comply with all security and administrative requirements of the Department.

3.2.5 Background Screening

The Vendor shall ensure that a background screening is conducted on all Persons.

Definitions of capitalized terms as used herein:

“Access” means the ability and/or means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system or computer network containing State of Florida Data.

“State of Florida Data” means any representation of information, knowledge, facts, concepts, computer software, computer programs or instructions, whether said information is confidential information or personal health information. Data may be in any form, including but not limited to, in storage media, stored in the memory of the computer, in transit or presented on a display device, or a hard copy.

“Person” or “Persons” means employees, Subcontractor personnel, independent contractors, leased employees, volunteers, licensees or other individuals directly performing Services under the Contract whether or not the Person has access to State of Florida Data. The term Person or Persons also means those Persons who are not performing Services under the Contract but have access, including indirect access, to State of Florida Data. The term Subcontractor as used herein does not include persons who are licensed in the State where Services are being rendered to practice either dentistry or medicine.

The minimum background check process shall include a check of the following databases through a law enforcement agency or a professional background screener accredited by the National Association of Professional Background Screeners:

- Social Security Number trace; and
- Criminal Records (Federal, State and County criminal felony and misdemeanor, national criminal database for all States which make such data available);

The Vendor agrees that each Person will be screened prior to performing Services related the Contract or having Access to State of Florida Data. The Vendor is responsible for any and all costs and expenses in obtaining and maintaining the criminal background screening information for each Person described above. The Vendor and its Subcontractors shall maintain documentation of the screening and other requirements provided herein in the Person’s employment file. Within five (5) business days of receipt of a written request from the Department, the Vendor shall provide copies of all documentation of the security screening of any Person, including Subcontractor personnel. The Vendor and its Subcontractors shall abide by all applicable laws, rules and regulations including, but not limited to the Fair Credit Reporting Act and/or any equal opportunity laws, rules, regulations or ordinances.

The initial screenings shall be completed on all Persons no later than the Effective Date.

1. Disqualifying Offenses

If at any time it is determined that a Person has a criminal misdemeanor or felony record including adjudication of guilt (a plea of guilty or nolo contendere, or a guilty verdict) within the last ten (10) years from the date of the court’s determination for the crimes listed below, or their equivalent in any jurisdiction, the Vendor is required to immediately remove that Person from any position with access to State of Florida Data or directly performing Services under the Contract. The disqualifying offenses are:

- Computer-related or information technology crimes
- Fraudulent practices, false pretenses and frauds
- Forgery and counterfeiting
- Violations involving checks and drafts
- Misuse of medical or personnel records

2. Self-Disclosure

The Vendor shall require all Persons to self-report within three (3) business days of adjudication to the Vendor any adjudication of guilt as described in 1. above for the Disqualifying Offenses. The Vendor shall immediately disallow that Person Access to any State of Florida Data or from directly performing Services under the Contract. Additionally, the Vendor shall require that the Person complete an annual certification that he or she has not received an adjudication of guilt as described in 1. above for the Disqualifying Offenses and shall maintain that certification in the employment file.

3. Refresh Screening

Every five years from the time initially performed for each Person during the Term of the Contract, a background screening as described in A. above shall be conducted.

4. Quarterly Reporting

The Vendor is required to submit a written attestation to the Department within forty-five (45) days from the end of each quarter certifying compliance with this Amendment.

A. Duty to Provide Secure Data

The Vendor shall maintain the security of State of Florida Data including, but not limited to, a secure area around any display of such data or data that is otherwise visible. The Vendor shall also comply with all HIPAA requirements and any other State and federal rules and regulations regarding security of information.

B. Department's Ability to Audit Screening Compliance and Inspect Locations

The Department reserves the right to audit the Vendor's background screening process upon five (5) business days prior written notice to the Vendor during the Term of the Contract. The Department shall also have the right to inspect the Vendor's working area and/or location upon

five (5) business days prior written notice to the Vendor to ensure that access to the State of Florida Data is secure and in compliance with the Contract and all applicable State and federal rules and regulations.

Upon notice of a security breach as defined in the Business Associate Agreement, the Department shall have the right to audit the Vendor's background screening process upon twenty-four (24) hours written notice to the Vendor. This provision shall control over any conflicting provisions within the main Contract or the Business Associate Agreement.

C. Indemnification

The Vendor agrees to defend, indemnify and hold harmless the Department, the State of Florida, its officers, directors and employees for any claims, suits or proceedings alleging a breach of this Warranty of Security. Following a breach, as defined in the Business Associate Agreement between the Parties, the Vendor shall provide credit monitoring services at its own cost for a one (1) year period for those individuals affected or potentially affected by a breach of this Warranty of Security.

3.2.6 Work Locations, No Offshoring of Data

Unless otherwise agreed to in writing, vendor will not allow any State of Florida Data to be Accessed or stored outside of the United States.

Vendor agrees that a violation will result in immediate and irreparable harm to the Department and will entitle the Department to liquidated damages of \$50,000 per violation, with a total cap of \$500,000 per event. This is intended only to cover the Department's internal staffing and administrative costs as well as the diminished value of Services provided under the Contract and will not preclude the Department from recovering other damages it may suffer as a result of such violation. For purposes of determining the damages due hereunder, a group of violations relating to a common set of operative facts (e.g., same location, same time period, same off-shore entity) will be treated as a single event. A violation of this provision will also entitle the Department to recover damages, if any, arising from a breach of this section and constitutes an event of default.

3.2.6.1 Contactor's Responsibility to Notify Department

Notwithstanding any provision of this Contract to the contrary, the vendor shall Notify the Department as soon as possible and in all events within one (1) Business Day in the event it

discovers any State of Florida Data is breached, any unauthorized Access of data occurs (even by Persons or companies with authorized Access for other purposes), any unauthorized transmission of data, or any credible allegation or suspicion of a material violation of the above. This notification is required whether the event affects one (1) Member or the entire population. The notification shall be clear and conspicuous and include a description of the incident in general terms; the type of personal information that was subject to the unauthorized Access and acquisition; the number of individuals who were, or potentially have been, affected by the breach; and the actions taken by the vendor to protect the data from further unauthorized Access. However, the description of those actions in the written Notice may be general so as not to further increase the risk or severity of the breach.

Upon becoming aware of an alleged security breach or security incident, the vendor shall set up a conference call (via a phone call and email) with the Department's Contract Manager. The conference call invitation shall contain a brief description of the nature of the event. When possible, a thirty-minute (30) Notice shall be given to allow Department personnel to be available for the call. If the designated time is not practical for the Department, an alternate time for the call shall be scheduled. All available information shall be shared on the call. The vendor shall answer all questions based on the information known at that time and shall answer additional questions as additional information becomes known. The vendor shall provide the Department with final documentation of the incident including all actions that took place. If the vendor becomes aware of a security breach or security incident outside of normal business hours, the vendor shall notify Department within one (1) Business Day.

3.2.7 E-Verify

Pursuant to State Executive Order No.: 11-116, vendor is required to utilize the Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by vendor to work on this Contract during the Contract term. Also, vendor will include in related subcontracts a requirement that Subcontractors performing work or providing Services pursuant to the Contract utilize the E-Verify system to verify employment of all new employees hired by the Subcontractor during the Contract term.

3.2.8 Scrutinized Company List

In executing this Contract, vendor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to subsection 287.135(5), Florida Statutes, vendor agrees the Department may immediately terminate this Contract for cause if the vendor is found to have submitted a false certification or if vendor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the Contract.

3.2.9 Removal or Replacement of Employees and Subcontractors for Cause

The Department may refuse access to or require replacement of any vendor employee, Subcontractor or agent for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with the Department's security or other requirements. Such action shall not relieve vendor of its obligation to perform all work in compliance with the Contract. The Department may reject and bar from any facility for cause any of vendor's employees, Subcontractors or agents.

3.2.10 Employment of State Workers

During the term of the Contract, vendor shall not knowingly employ, subcontract with or subgrant to any person (including any non-governmental entity in which such person has any employment or other material interest as defined by subsection 112.312(15), Florida Statutes) who is employed by the State or who has participated in the performance or procurement of this Contract, except as provided in section 112.3185, Florida Statutes.

3.2.11 Duty to Defend

The vendor shall, at no additional cost to the Department, defend the Department, the State and/or Members against any litigation brought by participating network health care providers seeking payment for covered services in excess of the applicable payment negotiated by the vendor. The vendor agrees to pay all resulting damages awarded or settlement amounts in any such litigation, provided that the Department, the State and/or the affected Enrollees provided timely written notification to the vendor of such litigation and provided that the vendor had sole control of the defense of such litigation and any related settlement negotiations.

3.3 Acceptance of Services

The Department will conduct its acceptance review in a manner so as to identify whether the Services materially fail to conform to the Contract. The Department shall Notify the vendor in writing of material failures of a Service to conform to the Contract (“Notice of Nonconformity”), specifying how the Service materially fails to meet the requirements of the Contract. Within five (5) Business Days of Notice of the Nonconformity, vendor will give Notice of either:

- The correction of the Nonconformity and the nature of the correction;
- A written proposal for corrective action correcting the Nonconformity;
- Its disagreement as to the nature or scope of the Nonconformity and the reasons therefore.

Within ten (10) Business Days of Notice of the vendor’s reply, the Department will either accept or reject the vendor’s reply (with or without modifications from the Department) and provide Notice of the Department’s decision and proposed remedy, if any.

3.4 Warranty

Generally. Vendor warrants that the Services shall be delivered in a professional workman-like manner in accordance with the standards and quality prevailing among first-rate nationally recognized firms in the industry and in accordance with this Contract and this warranty will remain in effect for a period of 365 Calendar Days following delivery of the Services (“Warranty Period”).

Remedies. In the event that the Department discovers that the Services are not delivered in accordance with the foregoing warranties during the Warranty Period, vendor will promptly correct, cure, replace or otherwise remedy such performance at no cost to the Department.

This section shall survive termination of this Contract.

Section 4 Audit Rights

The Department has the right to conduct performance and/or compliance audits related to this Contract of any and all areas of vendor and/or Subcontractors approved in conformity with subsection 3.2.3 of this Contract, as further defined in the minimum service requirements. Department may at any time enter and inspect the vendor's physical facilities where operations required under this Contract are performed, with reasonable Notice. Except in emergency situations, reasonable Notice will be provided for audits conducted at vendor's premises. Audits may include, but not be limited to, audits of procedures, computer systems, Claims files, provider contracts, service records, accounting records, internal audits, quality control assessments, and any and all applicable healthcare provider contracts, and service programs related to this Contract. Vendor will cooperate and work with any representative selected by the Department to conduct said audits and inspections, including but not limited to, other state agencies. Vendor will make available all Data or information requested by the Department in furtherance of an audit.

Vendor recognizes and acknowledges that released statements from its' healthcare providers are not required for the Department or its' designee to conduct compliance and performance audits on any of the vendor's contracts relating to this Contract.

The right of the Department to perform audits and inspections will survive the expiration or termination of this Contract. Department will use reasonable efforts to minimize the number and duration of such audits or inspections conducted and to conduct such audits and inspections in a manner that minimizes disruption to vendor's business operation.

This provision will not limit the rights of other state agencies or officers, such as the state's chief financial officer and the Office of the Auditor General, to perform audits and inspections independently of, or in conjunction with, the Department.

Except for the annual SSAE 16 audit, the Department will be responsible for the independent third party auditor cost associated with any audit performed.

Section 5 Diversity

It is the policy of the State that Minority Business Enterprises, Woman-Owned Business Enterprises and Service-Disabled Veteran Business Enterprises (as those terms are defined by Florida Statutes), have the maximum practicable opportunity to participate in performing contracts let by any State agency. Vendor will carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient Contract performance by reasonably considering such business enterprises as Subcontractors for the Services. Vendor further agrees to comply with all controlling laws and regulations respecting the participation of such business enterprises in the provision of the Services and to reasonably cooperate in any studies or surveys as may be conducted by the State to determine the extent of vendor's compliance with this section.

Section 6 Liquidated Damages

6.1 Generally

Time is of the essence in performing the Contract; this is true generally and particularly with respect to providing Services on the Effective Date and meeting the Performance Guarantees. Vendor acknowledges that untimely performance or other material noncompliance will damage the Department, but by their nature such damages are impossible to ascertain presently and will be difficult to ascertain in the future. The issues involved in determining the amount of damages will be multiple and complex, and will be dependent on many and variant factors, proof of which would be burdensome and require lengthy and expensive litigation, which the Parties desire to avoid. Accordingly, the Parties agree that it is in the Parties' best interests to agree upon a reasonable amount of liquidated damages, which are not intended to be a penalty and are solely intended to compensate for unknown and unascertainable damages. The Parties acknowledge that liquidated damages are contemplated and required by subsection 110.123(3)(d)3, Florida Statutes.

6.2 Implementation Delays

Untimely Implementation of Services. If vendor fails to fully implement Services by the Effective Date, it shall pay liquidated damages of \$25,000 per Calendar Day, not to exceed \$500,000, unless any such delay is due to the Department's failure to comply with the defined timeline. Vendor will pay this amount of liquidated damages for every full or partial Calendar Day until Services are fully implemented.

6.3 Failure to Meet Performance Guarantees

Vendor agrees to payment of additional liquidated damages if it fails to meet the Service requirements set forth in Attachment 2: Performance Guarantees.

Liquidated damages are intended only to cover the Department's internal staffing and administrative costs and the diminished value of the Services provided under the Contract.

Notwithstanding anything in the Contract to the contrary, the total of any and all liquidated damages paid or to be paid by vendor pursuant to this Contract for any calendar quarter will not exceed one hundred percent (100%) of the payment due under section 2 above.

Upon mutual agreement of the Parties, Performance Guarantees may be suspended from time to time for special circumstances. Suspension of a Performance Guarantee will not excuse

vendor from accumulating data relevant to that Performance Guarantee and reporting such data to the Department as part of the management reports delivered pursuant to this Contract.

Vendor will provide the Department with a Performance Guarantee report showing Service levels as set forth in Attachment 2: Performance Guarantees. The Department may, at its option, provide vendor with a Performance Guarantee report template which must be used. For each Performance Guarantee that the vendor fails to meet, the vendor will remit appropriate payment to the Department within forty-five (45) Calendar Days of the end of the reporting quarter. The Department is not required to Notice or invoice the vendor for payment.

The Department may require the vendor to propose and implement a reasonable corrective action plan to address and correct the root cause of any missed Performance Guarantee.

The inclusion of the Performance Guarantees in this Contract is intended to address unsatisfactory performance in the context of ongoing operations without resort to the default provisions set forth in Section 8: Events of Default and Remedies. However, if vendor's performance falls below the minimum level of performance for the same Performance Guarantee for three (3) quarters and such failure is not otherwise excused, then the Department may declare an Event of Default.

Vendor will be excused for failing to meet any Performance Guarantee to the extent such failure is caused by the Department not performing any of its obligations under the Contract.

Vendor will advise the Department in writing as soon as possible of any circumstance or occurrence which could excuse or affect vendor's ability to achieve any of the Performance Guarantees. In all such cases, vendor will cause to make all reasonable efforts to achieve the Performance Guarantees.

Section 7 Insurance

7.1 Insurance Coverage

During the Contract term, vendor will, at its sole expense, continuously maintain commercial insurance of such a type and with such terms and limits as may be reasonably associated with this Contract and as required by law. Providing and maintaining adequate insurance coverage is a material obligation of vendor and performance may not commence on this Contract until such time as insurance is secured by the vendor and is approved by the Department. The Department will not unreasonably withhold or delay such approval. The limits of coverage under each policy do not limit vendor's or Subcontractor's liability and obligations under the Contract. Unless otherwise agreed in writing by the Department, all insurance policies must be through insurers authorized or eligible to write policies in Florida. The vendor shall notify the Department immediately if the vendor loses any liability insurance coverage.

Commercial General Liability. The vendor must continuously maintain commercial general liability insurance (inclusive of any amounts provided by an umbrella or excess policy) in the face amount of twenty five million dollars (\$25,000,000).

Business Interruption Insurance. Vendor must continuously maintain business interruption insurance coverage in the face amount of twenty five million dollars (\$25,000,000).

Professional Indemnity Insurance. The vendor must continuously maintain professional indemnity insurance that must cover professional liability and error and omissions in the face amount of twenty five million dollars (\$25,000,000). Vendor will indemnify, defend and hold harmless the Department and its employees and agents, from and against any third party claims, demands, loss, damage or expense caused by vendor in connection with the performance of the Services related to professional liability and error and omissions. Each insurance certificate for such policy must include an agreement that the insurer will provide thirty (30) Calendar Days prior written Notice to the Department of cancellation for any coverage.

The vendor will provide all certifications of insurance as proof of insurance including renewed or replacement evidence of coverage at least thirty (30) Calendar Days prior to the expiration or termination of any insurance policy.

7.2 Performance Bond

In accordance with subsection 110.123(3)(d)2, prior to execution of this Contract, vendor will deliver to the Department's Contract Manager a performance bond or irrevocable letter of credit in the amount of ten million dollars (\$10,000,000). The bond or letter of credit shall be used to guarantee at least satisfactory performance by vendor throughout the term of the Contract (including renewal years). The bond shall be maintained throughout the term of the Contract and shall be in effect for four (4) years thereafter, issued by a reliable surety company which is licensed to do business in the State of Florida, as determined by the Department, and must include the following conditions:

Obligee: The Department shall be named as the beneficiary of the bond. The insurer or bonding company be obliged to cover the full cost of performance loss suffered by the State of Florida.

Notice of Attempted Change: The vendor shall provide Department prior written Notice or immediate Notice upon knowledge of any attempt to cancel or to make any other material change in the status, coverage or scope of the required bond or of the vendor's failure to pay bond premiums.

Premiums: The Department shall not be responsible for any premiums or assessments on the bond.

Purpose of Bond: The performance bond is to protect the Department and the State against any loss sustained through failure of the vendor to perform the Services in accordance with the Contract. No payments shall be made to the vendor until the performance bond is in place and approved by the Department in writing.

Upon execution of the Contract and by Contract year start each year following the Effective Date, the vendor shall provide the Department with a surety bond continuation certificate or other acceptable verification that the bond is valid and has been renewed for an additional year.

As an alternative to the surety bond described in this section, the vendor may use an irrevocable, letter of credit on an annually renewable basis, which in the reasonable judgment of the Department, provides substantially equivalent protection.

Section 8 Events of Default and Remedies

8.1 Vendor Events of Default

Any one (1) or more of the following events by vendor, which is not cured within ten (10) Calendar Days after receipt of Notice thereof by the Department shall constitute an Event of Default:

- Vendor fails to pay any sum of money due hereunder;
- Vendor fails to provide the Services required under this Contract;
- Vendor employs an unauthorized alien in the performance of any work required under this Contract;
- Vendor fails to correct work that the Department has rejected as unacceptable or unsuitable;
- Vendor discontinues the performance of the work required under this Contract;
- Vendor fails to resume work that has been discontinued within a reasonable time after Notice to do so;
- Vendor abandons the project;
- Vendor becomes insolvent or is declared bankrupt;
- Vendor files for reorganization under the bankruptcy code;
- Vendor commits any action of bankruptcy or insolvency, either voluntarily or involuntarily;
- Vendor fails to promptly pay any and all taxes or assessments imposed by and legally due the State or federal government;
- Vendor makes an assignment for the benefit of creditors without the approval of the Department;
- Vendor made or has made a material misrepresentation or omission in any materials provided to the Department;
- Vendor commits any material breach of this Contract;
- Vendor fails to furnish and maintain the performance bond;
- Vendor fails to procure and maintain the required insurance policies and coverages required by this Contract;
- The Department determines that the surety issuing a bond securing vendor's performance of its obligations hereunder becomes insolvent or unsatisfactory;

- Vendor utilizes a Subcontractor in the performance of the work required by this Contract which has been placed on the State's Convicted Vendor List;
- Vendor is suspended or is removed as an authorized vendor by any State or federal agency; or vendor is convicted of a felony; or is placed on the State's Convicted Vendor List; or if vendor is an agent, its license is suspended or revoked.
- Vendor refuses to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by vendor in conjunction with this Contract and not otherwise deemed confidential, proprietary or a trade secret;
- Vendor refuses to allow auditor access as required by the Contract;
- Vendor's license to provide Services in the State is suspended or revoked;
- Violation of subsection 3.2.12, or vendor's permitting State Data to be transmitted, viewed, or accessed outside of the United States;
- Vendor's change of Subcontractors in violation of subsection 3.2.3, Subcontractors, of the Contract;
- Upon discovery, vendor fails to Notify the Department within seven (7) Calendar Days of problems or issues impacting provision of Services;
- For any other cause whatsoever that vendor fails to perform in an acceptable manner
- Failure to provide complete paid Claims data to the Department's Health Insurance Management Information System vendor;
- Failure to timely report and pay the transaction fee contained in subsection 287.057(22)(c), Florida Statutes, as detailed in subsection 2.5, Payments and Invoicing;
or
- Failure to meet the same monthly Performance Guarantee for at least three (3) months.

8.2 Department Remedies in the Event of Default

Upon the occurrence of an Event of Default on the part of vendor, the Department is entitled at its sole discretion, to any one or all of the following remedies:

- Terminate this Contract;
- Institute legal proceedings against vendor to collect payment of any damages or sums owed by vendor hereunder, including liquidated damages and the costs of re-procurement, and such equitable relief as is appropriate; and
-

In the event of the vendor's default, all State agencies will be advised not to do business with vendor without written approval from the Division of State Purchasing until such time as vendor reimburses the State for all re-procurement and transition costs.

8.3 Department Events of Default

Any one or more of the following events shall, after the required Notice(s) and opportunity to cure, except as otherwise provided below, constitutes an Event of Default on the part of the Department:

The Department fails to timely pay all non-disputed amounts. The cure period for failure to pay shall be forty-five (45) Calendar Days from receipt of Notice of failure to pay, unless State law allows a longer period to pay; or

The Department breaches any other material obligations under this Contract. The cure period for a material breach by the Department shall be forty-five (45) Calendar Days from receipt of Notice of material breach.

8.4 Vendor Remedies in the Event of Default

Upon occurrence of an "Event of Default" on the part of the Department, vendor is entitled to any one or all of the following remedies.

- a. Equitable Relief.
- b. Monetary Damages. Vendor is entitled to recover any compensation due under subsection 2.5 for Services actually provided in accordance with the Contract but not paid by the Department. Vendor is not entitled to, and will not seek, any other reimbursement or payment, or damages, including but not limited to lost profits, consequential or indirect costs or damages. Prior to the Department's payment to vendor as the result of termination, vendor will have satisfied all undisputed obligations to third parties relating to the Contract.

8.5 Rights Cumulative, No Waiver

The rights and remedies provided and available to the Department and vendor in this Contract are distinct, separate and cumulative remedies, and no one of them, whether or not exercised by a Party, shall be deemed to be in exclusion of any other. The election of one (1) remedy shall not be construed as a waiver of any other remedy.

Section 9 Termination for Cause

9.1 Termination for Cause

The Department may terminate the Contract if vendor commits an Event of Default under subsection 8.1 of this Contract. Vendor shall be liable for any re-procurement costs. Vendor shall continue work on any work not terminated. Except for Event of Default of Subcontractors, vendor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault of negligence, of vendor. If the failure to perform is caused by the Event of Default of a Subcontractor, and if the cause of the Event of Default is completely beyond the control of both vendor and the Subcontractor, and without the fault or negligence of either, vendor shall not be liable for any excess costs for failure to perform, unless the subcontracted Services were obtainable from other sources in sufficient time for vendor to meet the required delivery schedule. If, after termination, it is determined that vendor was not in default, or that the default was excusable, the rights and convenience of the Parties shall be the same as if the termination had been issued for the convenience of the Department. The rights and remedies of the Department in this clause are in addition to any other rights and remedies provided by law or under the Contract.

9.2 Exclusive Remedy

Vendor agrees that the provisions of section 9 shall be its exclusive remedy for termination and that vendor is not entitled to, and will not seek, any other reimbursement or payment, claims or damages, including but not limited to lost profits, consequential or indirect damages, home office overhead, or costs for accelerating performance.

9.3 State's Right to Cure Provider's Default

If Service Provider commits an "Event of Default" in the performance of any term, provision, covenant or condition on its part to be performed hereunder, the Department may, upon notice to Service Provider after the expiration of any curative periods for which provision is made in this Contract, perform the same for the account and at the reasonable expense of Service Provider. If, at any time and by reason of such default, the Department is compelled to pay, or elects to pay, any sum of money or do any act which will require the payment of any sum of money, or is compelled to incur any expense in the enforcement of its rights hereunder or otherwise, such sum or sums, with a rate of interest if not established herein then as statutorily set by the State Comptroller (or successor), which together will be repaid to the Department by Service Provider promptly when billed therefor

Section 10 Transition Services

In the event of termination or expiration of the Contract, vendor shall work with the Department in good faith to transition or phase out the Services of the Contract.

Transition services shall be provided for up to twelve (12) months, unless otherwise waived by the Department, and such services shall include:

- Continued provision of specified, identifiable Services;
- Vendor's cooperation with the Department and/or another vendor designated by the Department in connection with the transfer of Services to such other vendor;
- Notification of current procedures;
- Listing of equipment and software licenses then used to provide the Services;
- Explanations of operations to new vendor;
- Submission of a schedule for transition activities; and
- In post-migration status, answering reasonable questions on an as-needed basis.

The transition services rendered during the term of the Contract shall be provided at no additional cost.

Vendor recognizes that the Services under the Contract are vital to the Department and must be continued without interruption and that, upon Contract expiration or termination, a successor may continue them. Vendor's failure to cooperate with a succeeding vendor in providing continuity of Services is default and breach of Contract, which shall entitle the Department to damages. Vendor shall provide experienced personnel during the Contract completion period to ensure that the Services required by the Contract are maintained at the same required level of proficiency, subject to the required Performance Guarantees and to furnish phase-out training to either the Department or another vendor.

Vendor shall, upon written Notice, furnish phase-out Services for up to six (6) months after the Contract terminates and negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program, subject to Department approval, necessary to avoid interruption of the Services.

Within thirty (30) Business Days from the date of termination or expiration of the Contract, Vendor shall deliver all related files, records or other documentation, in any form, to the Department. Attorney-client and work product privileged information and proprietary and

competitively sensitive trade secret information belonging to the vendor shall not be subject to this provision.

This section shall survive termination of this Contract.

Section 11 General Provisions

11.1 Advertising

Vendor shall not publicly disseminate any information concerning the Contract without prior written approval from the Department, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Department or the State as a reference, or otherwise linking vendor's name and either a description of the Contract or the name of the State or the Department in any material published, either in print or electronically, to anyone except Enrollees, network health care providers, or potential or actual Subcontractors. Within a reasonable time after the Effective Date, the Parties may issue a mutually agreeable joint press release regarding the Contract and the Services to be provided hereunder.

Vendor will not use the State seal, name or logo of the Department or State, or vendor's relationship to the Plan, for any purpose without the prior written consent of the Department.

Vendor will not publish or release the results of its engagement without prior written approval from the Department. However, vendor may refer to the Contract as an experience citation with other customers without prior approval.

11.2 Assignment, Acquisition by Third Party

The vendor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract. In the event of any proposed sale, transfer or assignment, the Department may agree to enter into a novation of the Contract with the proposed purchaser, assignee or transferee at its sole discretion. No change in vendor's organization, if any, will operate to release the vendor from its liability for the prompt and effective performance of its obligations under this Contract.

11.3 Change of Statute or Regulation or Governmental Restrictions

In the event Service Provider knows or should have known that any federal or state policies, operating procedures, laws, rules, or regulations have been or will be changed, created or otherwise modified so as to materially change or impact, either directly or indirectly, the Services, the medical industry, the managed care industry, the pharmaceutical manufacturing industry, or the responsibilities of the Parties (herein referred to as "Changes"), Service Provider will promptly notify the Department, indicating the specific law, rule, regulation, draft or pending legislation, and/or policies and procedures.

Service Provider will implement all requirements arising from Changes and the Parties will modify this Contract to the extent reasonably necessary to ensure that the Services will be in full compliance with such Changes. Such compliance will not entitle Service Provider to any extension of time, term, or increase in compensation, except for those Changes that materially cause an increase in the Services or the scope of work. The Department reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Service Provider.

Service Provider will not be entitled to an equitable adjustment or any additional compensation for any changes made to the Benefits Document, the Plan, statutes, or Chapter 60A-1 of the Florida Administrative Code, even if such Changes are attributable directly or indirectly to a state statute, law or other any action by Florida Legislature which is intended to modify the Plan, the Benefits Document, the State Group Insurance Program..

11.4 Compliance with Laws, Including HIPAA

Generally: vendor shall comply with all laws, rules, codes, ordinances and licensing requirements that are applicable to the conduct of its business, including those of federal, State and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 110.123 of the Florida Statutes and Chapter 60P of the Florida Administrative Code govern the Contract. By way of further non-exhaustive example, vendor shall comply with the Immigration and Nationalization Act, the Americans with Disabilities Act and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status or veteran's status. Violation of such laws shall be grounds for Contract termination. The vendor shall notify the Department immediately if the vendor loses any licenses.

Anti-Kickback Statute: Each party certifies that it will not violate the following laws with respect to the performance of its obligations under this Contract: the federal anti-kickback statute, set forth in 42 U.S.C. 1320a-7b(b); Florida's Anti-Kickback Law, set forth in section 409.920, Florida Statutes; the federal Stark law, set forth in 42 U.S.C. 1395nn; the Patient Self-Referral Act of 1992, set forth in section 456.053, Florida Statutes; the Patient Brokering Act, set forth in section 817.505, Florida Statutes; and the Florida False Claims Act, set forth in sections 68.081 – 68.092, Florida Statutes.

Compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA):

vendor shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and its rules and regulations, including but not limited to the provisions governing the privacy and security of records as well as administrative simplification. Vendor shall commit to implementation and compliance by the statutory deadlines set forth in the statute and associated regulations. Vendor shall assist the State in implementing its compliance with this legislation as it relates to HMO Services including but not limited to properly executed Business Associate, Confidentiality, HIPAA-AS and addenda to HIPAA-AS agreements (combined) as set out herein.

Any documents, reports, etc., provided to the Department by the vendor with any portion marked "Proprietary and/or Trade Secret", the vendor must simultaneously provide a redacted copy along with a non-redacted copy of the document, report, etc.

Public Entity Crimes: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime, as defined in section 287.133(1)(g), Florida Statutes, may not submit a bid or proposal on a contract to provide any goods or services to a public entity, may not submit a bid or proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids or proposals on leases of real property to a public entity, may not be awarded or perform work as a Service Provider, supplier, Subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

Internal Revenue Service Reporting: Service Provider will make all necessary reports to the Internal Revenue Service regarding benefit payments made to health care Service Providers as required by law.

Equal Employment Opportunity: Service Provider will not discriminate in its employment practices based on race, color, religion, age, sex, marital status, political affiliation, national origin or handicap, except as provided by law.

Notice to the Department of Changes: In the event Service Provider becomes aware that any federal or state policies, operating procedures, laws, rules, or regulations applicable to this Contract have been or will be changed, created or otherwise modified so as to material change

or impact, either directly or indirectly, the Plan, this Contract, the health industry or the responsibilities of the Parties hereunder, Service Provider will immediately notify the Department, indicating the specific law, rule, regulation, draft or pending legislation, and/or policies and procedures. The Parties may renegotiate the relevant portions of the Contract necessary to preserve compliance and the original intent of the Parties, to the extent permitted by law.

11.5 Contract Administrator

The Department will name a Contract Administrator during the term of this Contract whose responsibility will be to maintain this Contract. As of the Effective Date, the Contract Administrator is:

Maureen Livings, Purchasing Analyst
4050 Esplanade Way, Suite 335.2Y
Tallahassee, FL 32399-0950

The Department will provide Notice to vendor of any changes to the Contract Administrator; provided, such changes will not be deemed Contract amendments.

11.6 Contract Managers

Each Party will designate a Contract Manager during the term of this Contract who will oversee the Party's performance of its duties and obligations pursuant to the terms of this Contract. As of the Implementation Date, the Department's Contract Manager is:

Dave Snyder
4050 Esplanade Way, Suite 215
Tallahassee, FL 32399-0950

Vendor's Account Manager is:

[TBD]

[TBD]

Each Party will provide prompt written Notice no later than five (5) Business Days to the other Party of any changes to the Party's Contract/Account Manager or his or her contact information. Such changes will not be deemed Contract amendments.

11.7 Dispute Resolution

The Parties acknowledge that efforts should always be made to avoid Disputes through good communication and prompt requests for clarification and information. If a Dispute arises under this Contract, (a “Dispute”) the Parties agree that the following procedures shall be the sole and exclusive procedures for resolution.

Negotiations. The Parties will attempt in good faith to resolve any Dispute. Managers of the Department and vendor who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for administration of the Services at issue will promptly enter into negotiations to settle the Dispute. To the extent permitted by law, all negotiations shall be treated as confidential settlement negotiations for purposes of discovery and admissibility in any later legal action.

Legal Action. The Parties will allow for at least thirty (30) Calendar Days of executive level negotiations, commencing on the date the aggrieved Party provides formal Notice of the Dispute to the other Party. If a Dispute is not resolved within this timeframe, either Party may bring an action in the state court in Leon County, Florida.

This section shall survive termination of this Contract.

11.8 Venue

The sole and exclusive venue of any legal action that arises out of or relates to the Contract shall be the state court in Leon County, Florida; in any such action, Florida law shall apply. This section shall survive termination of this Contract.

11.9 Entire Contract

This Contract constitutes the full and complete Contract of the Parties hereto and supersedes any prior contracts, arrangements and communications, whether oral or written, with respect to the subject matter hereof. Each Party acknowledges that it is entering into the Contract solely on the basis of the representations contained herein, and for its own purposes and not for the benefit of any third party.

11.10 Execution in Counterparts

The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one (1) and the same instrument.

11.11 Force Majeure, Notice of Delay and No Damages for Delay

Vendor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of vendor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods or other similar cause wholly beyond vendor's control, or for any of the foregoing that affect Subcontractors or suppliers if no alternate source of supply is available to vendor. In case of any delay vendor believes is excusable, vendor shall notify the Department in writing of the delay or potential delay and describe the cause of the delay either within ten (10) Calendar Days after the cause that creates or will create the delay first arose, if vendor could reasonably foresee that a delay could occur as a result, or if delay is not reasonably foreseeable, within five (5) Calendar Days after the date vendor first had reason to believe that a delay could result. No claim for damages, other than for an extension of time, shall be asserted against the Department.

Vendor shall not be entitled to payment of any kind from the Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist vendor shall perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State, in which case the Department may accept allocated Services from vendor, provided that vendor grants preferential treatment to the Department with respect to Services subjected to allocation, and/or purchase from other sources (without recourse to and by vendor for the related costs and expenses) to replace all or part of the Services that are the subject of the delay, which purchases may be deducted from the Contract quantity, or terminate the Contract in whole or in part.

THE FOREGOING SHALL CONSTITUTE VENDOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY. Providing Notice in strict accordance with this paragraph is a condition precedent to such remedy.

11.12 Changes

The Department may unilaterally require, by written order, changes altering, adding to or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Department may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable

adjustments require the written consent of the vendor, which shall not be unreasonably withheld.

11.13 Further Assurances

The Parties will, subsequent to the Implementation Date, and without any additional consideration, execute and deliver any further legal instruments and perform any acts that are or may become necessary to effectuate the purposes of this Contract.

11.14 Indemnification

Vendor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully indemnify, defend and hold harmless the State, and its officers, agents and employees, from suits, actions, damages and costs of every name and description, including attorneys' fees, arising from or relating to personal injury or wrongful death, damage to real or personal tangible property, or any other action alleged to be caused in whole or in part by vendor, its agents, employees, partners, or Subcontractors; provided, however, that vendor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State.

Further, vendor shall fully indemnify, defend and hold harmless the State from any suits, actions, damages and costs of every name and description, including attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right. If any Service is the subject of an infringement suit, or in vendor's opinion is likely to become the subject of a suit, vendor may at its sole expense procure for the State the right to continue using the Service or to modify it to become non-infringing. If vendor is not reasonably able to modify or otherwise secure the State the right to continue using the Service, vendor shall remove the Service and refund the State the amounts paid in excess of a reasonable rental for past use. The State shall not be liable for any royalties.

Vendor's obligations under the preceding two (2) paragraphs with respect to any legal actions are contingent upon the State giving vendor written Notice of any action or threatened action, the opportunity to participate in the defense of and settle any such action at vendor's sole expense, and assistance in defending the action at vendor's sole expense. Vendor shall not be liable for any cost, expense, or compromise incurred or made by the State in any legal action without vendor's prior written consent, which shall not be unreasonably withheld.

Vendor shall also indemnify, defend and save harmless the Enrollees for any financial loss caused by the failure of vendor, its officers, directors or agents to comply with the terms of this Contract.

This section shall survive termination of this Contract.

11.15 Defense of Third-Party Claims

11.15.1 Notice of Claims

Vendor shall promptly notify the Department of any Plan-related legal actions or proceedings brought or initiated against vendor, the Department or the Plan, of which vendor becomes aware. The Department shall promptly notify Contactor of any Plan-related legal actions or proceedings, brought or initiated against vendor, the Department or the Plan, of which the Department becomes aware. Vendor shall, when possible, notify the Department prior to the filing of such motion and shall notify the Department no later than seven (7) Business Days after the filing of any such motion.

11.15.2 Department as Real Party in Interest

If an Enrollee files suit against vendor regarding eligibility, enrollment or coverage that is the legal administrative responsibility of the Department without previously requesting an administrative hearing pursuant to Chapter 120, Florida Statutes, vendor shall file a motion to dismiss or any other appropriate motions and shall notify the Department of its action. Prior to filing any such motions, vendor shall, when possible, advise the party filing the suit, as appropriate, that issues regarding eligibility, enrollment or coverage that is the legal administrative responsibility of the Department require the exhaustion of administrative remedies and/or in such instances the real party in interest is the Department. In reference to legal proceedings regarding eligibility, enrollment or coverage that is the legal administrative responsibility of the Department, the Department may support vendor's motions, as specified in this subsection, to drop vendor and/or to substitute the Department, if the Department is not already a party to the lawsuit, as the real party in interest when requested by vendor. If the Department is a codefendant in any such lawsuit, the Department may support any appropriate motion(s) to drop vendor from the lawsuit.

11.15.3 Vendor as Real Party in Interest

In the event a lawsuit is filed against vendor which raises a recognized cause of action or claim for relief based on vendor's professional practices and/or application of its own policies or procedures to the administration of the Plan, vendor shall, at its expense, defend such lawsuit provided. Vendor shall support the Department in any motion filed to drop the Department from any lawsuit where the damages sought by the filing litigant allegedly arise out of the professional practices and the policies and procedures of vendor that do not concern eligibility, enrollment or coverage that is the legal administrative responsibility of the Department.

11.15.4 Cooperation in the Defense of Administrative and/or Legal Actions

The Parties shall, upon request, cooperate fully with each other concerning any administrative or legal proceeding brought or initiated against them individually or jointly by Plan Enrollees or other persons relating to the administration of this Contract. In this regard, the Parties shall use their best efforts to keep each other apprised of any significant developments relating to such litigation or proceedings and the status of such legal matters as may be requested by their respective attorneys. In all administrative or legal proceedings, vendor shall make available all files and documents requested by Department and vendor attorneys, investigate the facts related to allegations raised in the proceedings, and make available as required by the Department, and at no additional cost, witnesses for depositions, administrative hearings and/or trial in any such proceedings.

11.15.5 Administrative Proceedings

The Department, as an agency of the State, shall be responsible, in accordance with State law, for handling and defending any administrative actions or proceedings brought by Members in accordance with sections 120.569, 120.57 or 120.574, Florida Statutes. Upon request, vendor shall promptly provide the Department with all records, including but not limited to, materials, available data, schedules, guidelines, audit trail, protocols or other materials that are necessary for the preparation of the defense in such proceedings.

11.15.6 Support and Communication with Vendor's Legal Affairs Department

Vendor shall, upon request of the Department, assist attorneys representing the Department by providing information and support in administrative and legal proceedings being contested by Enrollees. Vendor shall advise the Department in writing within thirty (30) Calendar Days

after the Effective Date of the Contract of the representative who will assist the Department's attorneys.

Subsection 11.15 shall survive termination of this Contract.

11.16 Independent Vendor Status

Vendor, together with its agents, Subcontractors, officers and employees, shall have and always retain under the Contract the legal status of an independent vendor, and in no manner shall they be deemed employees of the State or deemed to be entitled to any benefits associated with such employment. Vendor remains responsible for all applicable federal, State and local taxes and all FICA contributions.

11.17 Inspection at Vendor Site

The Department reserves the right to inspect, at any reasonable time with prior Notice, the equipment or other facilities of a vendor or Subcontractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

11.18 Intellectual Property

Any ideas, concepts, know-how, data processing techniques, software, documentation, diagrams, schematics or blueprints developed exclusively by vendor's personnel in connection with this Contract will be the exclusive property of the Department as part of delivering the required Services. Any joint or future software development effort will be subject to a separate agreement signed by Department and vendor, wherein all ownership and license rights to such developed product shall be specified in detail. In the absence of such agreement, each Party shall maintain sole ownership of its own protectable proprietary materials, which are developed or owned solely by Department or vendor, respectively.

11.19 Lobbying and Integrity

Vendor shall not, in connection with this or any other agreement with the State, directly or indirectly offer, confer or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion or violation of a known legal duty, or offer, give, or agree to give to anyone any Gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of this provision, "Gratuity" means any payment of more than nominal monetary

value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment or contracts of any kind. Upon request of the Department's inspector general, or other authorized State official, vendor shall provide any type of information the inspector general deems relevant to vendor's integrity or responsibility. Such information may include, but shall not be limited to, vendor's business or financial records, documents or files of any type or form that refer to or relate to the Contract. Vendor shall retain such records for the longer of three (3) years after the expiration of the Contract or the period required by the general records schedules maintained by the Florida Department of State. Vendor agrees to reimburse the State for the reasonable costs of investigation incurred by the inspector general or other authorized State official for investigations of vendor's compliance with the terms of this or any other agreement between vendor and the State which results in the suspension or debarment of vendor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. Vendor shall not be responsible to the Department for any costs of investigations that do not result in vendor's suspension or debarment.

11.20 Loss of Data

In the event of loss of any State of Florida Data or record where such loss is due to the negligence of vendor or any of its Subcontractors or agents, vendor shall be fully responsible for recreating such lost State of Florida Data in the manner and on the schedule set by the Department, in addition to any other damages the Department may be entitled to by law or this Contract. Vendor shall bear the full cost for recreating any lost Data and will not be entitled to any compensation by the Department for those costs. This section shall survive termination of this Contract.

11.21 Modifications of Terms

The Contract contains all the terms and conditions agreed upon by the Parties, which shall govern all transactions under the Contract. The Contract may only be modified or amended upon mutual written agreement of the Department and vendor. No oral agreements or representations shall be valid or binding upon the Department or vendor. Vendor may not unilaterally modify the terms of the Contract by incorporating terms onto vendor's order or fiscal forms or other documents forwarded by vendor for payment. The Department's acceptance of Service or processing of documentation on forms furnished by vendor for approval or payment shall not constitute amendment to this Contract or waiver of a default.

11.22 Notices

All Notices between the Parties regarding this Contract shall be in writing as follows:

To the Department by certified mail, return receipt requested, by reputable courier service or delivered personally to:

Department of Management Services
Division of State Group Insurance
Dave Snyder, Contract Manager
4050 Esplanade Way, Suite 215.4Y
Tallahassee, FL 32399

To the vendor by certified mail, return receipt requested, by reputable courier service, or delivered personally to:

[TBD]

The Parties agree that any change in the above-referenced address or name of the contact person shall be submitted in a timely manner to the other Party. All Notices and other communications under this Contract shall be in writing and shall be deemed duly given either when delivered in person to the recipient named above, upon confirmation of courier delivery to the intended recipient; or three (3) Business Days after mailed by certified U.S. mail, return receipt requested, postage prepaid, addressed by name and address to the Party intended.

11.23 Public Records

Any and all records produced or used regarding this Contract are subject to Florida's public records law, as set forth in Chapter 119 of the Florida Statutes. Violation of this section shall constitute grounds for termination of the Contract.

11.23.1 Vendor as an Agent

If, under this Contract, vendor is providing Services and is acting on behalf of the Department as provided under subsection 119.011(2), Florida Statutes, then vendor shall:

Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the Service.

Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

Meet all requirements for retaining public records and transfer to the Department, at no cost, all public records in vendor's possession upon termination or expiration of the Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

11.24 Rights to Records

Vendor agrees that all documents and materials prepared by vendor for purposes of this Contract shall be the sole property of the Department and shall be available to the Department at any time. The Department shall have the right to use the same without restriction and without payments to vendor other than that specifically provided by this Contract.

11.25 Taxes

The State does not pay federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on vendor or for any taxes levied on employees' wages.

11.26 Waiver

The delay or failure by a Party to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

11.27 Warranty of Authority

Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective Party to the Contract.

11.28 Warranty of Ability to Perform

Vendor shall provide the Department appropriate documentation demonstrating that vendor is in good standing and legally authorized to transact Services business in Florida. Vendor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding investigation, or any other legal or financial condition, that would in any way prohibit, restrain or diminish vendor's ability to satisfy Contract obligations. Vendor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133, Florida Statutes, or on any similar list maintained by any other state or the federal government. Vendor shall immediately notify the Department in writing if its ability to perform is compromised in any manner during the term of the Contract.

11.29 Severability

If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

11.30 Organizational Conflicts of Interest

By executing this Contract, vendor represents that either it has disclosed all Organizational Conflicts of Interest to the Department in writing, or no Organizational Conflicts of Interest exist. The term "Organizational Conflicts of Interest" means the existence any past, present or currently planned interests of vendor that either directly or indirectly (through a client, contractual, financial, organizational or other relationship) relates to the Services and which may diminish Contactor's capacity to give impartial, technically sound, objective assistance and advice, or may give vendor unfair negotiating advantage with respect to the Department.

11.31 Best Pricing Clause

During the Contract term, if vendor provides substantially the same Plan(s) at a lower administrative service fee (premium, if fully insured) to any other substantially similar clients, then vendor shall immediately reduce the administrative service fee (premium, if fully insured) to the lowest price for this Contract. In addition, Services and programs not currently part of the benefits offered to Members, but offered to substantially similar clients, shall be proposed for the Department's consideration to offer to Members for the same or lower price. This does not include or apply to other benefit designs or Plan offerings. New offerings shall not be added or incorporated under this provision. The vendor agrees to annually submit to Department an

affidavit from an authorized representative attesting that the vendor is in compliance with Attachment 1: Affidavit of Best Pricing. The affidavit will be submitted to the Department by December 31st each year.

SO AGREED by the Parties' authorized representatives on the dates noted below:

DEPARTMENT OF MANAGEMENT SERVICES

Signature: _____
Chad Poppell, Secretary

Date: _____

[VENDOR]

Signature: _____

**Print Name
and Title:** _____

Date: _____

Section 12 Attachments 1-5

Attachment 1: Affidavits

Attachment 2: Performance Guarantees

Attachment 3: Enrollment File Interface Layout

Attachment 4: Enrollment File Transfer Schedule

Attachment 5: Reporting and Deliverables (Excel Spreadsheet – separate file)

ATTACHMENT 1: AFFIDAVIT OF NO OFFSHORING

Regarding the Contract between

[TBD] (the "Vendor")

And

State of Florida, Department of Management Services

Contract No.: DMS 15/16-005

Pursuant to subsection 3.2.12 of the Contract, the undersigned vendor hereby attests that the vendor and covered entities do not utilize offshore Subcontractors in the performance of this Contract and is in compliance with the Subcontractor clause in the Contract.

Vendor Name: [TBD]

**Vendor's Federal Employer
Identification Number (FEIN #):** _____

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

Sworn to (or affirmed) and subscribed before me on this _____ day of _____ 2016

by _____

(Signature of Notary)

Check One:

Personally Known

Produced the following ID

AFFIDAVIT OF WARRANTY OF SECURITY

Regarding the Contract between

[TBD] (the "Vendor")

And

State of Florida, Department of Management Services

Contract No.: DMS 15/16-005

Effective [TBD]

Pursuant to subsection 3.2.4 of the Contract, the undersigned vendor hereby attests that the vendor is in compliance with the Warranty of Security clause in the Contract.

Vendor Name: [TBD]

**Vendor's Federal Employer
Identification Number (FEIN #):** _____

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

Sworn to (or affirmed) and subscribed before me on this _____ day of _____ 2016

by _____

(Signature of Notary)

Check One:

Personally Known

Produced the following ID

AFFIDAVIT OF BEST PRICING

Regarding the Contract between

[TBD] (the "Vendor")

And

State of Florida, Department of Management Services

Contract No.: DMS 15/16-005

Effective [TBD]

Pursuant to subsection 11.31 of the Contract, the undersigned vendor hereby attests that the vendor is in compliance with the Best-Pricing clause in the Contract.

Vendor Name: [TBD]

**Vendor's Federal Employer
Identification Number (FEIN #):** _____

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

Sworn to (or affirmed) and subscribed before me on this _____ day of _____ 2016

by

(Signature of Notary)

Check One:

Personally Known

Produced the following ID

ATTACHMENT 2: PERFORMANCE GUARANTEES

Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
I. Implementation						
PG-1		Final Implementation Plan	a.) Vendor shall provide the final Implementation Plan, inclusive of all the details described in HMO ITN section 6 , to the Department no later than the date specified.	Delivery no later than ten (10) Business Days following Contract execution	One time measurement	\$1,000 per day for each Calendar Day past the due date that the final Implementation Plan, inclusive of all details, is not received by the Department
PG-2		Quarterly Meetings	The Account Management Team will attend and participate in all required quarterly performance meetings.	One-hundred percent (100%) attendance as required	Quarterly	\$2,000 per meeting in which each member of the Account Management Team is not in attendance unless pre-approved by the Department
PG-3		Open Enrollment Benefit Fairs	Vendor shall guarantee vendor employees at each annual open enrollment meeting and/or benefit fair sponsored by the Department or its designee.	One-hundred percent (100%) of benefit fairs will be staffed as required	Annually	\$20,000 per benefit fair not staffed as required

ITN for Insured Health Maintenance Organization Benefits
and Self-Insured Third Party Administrator Services
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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
PG-4		Plan Performance Review	Within ten (10) Calendar Days following delivery of a performance review from the Department, Vendor shall develop and submit a corrective action plan (CAP) approved by the Department, and implement such plan within the time prescribed in the approved CAP.	Vendor shall submit an approvable CAP within ten (10) Calendar Days and implement as agreed to in the CAP. Measurement methodology shall be measured from date of delivery of the plan performance review in Calendar Days	No specified frequency	\$2,500 per Calendar Day beyond ten (10) Calendar Days
PG-5		Service Level / Average Speed to Answer	a.) Inbound customer calls received by the dedicated customer service unit shall be answered by a live agent within the specified target time threshold. Target time threshold is measured from time the call is presented in the call queue for an agent and does not include any time used to navigate the automated system upon entering the	Ninety-nine percent (99%) of calls shall be answered within thirty (30) seconds or less	Quarterly	\$2,000 per percentage point, or fraction thereof, less than ninety-nine percent (99%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
			call queue, if applicable.			
			b.) Average wait time for all inbound customer calls received by the dedicated customer service unit that are presented to the call center agent queue shall be answered within the specified time target. Target time is measured for all calls presented in the queue for an agent, including all calls answered by a live agent and calls that are abandoned while in queue.	Ninety-nine percent (99%) of calls shall be answered within thirty (30) seconds or less	Quarterly	\$2,000 per percentage point, or fraction thereof, less than ninety-nine percent (99%)
PG-6		Call Abandonment Rate	The percentage of calls presented to the call center agent queue that are terminated by an Enrollee before a live person answers shall not exceed the specified rate.	Less than or equal to two percent (2%)	Quarterly	\$2,000 per percentage point, or fraction thereof, greater than two percent (2%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
PG-7		ID Cards	a.) Open Enrollment: ID cards shall be mailed to Members no later than December 15, following receipt of the open enrollment file.	Ninety-nine percent (99%) or more will be mailed no later than December 15	Annually	\$2,000 per percentage point, or fraction thereof, less than ninety-nine percent (99%)
			b.) Maintenance: ID cards throughout the calendar year shall be mailed within the time specified following receipt of a processable eligibility file.	Ninety-nine percent (99%) or more will be mailed within four (4) Business Days of receipt	Quarterly	\$10,000 per percentage point, or fraction thereof, less than ninety-nine percent (99%)
PG-8		Member Satisfaction Survey	Measured as the percentage of vendors conveying a satisfaction level in response to a Department approved Member Satisfaction Survey.	a.) Initial Contract year: The level of overall satisfaction will be greater than or equal to ninety percent (90%)	One time measurement	\$100,000 when the overall satisfaction is less than ninety percent (90%)
				b.) Subsequent Contract years: The level of overall satisfaction will be greater than or equal to ninety-five percent (95%)	Annually	\$100,000 when the overall satisfaction is less than ninety-five percent (95%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
PG-9		Enrollee Inquiry Response Time	a.) Percent of telephone inquiries returned by a customer service representative.	Ninety-nine percent (99%) within two (2) Business Days	Quarterly	\$2,000 for each full percentage point below ninety-nine percent (99%)
			b.) Percent of written inquiries responded to by a customer service representative	Ninety-nine percent (99%) within ten (10) Business Days	Quarterly	\$2,000 for each full percentage point below ninety-nine percent (99%)
IV. Network						
PG-10		Access Rate to Primary Care Physicians	Vendor shall establish and maintain a network of participating physicians to provide services under the plan.	a.) For urban and suburban areas, ninety-eight percent (98%) of Members will have at least two (2) providers within ten (10) miles of their home ZIP Code	Annually	\$5,000 for each full percentage point below ninety-eight percent (98%)
				b.) For rural areas, ninety-eight percent (98%) of Members will have at least one (1) provider within fifteen (15) miles of their home ZIP Code	Annually	\$5,000 for each full percentage point below ninety-eight percent (98%)
PG-11		Access Rate to Pediatricians	Vendor shall establish and maintain a network of	a.) For urban and suburban areas, ninety-eight percent	Annually	\$5,000 for each full percentage point below ninety-eight

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
			participating physicians to provide services under the plan.	(98%) of Members will have at least two (2) providers within ten (10) miles of their home ZIP Code		percent (98%)
				b.) For rural areas, ninety-eight percent (98%) of Members will have at least one (1) provider within fifteen (15) miles of their home ZIP Code	Annually	\$5,000 for each full percentage point below ninety-eight percent (98%)
PG-12		Access Rate to Specialists and OB/GYNs	Vendor shall establish and maintain a network of participating physicians to provide services under the plan.	a.) For urban and suburban areas, ninety-eight percent (98%) of Members will have at least two (2) providers within ten (10) miles of their home ZIP Code	Annually	\$5,000 for each full percentage point below ninety-eight percent (98%)
				b.) For rural areas, ninety-eight percent (98%) of Members will have at least one (1) provider within fifteen (15) miles of	Annually	\$5,000 for each full percentage point below ninety-eight percent (98%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
				their home ZIP Code		
PG-13		Access Rate to Hospitals	Vendor shall establish and maintain a network of participating hospitals to provide services under the plan.	a.) For urban and suburban areas, ninety-eight percent (98%) of Members will have at least one (1) hospital within ten (10) miles of their home ZIP Code	Annually	\$5,000 for each full percentage point below ninety-eight percent (98%)
				b.) For rural areas, ninety-eight percent (98%) of Members will have at least one (1) hospital within twenty (20) miles of their home ZIP Code	Annually	\$5,000 for each full percentage point below ninety-eight percent (98%)
PG-14		Plan Data	a.) Vendor shall submit a complete file of all paid Claims activity to the Department and/or its authorized representative in the time frame and format specified by the Department.	One-hundred percent (100%) of medical paid Claims activity shall be delivered no later than the 15th Calendar Day following the reporting month	Monthly	\$2,000 per day for each Business Day that any such data is not provided as required

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
			b.) Vendor shall submit a complete file of all medical paid Claims activity to the Department's PBM within the time period specified.	One-hundred percent (100%) of medical paid Claims activity shall be delivered no later than the 15th Calendar Day following the reporting month	Monthly	\$500 per day for each Business Day that the data is not provided
			c.) Vendor shall submit a complete file of all Claim accumulators to the Department's PBM within the time period specified.	One-hundred percent (100%) of medical accumulators shall be delivered within twenty-four (24) hours.	Monthly	\$500 per day for each Calendar Day that the data is not provided
			d.) In support of a health management information system, vendor shall provide all requested data related to the plan in the timeframe and format specified by the Department.	One-hundred percent (100%) of requested data shall be delivered no later than the 15th Calendar Day following the reporting month	Monthly	\$2,000 per day for each Business Day that any such data is not provided as required
PG-15		Eligibility	a.) Routine Updates: Eligibility files shall be accurately and timely loaded within the time specified.	One-hundred percent (100%) within two (2) Business Days of receipt	Quarterly	\$2,000 for each day over the deadline, per incident

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
			b.) Non-routine Updates: Ad hoc or non-routine manual enrollment updates at the request of the Department or its designee shall be completed in the time frame specified.	One-hundred percent (100%) within the same Business Day if requested during normal business hours; otherwise, during the next Business Day	Quarterly	\$2,000 for each day over the deadline, per incident
			c.) Eligibility Discrepancies: Eligibility discrepancies shall be reported by vendor to the Department and eligibility vendor in the time frame specified.	One-hundred percent (100%) within two (2) Business Days of receipt	Monthly	\$2,000 for each day over the deadline, per incident
PG-16		Claims Timeliness	Measured from the date the Claim is received in the office (Day 1) to the date the processed Claim reaches final action determination (including weekends and holidays).	a.) The average quarterly Claims payment turnaround time will not exceed fourteen (14) Calendar Days for ninety percent (90%) of all non-investigated (clean) Claims	Quarterly	\$2,000 for each full percentage point below ninety percent (90%)

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			<p>For electronically submitted Claims, Day 1 is the date the Claim was received, irrespective of time of day and including weekends and holidays.</p> <p>For Paper Claims, Day 1 is the date the Claim was stamped upon receipt.</p> <p>Medicaid Reclamation Claims shall be subject to this Claims Timeliness performance guarantee.</p>	<p>b.) One-hundred percent (100%) of all Claims will be paid within thirty (30) Calendar Days</p> <p>The measurement methodology shall be:</p> <p>Non-investigated (clean Claims) (total number of original (clean) Claims received within the measured quarter end and processed within fourteen (14) days / total number of original (clean) Claims received within the measured quarter end and processed during the quarter)</p> <p>All Claims (total number of original Claims received within the measured quarterly end</p>	Quarterly	\$2,000 for each full percentage point below one-hundred percent (100%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
				and processed within thirty (30) days / total number of original Claims received within the measured quarter end and processed during the quarter)		
PG-17		Financial Accuracy	<p>Measured as the absolute value of financial errors divided by the total paid value of audited dollars paid based on quarterly internal audit of statistically valid sample. The measurement methodology shall be:</p> <p>(Amount of Claims dollars in sample paid correctly / amount of Claims dollars paid in sample) x (strata population dollars / total population dollars)</p> <p>Medicaid Reclamation Claims shall be subject to this</p>	Average quarterly financial accuracy of ninety-nine and a half percent (99.5%) or more	Quarterly	\$10,000 for each full percentage point below ninety-nine and a half percent (99.5%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
			Claims Financial Accuracy performance guarantee.			
PG-18		Processing Accuracy	<p>Measured as the percent of Claims processed without non-financial error. The measurement methodology shall be:</p> <p>(Number of Claims in strata sample without an administrative error / number of Claims in sample) x (number of Claims in strata population / number of Claims in total population)</p> <p>Medicaid Reclamation Claims shall be subject to this Claims Processing Accuracy performance guarantee.</p>	Average quarterly processing accuracy of ninety-seven percent (97%) or more	Quarterly	\$10,000 for each full percentage point below ninety-seven percent (97%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
Pg-19		Payment Accuracy	<p>Measured as the percent of Claims processed without financial payment error. The measurement methodology shall be:</p> <p>(Number of Claims in sample paid accurately / number of Claims in sample) x (number of Claims in strata population / number of Claims in total population)</p> <p>Medicaid Reclamation Claims shall be subject to this Claims Payment Accuracy performance guarantee.</p>	Average quarterly financial accuracy of ninety-eight percent (98%) or more	Quarterly	\$10,000 for each full percentage point below ninety-eight percent (98%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
PG-20		Overpayment Recovery	<p>Measured as the number (count) of overpayments identified by monthly Overpaid Claims Report and paid to the State (not an offset of Claims) within sixty (60) Calendar Days.</p> <p>Medicaid Reclamation Claims shall be subject to this Claims Overpayment Recovery performance guarantee.</p>	100% of all confirmed overpayments identified shall be recovered and returned to the Department within sixty (60) Calendar Days.	Quarterly	\$2,000 for each full percentage point below 100%.
PG-21		Appeals	a.) Vendor shall finalize Level I Appeals within the specified time frame.	<p>One-hundred percent (100%) of Level I Appeal determinations will be completed within:</p> <ul style="list-style-type: none"> • fifteen (15) days/pre-service • thirty (30) days/post service • seventy-two (72) hours/urgent 	Quarterly	\$10,000 for each full percentage point below one-hundred percent (100%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
			b.) Vendor shall provide information, support, documentation and/or testimony to the Department as requested for Level II Appeals and administrative hearings within the time frame specified.	One-hundred percent (100%) of requested information, support, documentation, and/or testimony will be provided to the Department by the date assigned by the Department.	Quarterly	\$10,000 for each full percentage point below one-hundred percent (100%)
			c.) Vendor's external independent review organization shall conduct such reviews within the time frame specified.	One-hundred percent (100%) of IRO reviews will be completed within: <ul style="list-style-type: none"> • forty-five days (45) days/pre-service • forty-five days (45) days/post service • seventy-two (72) hours/urgent 	Quarterly	\$10,000 for each full percentage point below one-hundred percent (100%)

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Performance Indicator	MSR#	Standard/Goal		Measurement Criteria	Measurement Frequency	Amount of Risk
PG-22		Network Discount Guarantee	Vendor's average discounts are guaranteed (including partner networks and/or rental networks, if applicable). Measured as the variance between actual annual discount (reflected in the annual Network Discount Guarantee Report) and Total Network Discount.		Annually	\$100,000 for each full percentage point that Total Network Discount exceeds actual annual discount

VI. Reporting and Deliverables						
PG-23		Timeliness of the Delivery of Reports and Deliverables	Reports and Deliverables shall be delivered to the Department and/or the Department's designee within the time period specified. Note: the amount at risk applies to <u>each</u> report outlined in ITN section 6: Minimum Service Requirements.	a.) Due weekly: Within two (2) Calendar Days of end of the reporting week	Weekly	\$500 per day for each Calendar Day past the due date that a report or Deliverable is not received
				b.) Due monthly: Within ten (10) Calendar Days of end of the reporting month	Monthly	\$500 per day for each Calendar Day past the due date that a report or Deliverable is not received
				c.) Due quarterly: Within forty-five (45) Calendar Days of end of the reporting quarter	Quarterly	\$500 per day for each Calendar Day past the due date that a report or Deliverable is not received

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				d.) Due annually: Within forty-five (45) Calendar Days of the end of the reporting year	Annually	\$500 per day for each Calendar Day past the due date that a report or Deliverable is not received
PG-24		Accuracy of Reports and Deliverables	Reports and Deliverables that are delivered to the Department shall be accurate. (This Performance Guarantee does not apply to de minimum errors and omissions, as determined by the Department.)	a.) One-hundred percent (100%) of weekly reports or Deliverables shall be mathematically and otherwise accurate	Weekly	\$2,000 per report or Deliverable
			Note: the amount at risk applies to <u>each</u> report outlined in ITN section 6: Minimum Service Requirements.	b.) One-hundred percent (100%) of monthly reports or Deliverables shall be mathematically and otherwise accurate	Monthly	\$2,000 per report or Deliverable
				c.) One-hundred percent (100%) of quarterly reports or Deliverables shall be mathemati	Quarterly	\$2,000 per report or Deliverable

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				cally and otherwise accurate		
				d.) One-hundred percent (100%) of annual reports and Deliverables shall be mathematically and otherwise accurate	Annually	\$2,000 per report or Deliverable
VII. Audits						
PG-25		Hospital Audits	Vendor shall report audit results and deliver and recoveries to the Department within the time frame specified.	a.) Report results within forty-five (45) Calendar Days of the end of reporting quarter	Quarterly	\$500 per day for each Calendar Day that the report is not provided
				b.) Delivery of One-hundred percent (100%) of recoveries within sixty (60) Calendar Days of the final determination date of the	Quarterly	\$2,000 per percentage point, or fraction thereof, less than one hundred percent (100%)

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				overpayme nt amount		
PG-26		SSAE 16 Report	Vendor shall provide SSAE 16 reports within the specified timeframe	Report results by October 1 each year	Annually	\$1,000 per day for each business day until received

ATTACHMENT 3: ENROLLMENT FILE INTERFACE LAYOUT

HMO Enrollment file

Header Record

Field Name	Field Length	Field Type	Decimal Offset	Position (if fixed)	Field Description	Valid Values
Client Code	3	N		1-3	Client Specific Code	
Filler	1	X		4	Space Fill	
Record Count	9	N		5-13	# of records on the file	
Filler	1	X		14	Space Fill	
Run Date	8	N		15-22	Date file was created	Formatted YYYYMMDD
Filler	1	X		23	Space Fill	
Coverage Period	6	N		24-29	Coverage Period	Formatted YYYYMM

Detail Record

PLAN TYPE	3	N		1	Plan type code of the HMO that the subscriber belongs to	
SSN	9	N		4	SSN of the subscriber	
NAME	28	X		13	Name of the subscriber	FORMAT: Last name[,]First name[space]Middle Initial If field value is more than 28 characters when concatenated, truncate field from right end Field will be all UPPER CASE.
DATE OF BIRTH	8	N		41	Birthday of the subscriber	Formatted YYYYMMDD
SEX	1	X		49	Sex of the subscriber	M for male, F for female
MAILING ADDRESS	60	X		50	Mailing Address of the subscriber	Field should be forced to UPPER CASE
MAILING CITY	30	X		110	Mailing City of the	Field should be forced to UPPER CASE

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					subscriber	
MAILING STATE	2	X		140	Mailing State of the subscriber	Field should be forced to UPPER CASE
MAILING ZIP	9	X		142	Mailing Zip code of the subscriber	
HOME ADDRESS	60	X		151	Home Address of the subscriber	Field should be forced to UPPER CASE
HOME CITY	30	X		211	Home City of the subscriber	Field should be forced to UPPER CASE
HOME STATE	2	X		241	Home State of the subscriber	Field should be forced to UPPER CASE
HOME ZIP	9	X		243	Home Zip code of the subscriber	
HOME COUNTY CODE	2	N		251	Home county of the subscriber	01 = ALACHUA 02 = BAKER 03 = BAY 04 = BRADFORD 05 = BREVARD 06 = BROWARD

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						07 = CALHOUN 08 = CHARLOTTE 09 = CITRUS 10 = CLAY 11 = COLLIER 12 = COLUMBIA 13 = DADE 14 = DESOTO 15 = DIXIE 16 = DUVAL 17 = ESCAMBIA 18 = FLAGLER 19 = FRANKLIN 20 = GADSDEN 21 = GILCHRIST 22 = GLADES 23 = GULF 24 = HAMILTON 25 = HARDEE 26 = HENDRY 27 = HERNANDO
--	--	--	--	--	--	---

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						28 = HIGHLANDS 29 = HILLSBOROUGH 30 = HOLMES 31 = INDIAN RIVER 32 = JACKSON 33 = JEFFERSON 34 = LAFAYETTE 35 = LAKE 36 = LEE 37 = LEON 38 = LEVY 39 = LIBERTY 40 = MADISON 41 = MANATEE 42 = MARION 43 = MARTIN 44 = MONROE 45 = NASSAU 46 = OKALOOSA 47 = OKEECHOBEE 48 = ORANGE
--	--	--	--	--	--	---

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						49 = OSCEOLA 50 = PALM BEACH 51 = PASCO 52 = PINELLAS 53 = POLK 54 = PUTNAM 55 = ST JOHNS 56 = ST LUCIE 57 = SANTA ROSA 58 = SARASOTA 59 = SEMINOLE 60 = SUMTER 61 = SUWANNEE 62 = TAYLOR 63 = UNION 64 = VOLUSIA 65 = WAKULLA 66 = WALTON 67 = WASHINGTON 99 = OUT OF STATE blank = UNKNOWN
--	--	--	--	--	--	--

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WORK COUNTY CODE	2	N		253	Work county of the subscriber	01 = ALACHUA 02 = BAKER 03 = BAY 04 = BRADFORD 05 = BREVARD 06 = BROWARD 07 = CALHOUN 08 = CHARLOTTE 09 = CITRUS 10 = CLAY 11 = COLLIER 12 = COLUMBIA 13 = DADE 14 = DESOTO 15 = DIXIE 16 = DUVAL 17 = ESCAMBIA 18 = FLAGLER 19 = FRANKLIN 20 = GADSDEN 21 = GILCHRIST
---------------------	---	---	--	-----	--	--

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						22 = GLADES 23 = GULF 24 = HAMILTON 25 = HARDEE 26 = HENDRY 27 = HERNANDO 28 = HIGHLANDS 29 = HILLSBOROUGH 30 = HOLMES 31 = INDIAN RIVER 32 = JACKSON 33 = JEFFERSON 34 = LAFAYETTE 35 = LAKE 36 = LEE 37 = LEON 38 = LEVY 39 = LIBERTY 40 = MADISON 41 = MANATEE 42 = MARION
--	--	--	--	--	--	---

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						43 = MARTIN
						44 = MONROE
						45 = NASSAU
						46 = OKALOOSA
						47 = OKEECHOBEE
						48 = ORANGE
						49 = OSCEOLA
						50 = PALM BEACH
						51 = PASCO
						52 = PINELLAS
						53 = POLK
						54 = PUTNAM
						55 = ST JOHNS
						56 = ST LUCIE
						57 = SANTA ROSA
						58 = SARASOTA
						59 = SEMINOLE
						60 = SUMTER
						61 = SUWANNEE
						62 = TAYLOR
						63 = UNION

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						<p>64 = VOLUSIA</p> <p>65 = WAKULLA</p> <p>66 = WALTON</p> <p>67 = WASHINGTON</p> <p>99 = OUT OF STATE</p> <p>blank = UNKNOWN (or no work county since retirees would not have a work county)</p>
COVERAGE CODE	2	N		255	Coverage code of the subscriber	<p>01 = Active Employee Individual, 02 = Active Employee Family, 22 = Spouse Program, 09 = COBRA Individual, 10 = COBRA Family, 11 = COBRA Extension Individual, 12 COBRA Extension Family, 61 = Early Retiree Individual, 62 = Early Retiree Family, 63 = Medicare I, 64 = Medicare II, 65 = Medicare III</p>
COVERAGE DATE	8	N		257	Coverage effective date of the subscriber	Formatted YYYYMMDD
IDENTIFIER	2	N		265	Enrollment category of the	<p>00 = not an OPS employee</p> <p>01 = OPS employee</p>

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					subscriber	
SAMAS ORG CODE	11	N		267	Samas org of the subscriber	If employee status is "Retiree", field is populated with "99999999". Else if employee status is "Retired Teacher", field is populated with "88888888". Else if employee status is "Vested Legislator", field is populated with "66666666". Else if employee status is COBRA, field is populated with "77777777". Else if employee status is "Laid Off", field is populated with "33333333" Else if employee is an "Active Employee" field is populated with information based on where they work at.

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COVERAGE TERM DATE	8	N		278	Coverage Term Date	FORMAT MMDDYYYY If a subscriber was dropped in a month prior to the current coverage month, the Coverage Term Date will be passed on the file only once. If the subscriber is terminated in the current month or is in a status of non-payment, the subscriber will continue on the file with the Term Date populated.
FIRST NAME	40	X		286	Subscriber's First Name	Field will be all UPPER CASE.
MIDDLE INITIAL	1	X		326	Subscriber's Middle Initial	Field will be UPPER CASE.
LAST NAME	40	X		327	Subscriber's Last Name	Field will be all UPPER CASE.
SUB PREVIOUS SSN	9	N		367	Previous SSN of subscriber if it had been corrected	If the subscriber has an SSN correction performed, populate in the former (incorrect SSN) in this field. Otherwise it is blank
PRIMARY PHONE NUMBER	10	N		376	Primary phone number for subscriber	Primary phone number for subscriber if known otherwise blank

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ALTERNATE PHONE NUMBER	10	N		386	Alternate phone number for subscriber	Alternate phone number for subscriber if known otherwise blank
WORK PHONE NUMBER	10	N		396	Work phone number for subscriber	Work phone number for subscriber if known otherwise blank (or no work phone since retirees would not have a work phone)
DEPENDENT COUNT	2	N		406	Count of # dependents for the subscriber	
DEPENDENT DATA				408	This field occurs 20 times with the information of the rest of the fields below	
RELATIONSHIP CODE	2	N			Relationship the dependent has to the subscriber	2 = Spouse 3 = Child 4 = Legal Guardianship 5 = Grandchild 6 = Child 7 = Foster Child

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						8 = Step Child 9 = Unborn Child 90 = Over-age dependent Child
DEPENDENT SSN	9	N			SSN of the dependent	
DEPENDENT NAME	28	X			Name of the dependent	FORMAT: Last name[,],First name[space]Middle Initial If field value is more than 28 characters when concatenated, truncate field from right end Field will be all UPPER CASE.
DEPENDENT BIRTH DATE	8	N			Birthday of the dependent	Formatted YYYYMMDD
DEPENDENT ELIGIBLE DATE	8	N			Date the dependent became eligible	Formatted YYYYMMDD If no value, zero fill
DEPENDENT INELIGIBLE DATE	8	N			Date the dependent became ineligible	Formatted YYYYMMDD. If no value (active records), zero fill
DEPENDENT SEX	1				Sex of the dependent	M for male, F for female, a space for unborn child.

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DEPENDENT FIRST NAME	40	X			Dependent's First Name	Field will be all UPPER CASE.
DEPENDENT MIDDLE INITIAL	1	X			Dependent's Middle Initial	Field will be UPPER CASE.
DEPENDENT LAST NAME	40	X			Dependent's Last Name	Field will be all UPPER CASE.

The file format is fixed and contains multiple record types. The length is 3307.

For Field Type, N means Numeric and X means Alphanumeric.

ATTACHMENT 4: ENROLLMENT FILE TRANSFER SCHEDULE

2015 Schedule, for illustrative purposes only.

Month End	Vendor Files (Monthly)	Weekly Vendor Files			
		File # 1	File # 2	File # 3	File # 4
Coverage Month	Date file sent to the vendors from People First*	Date file sent to the vendors from People First *	Date file sent to the vendors from People First *	Date file sent to the vendors from People First *	Date file sent to the vendors from People First *
Jan-15	12/29/2014	1/3/2015	1/10/2015	1/17/2015	
Feb-15	1/27/2015	2/7/2015	2/14/2015	2/21/2015	
Mar-15	2/25/2015	3/7/2015	3/14/2015	3/21/2015	
Apr-15	3/26/2015	4/4/2015	4/11/2015	4/18/2015	
May-15	4/28/2015	5/2/2015	5/9/2015	5/16/2015	
Jun-15	5/27/2015	6/6/2015	6/13/2015	6/20/2015	
Jul-15	6/26/2015	7/4/2015	7/11/2015	7/18/2015	
Aug-15	7/28/2015	8/1/2015	8/8/2015	8/15/2015	8/22/2015
Sep-15	8/26/2015	9/5/2015	9/12/2015	9/19/2015	
Oct-15	9/28/2015	10/3/2015	10/10/2015	10/17/2015	10/24/2015
Nov-15	10/28/2015	11/7/2015	11/14/2015	11/21/2015	
Dec-15	11/24/2015	12/5/2015	12/12/2015	12/19/2015	
Jan-16	12/28/2015	1/2/2016	1/9/2016	1/16/2016	1/23/2016

* Pharmacy files are provided on the next work day.

ATTACHMENT 5: REPORTING AND DELIVERABLES

See separate Excel spreadsheet.