

GENERAL TERMS AND CONDITIONS

In consideration of the premises and the mutual agreements hereinafter set forth, the Contractor and the Department of Human Services (“the Department”) agree as follows:

1. ATTACHMENTS

List ALL attachments to this contract by attachment number:

- Attachment 1 Performance Indicators
- Attachment 2 Budget
- Attachment 3 Project Deliverables Time Table
- Attachment 4 Business Associate Agreement
- Attachment 5 Software Terms and Conditions
- Attachment 6 Certification Regarding Lobbying
- Acronyms - See RFP Attachment B for DHS Acronyms
- Statement of Work- See Optum Proposal Attachment G1
- Scope of Work - See Optum Proposal Attachment G2
- Requirements and Traceability Matrix- See Optum Proposal Attachment 08a & 08b RTM
- Requirement Gap Analysis- See Optum Proposal Attachment - 09 Attachment D Gap Analysis
- Key Personnel Listing- See Optum Proposal Attachment 06 Attachment A Key Personnel Requirements

2. RENDERING OF COMPENSATION

The method(s) of rendering compensation and/or evaluation of satisfactory achievement toward attainment of the agreement listed herein is as follows, or in an attachment to this agreement. Payment shall be made after services are rendered and an invoice received.

3. Legal Considerations

The contract shall be construed according to the laws of the State of Arkansas. Any legal proceedings against the Department shall be brought in the State of Arkansas’ administrative or judicial forums and the rights and remedies of the parties hereunder shall be determined in accordance with such laws. Venue for all legal proceedings shall be in Pulaski County, Arkansas. Nothing in this contract shall be construed as a waiver of the Department’s sovereign immunity.

In no event shall the initial term of this contract extend beyond the end of the current biennial period unless the General Assembly, prior to the expiration of the biennial period, makes an appropriation for such purpose.

4. Financial Terms of the Contract

All services rendered under this contract must be billed as set out herein. No services may be billed to a Medicaid Provider or to any other contract. Payments will be made after services are provided based on the following financial terms:

			Match Requirements***	
Funding Source	Reimbursement Method	Payment Limitations	Maximum Amount of Match Required OR Percentage of Allowable Billing Required	Funding Source
Medicaid / SGR (CFDA-93.778)	Fixed Rate	NA	None	Medicaid / SGR (CFDA-93.778)

*Reimbursement Method:

****Payment Limitations:**

*****Matching Requirements:** The Contractor certifies the funds, property, goods, or services listed in this section will be used to meet the match requirements of this agreement. If there are no matching requirements for a funding source, enter "None" in the corresponding box above.

Type(s) of Match: The matching requirement may be satisfied by any one or a combination of the following methods unless specific funding source restrictions apply:

- **Cash Match:** Cash will be obtained by the Contractor and will be applied against allowable costs covered by this agreement.
- **Donation of Property:** Title to or the use of property or equipment has been donated by a public agency for the program(s) covered by this agreement. If title to property is donated, match value is the fair market value of the property. If the use of the property or equipment is donated, match value is the fair rental value as determined by applicable Department policy will be used as matching of the payments.
- **Third Party In-Kind Contributions.** Property, goods, or services have been donated by a non-federal agency for the programs(s) covered by this agreement without charge to the contractor. The Code of Federal Regulations, Title 45, Part 74, Subpart G shall be used to establish the basis of valuation.
- **Funds Transfer:** Match funds will be submitted by a third party to the Department of Human Services by check or money order under the terms of this agreement. Matching funds are to be received by the Department in an amount sufficient to match billing before the contractor will be reimbursed for services.

The Contractor certifies that any funds to be donated under this agreement which are derived or come directly or indirectly from Federal or State funds, or any other contractor under contract to the Department, have been specifically listed as a source above.

The Contractor certifies that the matching arrangements comply with requirements established in the Code of Federal Regulations, Title 45, Part 74, Subpart G (Cost Sharing or Matching) and all applicable Department policy.

5. Term of the Contract

The term of the Contract shall commence as of the latter to occur of (a) both parties signing this Contract, (b) CMS approval and (c) the issuance by the Department of a purchase order for the products and services described in this Contract for the period ending June 30, 2014 (the "Effective Date" or "Contract Start Date") and continue for a period ending on June 30, 2014 (the "Initial Term"). This Contract shall be extended for up to six (6) additional twelve (12) month renewal term(s) (the "Renewal Term(s)"). In order for this Contract to renew, the Department shall notify the contractor at least thirty (30) days prior to the end of the contract period or extension thereof if the State intends to amend to extend the contract and prior to the end of the Initial Term or applicable Renewal Term, the parties shall enter into an Amendment to this Contract covering the extension and the State shall issue a purchase order for the products and services covered by such State fiscal year. If notification is not made prior to the expiration date, the contract will terminate at the end of the contract period or current extension thereof.

6. Terms of Payment/Billing

The Contractor agrees to submit all billing invoices within sixty (60) days of the expiration of the contract. Any billings for services rendered during a particular state fiscal year which are not submitted within ninety (90) days of the end of the fiscal year will not be paid.

7. Termination of Contract

The Department may cancel this contract unilaterally at any time, for any reason including unavailability of federal funds, state funds or both by giving the other party thirty (30) calendar days written notice, and delivering notice of cancellation either in person or by certified mail, return receipt requested, restricted delivery. Availability of funds will be determined at the sole discretion of the Department.

Payments for completed services or Deliverables delivered to and approved by the Department shall be at the contract price. Approval for any completed services or Deliverables shall be provided by the Department provided that Contractor meets the Acceptable Performance definition attributable to such services or Deliverables that are set forth in Attachment 1 and any mutually agreed upon objective criteria, reduced to writing, that the parties develop

during the course of performing the services and providing the Deliverables. Payment for partially completed services or deliverables delivered to and not yet approved by the Department shall be at a price mutually agreed upon by the Contractor and the Department. In addition to any other law, rule or provision which may authorize complete or partial contract termination, the Department may terminate this contract in whole or in part when the Department determines that the Contractor or subcontractor has failed to perform its contractual duties and responsibilities.

8. Procedure on Expiration or Termination

Upon Contractor's receipt of Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor shall:

- Stop work under the contract on the date and to the extent specified in the Notice of Termination,
- Place no further orders or enter in any additional subcontracts for services,
- Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination,
- Assign to the Department in the manner and to the extent directed by the Department representative all of the right, title and interest of the Contractor in the orders or subcontracts so terminated. The Department shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such orders and subcontracts,
- With the approval or ratification of the Department representative, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole or part, in accordance with the provisions of this Contract.
- Transfer title to the Department and deliver in the manner, at the time, and extent directed by the Department representative, all files, data, information, manuals, or other documentation, or property, in any form whatsoever, that relate to the work terminated by the Notice of Termination.
- Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.
- Take such action as may be necessary, or as the Department representative may direct, for the protection and preservation of the property related to the contract which is in the possession of the Contractor and in which the Department has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item or reimbursable price under this clause.

9. Termination Claims

After receipt of a Notice of Termination, the Contractor shall submit to the Department all outstanding claims within ten (10) working days. The Contractor and the Department may agree upon the amounts to be paid to the Contractor by reason of the total or partial termination of work as described in this section.

In the event of the failure of the Contractor and the Department to agree in whole or in part as to the amount with respect to costs to be paid to the Contractor in connection with the total or partial termination of work as described in this section, the Department shall determine, on the basis of information available, the amount, if any, due to the Contractor by reason of termination and shall pay to the Contractor the amount so determined.

10. Contractor

It is expressly agreed that the Contractor, officers, and employees of the Contractor or Sub-Contractor in the performance of this contract shall act in an independent capacity and not as officers or employees of the Department. It is further expressly agreed that the Department shall exercise no managerial responsibility over the Contractor nor shall this contract be construed as a partnership or joint venture between the Contractor or any subcontractor and the Department

or the State of Arkansas.

The Contractor hereby represents and warrants to the Department that as of the execution date of this Contract:

- The Contractor has been duly organized and is validly existing and in good standing under the laws of the State of Arkansas, with power, authority, and legal right to enter into this Contract.
- There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Contractor or its properties (i) seeking to prevent the consummation of any of the transactions contemplated by this Contract; or (ii) seeking any determination or ruling that might materially and adversely affect the performance by the Contractor of its obligations hereunder, or the validity or enforceability of this Contract.
- All approvals, authorizations, consents, orders or other actions of any person or of any governmental body or official required to be obtained on or prior to the date hereof in connection with the execution and delivery of this contract and the performance of the services contemplated by this Contract and the fulfillment of the terms hereof have been obtained.
- The Contractor and the executive officers of the Contractor have not been the subject of any proceeding under the United States Bankruptcy Code.

11. Force Majeure

The Contractor will not be liable for any cost to the Department if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, Acts of God, fires, quarantine restriction, strikes and freight embargoes.

12. Disputes

In the event of any dispute concerning any performance by the Department under the contract, the Contractor shall notify the Division Director in writing. The State Procurement Director or a designee, prior to commencement of an action in court or any other action provided by law, will attempt to negotiate a settlement of the dispute with the parties in accordance with A.C.A. § 19-11-246. If the claim or controversy is not resolved by mutual agreement, and after reasonable notice to the parties in accordance with A.C.A. § 19-11-246 (c)(1), the State Procurement Director or his designee shall promptly issue a decision in writing stating the reason for the actions taken and a copy of the decision shall be mailed or otherwise furnished to the Contractor. This decision will be final and conclusive.

Pending final determination of any dispute hereunder, the contractor shall proceed diligently with the performance of the contract and in accordance with the Division Director's instructions.

13. Confidentiality of Information

In connection with this contract, the Contractor will receive certain Confidential Information relating to DHS clients. For purposes of this contract, any information furnished or made available to the Contractor relating to DHS clients, the financial condition, results of operation, business, customers, properties, assets, liabilities or information relating to recipients and providers including but not limited to protected health information as defined by the Privacy Rule promulgated pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, is collectively referred to as "Confidential Information". The Contractor shall comply with all DHS policies governing privacy and security of Confidential Information, including the contracting division's designation of the Confidential Information as required by the Arkansas Data and System Security Classification Standards, and shall implement and maintain reasonable security procedures and practices appropriate to the nature of the Confidential Information as required by A.C.A. § 4-11-104, the Personal Information Protection Act ("the Act"). In addition, the Contractor shall comply with the Business Associate Agreement between the parties, incorporated herein by reference, and shall disclose any breaches of privacy or security by contacting the Information Technology Security Officer within one (1) business day of the breach by notification to the following e-mail address: .

The contractor shall treat all Confidential Information which is obtained by it through its performance under the contract as Confidential Information as required by state and federal law and shall not use any information so obtained

in any manner except as necessary for the proper discharge of its obligations. The parties acknowledge that the disclosure of Confidential Information in contravention of the provisions hereof would damage the party to whom the information disclosed relates and such party has the right to seek all remedies at law or equity to minimize such damage and to obtain compensation therefore. The Contractor agrees to retain all protected health information as defined by the Privacy Rule promulgated pursuant to HIPAA for six (6) years or as otherwise required by HIPAA.

The contractor shall safeguard the use and disclosure of information concerning applicants for or recipients of Title XIX services in accordance with 42 CFR Part 431, Subpart F, and shall comply with 45 CFR Parts 160 and 164 and shall restrict access to and disclosure of such information in compliance with federal and state laws and regulations.

14. Public Disclosure

Upon signing of the contract by all parties, terms of the contract shall become available to the public, pursuant to the provisions of Ark. Code Ann. § 25-19-101 et seq.

15. Inspection of Work Performed

The State of Arkansas and its authorized representatives shall, at all reasonable times, have the right to enter the Contractor's work areas to inspect, monitor, or otherwise evaluate the quality, appropriateness, and timeliness of work, services, or both, that have been or are being performed.

16. Subcontracts

The Contractor is fully responsible for all work performed under the contract. The Contractor may, with the prior written consent of the Department, enter into written subcontract(s) for performance of certain of its functions under the contract. No subcontract under this contract shall in any way relieve the Contractor of any responsibility for performance of its duties. The Contractor agrees that all subcontracts shall adhere to Department policies. The Contractor shall give the Department immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the Contractor or any subcontractor which may result in litigation related in any way to the contract or the Department.

In accordance with Executive Order 98-04, IF the agreement between the contractor and the subcontractor is greater than \$25,000.00:

- The contractor shall require the subcontractor to complete a **Contract and Grant Disclosure and Certification Form**. This form must be signed no later than 10 days after entering into any agreement with a subcontractor and the contractor shall transmit a copy of this form to the agency.
- The contractor shall include the following in the contract between the Contractor and that Subcontractor: Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates the rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

17. Audit Requirement:

Contractor shall comply with the Department audit requirements as outlined in "Arkansas Department of Human Services Audit Guidelines." Copies may be obtained from:

Arkansas Department of Human Services
Office of Chief Counsel Audit Section
P.O. Box 1437 – Slot S270
Little Rock, Arkansas 72203-1437

18. Indemnification

Subject to the Statement of Liability set forth in Section 1.16 of the RFP, the Contractor agrees to indemnify, defend, and save harmless the State, the Department, its officers, agents and employees from any and all damages, losses, claims, liabilities and related costs, expenses, including reasonable attorney's fees and disbursements awarded

against or incurred by the Department arising out of or as a result of:

- Any claims or losses resulting from services rendered by any person, or firm, performing or supplying services, materials, or supplies in connection with the performance of the contract;
- Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts (including without limitation disregard of Federal or State regulations or statutes) of the Contractor, its officers or employees in the performance of the contract;
- Any claims or losses resulting to any person or firm injured or damaged by the Contractor, its officers or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by Federal or State regulations or statutes;
- Any failure of the Contractor, its officers or employees to observe local, federal or State of Arkansas laws or policies, including but not limited to labor laws and minimum wage laws.
- The Contractor shall agree to hold the Department harmless and to indemnify the Department for any additional costs actually incurred by the Contractor's failure to meet one or more of the Scope of Work requirements set forth in Optum Proposal Attachment G1 that supports the State's Medicaid goals and objectives, as well as any liability, including liability for costs or fees, which the Department may sustain as a result of the Contractor's or its subcontractor's performance or lack of performance that is not cured after receipt of written notice from the Department and the passage of thirty (30) days.

19. Assignments

The Contractor shall not assign the contract in whole or in part or any payment arising therefrom without the prior written consent of the Department representative and the Office of State Procurement (OSP).

20. Waiver

No covenant, condition, duty, obligation, or undertaking contained in or made a part of the contract will be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, any other party shall have the right in invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

21. Department Property

Property, including intellectual property, acquired or created by the Contractor as a Contract deliverable, is the property of the Department. The Contractor shall be responsible for the proper custody and care of all Department owned property, including Department owned property used in connection with the performance of this contract and the Contractor agrees to reimburse the Department for its loss or damage due to negligence, theft, vandalism, or Acts of God.

22. Use and Ownership of Software

The Contractor will have access to all applications software that the Department requires the Contractor to use in the performance of the services covered in the contract, subject to customary confidentiality and other license terms and conditions. No changes in the applications software may be made without the written consent of the Contract Administrator if the change would have the effect of causing the Department to incur additional costs for either hardware or software upgrades or both.

Any applications software developed by the Contractor in the performance of the services under this contract must become the property of the State of Arkansas at no additional cost. Any existing software applications owned by the Contractor and used in the performance of the services under this contract must be granted to the State of Arkansas at no additional cost, subject to customary confidentiality and other license terms and conditions.

23. Contract Variations

If any provision of the Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the Department and the Contractor shall be relieved of all obligations arising under

such provision. If the remainder of the Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

24. Attorney's Fees

In the event that either party to this Contract deems it necessary to take legal action to enforce any provision of the contract, and the Department prevails, the Contractor agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation as set by the court or hearing officer. Legal action shall include administrative proceedings.

25. Liability

In the event of non-performance of a contractual obligation by the Contractor or his agents which results in the determination by Federal authorities of noncompliance with Federal regulations and standards, the Contractor will be liable to the Department in full for all penalties, sanctions and disallowances assessed against the Department consistent with the limitations set forth in the Contract, including, without limitation, Section 1.16 of the RFP.

26. Records Retention

The Contractor agrees to retain all records for five (5) years after final payment is made under this Contract or any related subcontract. In the event any audit, litigation or other action involving these records is initiated before the end of the five (5) year period, the Contractor agrees to retain these records until all issues arising out of the action are resolved or until the end of the five (5) year period, whichever is later. The Contractor agrees to retain all protected health information as defined by the Privacy Rule promulgated pursuant to HIPAA for six (6) years or as otherwise required by HIPAA.

27. Access to Contractor's Records

The Contractor will grant access to its records upon request by state or federal government entities or any of their duly authorized representatives. Access will be given to any books, documents, papers or records of the Contractor which are related to any services performed under the contract. The Contractor additionally consents that all subcontracts will contain adequate language to allow the same guaranteed access to the records of subcontractors.

28. Ownership of Documentation

All documents and deliverables prepared by the Contractor and accepted by the Department shall become the property of the Department and shall not be used for any other purpose by the Contractor without the Department's specific written consent.

29. Disclosure

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the State Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase agreement, or grant and shall subject the party failing to disclose or in violation to all legal remedies available to the Department under the provisions of existing law.

30. Set-Off

The parties agree that the Department, in its sole discretion, shall have the right to set-off any money Contractor owes the Department from the Department's payment to Contractor under this contract.

31. State and Federal Laws

Performance of this contract by both parties must comply with State and federal laws and regulations. If any statute or regulation is enacted which requires a change in this contract or any attachment, then both parties will deem this contract and any attachment to be automatically amended to comply with the newly enacted statute or regulation as of its effective date.

32. DHS Policy 5005

Contractor shall comply with DHS Policy 5005 prior to implementation of any Information Technology (IT) Systems Secure Development and Testing Training.

33. Technology Access

When procuring a technology product or when soliciting the development of such a product for use by the State, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology used by the State unless that system meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS to the State of Arkansas through the procurement process by submission within thirty (30) days following the Contract Award Date of a Voluntary Product Accessibility Template (VPAT) or similar documentation to demonstrate compliance with 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications) that the technology provided to the State for purchase and use by the State is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

- Providing, to the extent required by Ark. Code Ann. § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means;
- Presenting information, including prompts used for interactive communications, in formats intended for non-visual use;
- After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;
- Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by non-visual means;
- Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;
- Integrating into networks used to share communications among employees, program participants, and the public; and
- Providing the capability of equivalent access by non-visual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

If the information technology product or system being offered by the Vendor for use by the State does not completely meet these standards, the Vendor must provide an explanation within the Voluntary Product Accessibility Template (VPAT) detailing the deviation from these standards.

State agencies cannot claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. If products are commercially available that meet some but not all of the standards, the agency must procure the product that best meets the standards or provide written documentation supporting selection of a different product.

For purposes of this section, the phrase "equivalent access" means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Act 308 of 2013, if equivalent

access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.

As provided in Act 308 of 2013, if the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

34. Employee Background Requirements

Contractor shall comply with Arkansas Code Annotated (A.C.A.) § 21-15-101 et seq., or any amendments thereto, which requires all employees of state agencies, in designated positions including those providing care, supervision, treatment or any other services to the elderly, mentally ill or developmentally disabled persons, to individuals with mental illnesses or to children who reside in any state-operated facility or a position in which the applicant or employee will have direct contact with a child, to have a criminal history check and a central registry check. Should an applicant or employee be found to have been convicted of a crime listed in A.C.A. § 21-15-101 et seq., that employee shall be prohibited from providing services in a designated position as defined by Arkansas law or being present at the facility. Should an applicant or employee be found to have been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreatment Central Registry, the Adult Abuse Central Registry, or the Certified Nursing Assistant/Employment Clearance Registry, the applicant/employee shall be immediately disqualified.

35. Prohibition against Contingent Fees

It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

36. Compliance with Department Policy Issuances

The Contractor agrees to deliver the services authorized by this contract or any attachment in accordance with all policies, manuals and other official issuances of the State of Arkansas and Department promulgated through the Administrative Procedure Act.

37. Relinquishment

The failure of the Department to insist upon the performance of any of the conditions in any one or more instances shall not be construed as a waiver or relinquishment of the future benefit of said condition.

38. Entire Contract

The parties acknowledge that each have read this Contract, understand it and agree to be bound by the terms. The parties further agree that this Contract is the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and that it supersedes all prior proposals, representations, arrangements, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof. This agreement, inclusive of RFP SP-13-0079 and any addendums (collectively, the "RFP"), and all responses by Optum Government Solutions, Inc. are specifically incorporated herein by reference. This Contract may not be modified, amended, or in any way altered except by a written agreement duly executed by the parties and approved in accordance with the laws and established procedures of the State of Arkansas. In the event of any conflict or inconsistency between the documents that comprise this Contract, the following order of precedence shall apply in descending order:

- (a) The RFP, (including, any amendments or addenda thereto), which shall prevail over
- (b) The Attachments, which shall prevail over
- (c) The General Terms and Conditions in this Addendum A, which shall prevail over
- (d) The Optum Proposal

39. Survival of Rights and Obligations

The right and obligations of the Parties under this Contract shall survive and continue after the ending or expiration of

the term of this Contract, and shall bind the parties, and their legal representatives, successors, heirs and assigns.

40. Notices

All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if mailed by first class mail, postage prepaid, to:

Optum Government Solutions, Inc.
Attention to: General Counsel
13625 Technology Drive
Eden Prairie, MN 55344

Notices to the Department should be mailed:

DHS, Division of Medical Services
Attention: Andrew Allison, PhD, DMS Director
P. O. Box 1437, Slot S401,
Little Rock, AR 72203-1437

41. Severability of Provisions

If any one or more of the covenants, agreements, provisions or terms of this Contract shall be for any reason whatsoever held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Contract and shall in no way affect the validity or enforceability of the other provisions of this Contract.

42. Certification Regarding Lobbying:

The Contractor will comply with Public Law 101-121, section 319 (section 1352 of Title 31 U.S.C.) for an award in excess of \$100,000.00 by certifying that appropriated federal funds have not been or will not be used to pay any person to influence or attempt to influence a federal official/employee in connection with the awarding of any federal contract, grant, loan or cooperative agreement.

If the Contractor has paid or will pay for lobbying using funds other than federal appropriated funds, Standard Form-LLL (Disclosure of Lobbying Activities) shall be completed and included as an attachment to this contract.

43. Certification Regarding Debarment

The Contractor, as a lower tier recipient of \$25,000.00 or more in federal funds, will comply with Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions). By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

- are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state agency
- where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions* without modification in all lower tier covered transactions.

Contractor certifies that the Contractor is in compliance with Public Law 101-121 (Certification Regarding Lobbying) and Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions):

44. Certification Regarding Employment Practices

Neither the Contractor nor its subcontractors shall discriminate against any employee or applicant for employment

because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. The Contractor must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. Such action shall include, but not be limited to, the following:

- Employment
- Promotion
- Demotion or transfer
- Recruitment or recruitment advertising
- Layoff or termination
- Rates of pay or other forms of compensation, and
- Selection for training, including apprenticeship.

Contractor certifies that neither the contractor nor its subcontractors shall discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, age (except as provided by law) or disability. Contractor must insure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, gender, national origin, age (except as provided by law) or disability. Such action shall include, but not be limited to, employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeships.

45. Governing Law

This Agreement shall be construed in accordance with the laws of the State of Arkansas. No amendment or variation of the terms of this agreement shall be valid unless made in writing and signed by a duly authorized representative of the Department, the Arkansas Office of State Procurement and Contractor. A waiver of any of the terms and conditions hereof shall not be construed as a general waiver by the either party to the terms and conditions of this Agreement.

We, the undersigned, so agree:

OPTUM GOVERNMENT SOLUTIONS, INC.

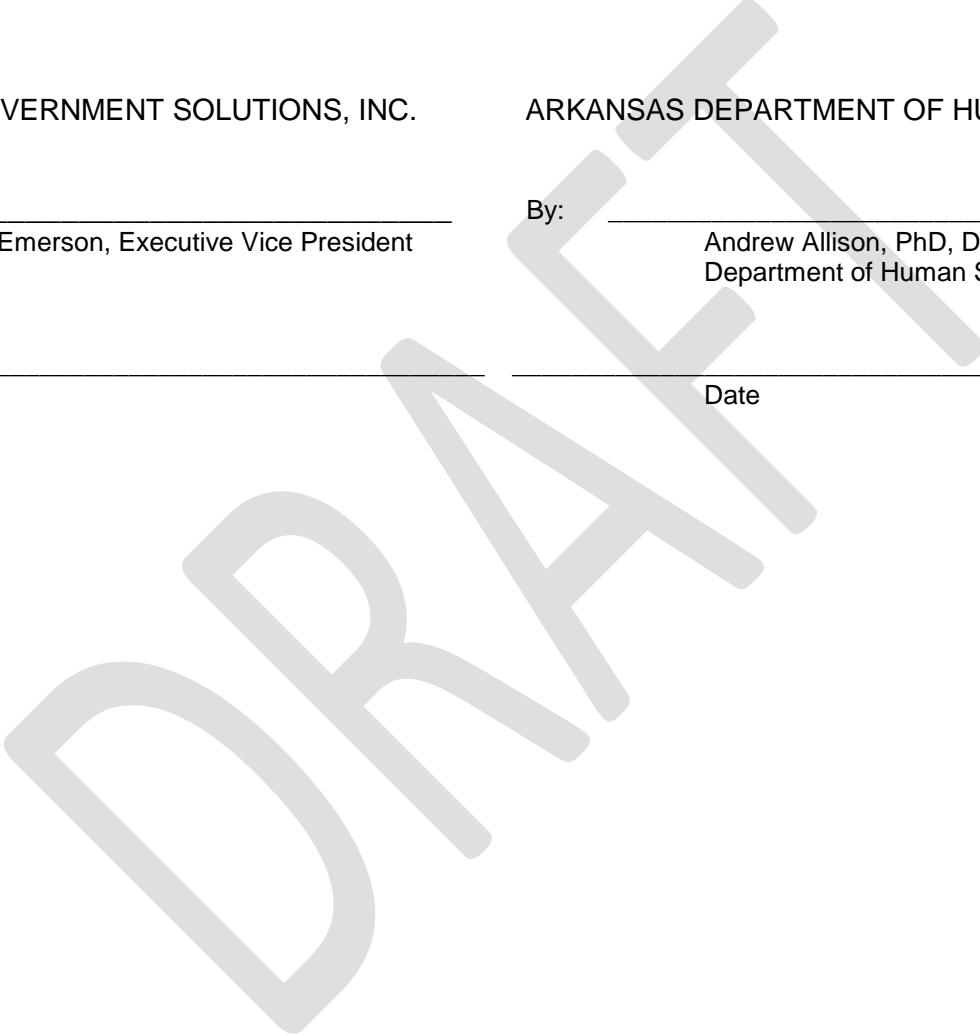
ARKANSAS DEPARTMENT OF HUMAN SERVICES

By: _____
Paul Emerson, Executive Vice President

By: _____
Andrew Allison, PhD, DMS Director
Department of Human Services

Date

Date



**ARKANSAS DEPARTMENT OF HUMAN SERVICES
PERFORMANCE-BASED CONTRACTING TERMS**

Pursuant to Ark. Code Ann. § 19-11-1010 et. seq., the selected contractor shall comply with performance-based standards. Following are the performance-based standards that will be a part of the contract and with which the contractor must comply for acceptable performance to occur under the contract.

- I. The contractor must comply with all statutes, regulations, codes, ordinances, and licensure or certification requirements applicable to the contractor or to the contractor's agents and employees, and to the subject matter of the contract. Failure to comply shall be deemed unacceptable performance.
- II. Subject to the statement of liability set forth in Section 1.16 of the RFP, except as otherwise required by law, the contractor agrees to hold the Division of Medical Services (DMS) harmless and to indemnify the contracting division for any additional costs actually incurred by the Contractor's failure to meet one or more of the Scope of Work requirements set forth in Optum Proposal Attachment G2 that supports the State's Medicaid goals and objectives, as well as any liability, including liability for the costs or fees, with DMS may sustain as a result of the contractor's performance or lack of performance that is not cured after receipt of written notice from the DMS and the passage of thirty (30) days.
- III. During the term of the contract, the division/office will complete sufficient performance evaluation (s) to determine if the contractor's performance is acceptable.
- IV. The following are the program deliverables and performance indicators, where the program deliverables and performance indicators are further subject to the terms and conditions set forth in Optum's Technical Proposal response to Attachment G1, table 16 of the RFP, a copy of which is attached to this Attachment 1 and made a part hereof:
- V. For purposes of this Contract, the parties acknowledge and agree that "response" from Optum to the RFP that is referenced as one of the documents comprising the contract in Addendum A, Section 38, shall mean Optum's Technical Proposal and Cost Proposal, each dated March 19, 2013 (the "Original Optum Proposal"), as amended and clarified by those changed pages to the Original Optum Proposal that are referenced in applicable Attachments comprising this Contract and attached to this Attachment 1 (the "Optum Proposal Clarifications"). For purposes of this Contract, the Original Optum Proposal, as amended and clarified by the Optum Proposal Clarifications are collectively referred to as the "Optum Proposal").

A. Program Deliverable: The Contractor must meet scope and timeline requirements.

1. Performance Indicator:

- a. The Contractor shall develop, implement, integrate, operate, maintain, and support a Decision Support System (DSS) that meets the following project phases, as defined in Optum Proposal Attachment G1 and Optum Proposal Attachment G2.

Development, Design, and Implementation (DDI)

- Phase I – Project Planning and Startup

- Phase II – Infrastructure, Development, Configuration, and Implementation
- Phase III – Operations Readiness, Production Cutover, and Facility Rollout

Operations

- Phase IV – Initial Operation (Legacy System Integration – Stage 1)
 - Phase V – Shared Services (Core Integration – Stage 2) Operations and Federal Certification
 - Phase VI – Turnover and Contract Closeout
- b. The Contractor shall support certification of the DSS as part of the MMIS certification process with the Centers for Medicare and Medicaid Services (CMS).
- c. The Contractor shall implement a DSS solution that supports the AME Medicaid Information Technology Architecture (MITA) objectives for Medicaid Business Process at Level 2 maturity.
- d. The Contractor shall work cooperatively with the State Project Management Office (PMO) contractor, the Core MMIS contractor and Pharmacy contractor to ensure an integrated and effective AME solution.
2. Acceptable Performance:
- a. The Contractor must meet the following critical implementation dates. The complete project phase timeline is defined in Attachment 4.
- The Contractor must integrate the DSS solution with the legacy MMIS twelve (12) months from Contract Start Date (Stage 1 Implementation).
 - The Contractor must integrate the DSS Solution with the Core MMIS thirty-six (36) months from Contract Start Date (Stage 2 Implementation).
- b. The Contractor must provide a Decision Support System and Services solution that has a true Service Oriented Architecture (SOA) platform that will bring the Contractor's DSS solution in compliance with the federal Enhanced Funding Requirements: Seven Conditions and Standards as published by CMS, with particular emphasis on the following:
- The Modularity Standard, which requires the use of a modular, flexible approach to systems development
 - The MITA Condition, which requires states to align to and increasingly advance in MITA maturity for business, architecture, and data
 - The Industry Standards Condition, which requires states to ensure alignment with, and incorporation of, industry standards
 - The Leverage Condition, which requires state solutions to promote sharing, leveraging, and reuse of Medicaid technologies and systems within and among states
 - The Business Results Condition, which requires that systems support accurate and timely processing of claims (including claims of eligibility), adjudications, and effective communications with providers, members, and the public at large
 - The Reporting Condition, which requires states to generate and analyze transaction data, reports, and performance metrics

- The Interoperability Condition, which requires that systems ensure seamless coordination, integration, and interoperability with the Health Insurance Exchange (HIX).
- c. The Contractor's solution must have the ability to interoperate with other health information technology (HIT) components, such as Health Information Exchanges (HIEs), electronic medical record (EMR) systems, and electronic health records (EHRs).
 - d. The Contractor is subject to all the terms and conditions of the contract, including terms for default, liability, remedies, ownership, and termination.
 - e. All Milestones required in Optum Proposal Attachment G1, Statement of Work, must be achieved on the dates specified in the Contractor's approved Work Breakdown Structure (WBS).
 - **Remedy:** Five hundred dollars (\$500) per Milestone for each State work day the Milestone is late or deemed unacceptable by DMS.

B. Program Deliverable: The Contractor shall meet DSS provider responsibilities.

1. Performance Indicator:

- a. The Contractor must deliver and adhere to a Division of Medical Services (DMS) Statement of Work (SOW) for the Development, Design, and Implementation (DDI) and Operations Phases of the project. The Decision Support Technical solution must consist of the following Project Components, as defined in Optum Proposal Attachment G1:

Shared Services

- i. General Technical Standards
- ii. Service Oriented Architecture
- iii. Records Retention and Data Management
- iv. Workflow Automation Tool
- v. Report Management Tool
- vi. Performance Management Tool
- vii. Security and Privacy
- viii. Rules Engine Concept

- b. The Contractor must deliver and adhere to the DMS Scope of Work for a DSS. The Decision Support Services solution must consist of the following Project Components, as defined in Optum Proposal Attachment G2:

Integration Services

- ix. Configuration Management
- x. Environmental Components
- xi. Network Components
- xii. Usability and Accessibility
- xiii. Technical Services and Coordination
- xiv. Training Management
- xv. Interface Components
- xvi. Electronic Documentation Component
- xvii. Rules Management Component

xviii. Performance Standards

Decision Support Services

- xix. Decision Support Component
- xx. Data Warehouse Component
- xxi. Business Intelligence and Query Tools
- xxii. Fraud Detection Component (Pre and Post Processing)
- xxiii. Management and Administrative Reporting (MAR)
- xxiv. Surveillance and Utilization Review (SUR)
- xxv. Federal Reporting

- c. The Contractor must deliver the following Program Integrity and Decision Support Services, as defined in Optum Proposal Attachment G2:

Program Integrity and Decision Support Services

- Decision Support Services
 - Claims Analysis
 - Pharmacy Audits
 - Provider Profiling
 - Review of Cases
 - Surveillance and Utilization Review
 - Fraud Detection
 - Management and Administration Reporting
 - Federal Reporting
- d. The Contractor and associated Subcontractor(s) must perform operations and maintenance activities in accordance with the HIPAA Security Rule.
- e. The Contractor must adhere to the federally mandated Medicaid Enterprise Certification Toolkit (MECT) v2.01 and the State's system requirements as defined in Optum Proposal Attachment G2.

2. Acceptable Performance:

- a. The Contractor must meet the Terms and Conditions defined in Addendum A.
- b. The Contractor must meet the Statement of Work and Scope of Work commitments made in its submitted technical proposal dated March 19, 2013. The Contractor must develop a Software Business Continuity Plan and Security Policies and Procedures that address the processes and controls to ensure HIPAA compliance. The software component must provide the functionality and safeguards required to meet the HIPAA requirements and the security requirements.
- c. The Contractor must meet the performance standards, including service level agreements and metrics, defined in Optum Proposal Attachment G1 and Optum Proposal Attachment G2.
- d. The Contractor must meet the Key Performance Indicators for each Decision Support Services function.
- e. The Contractor must meet the federally mandated MECTv2.01 requirements for the AME Decision Support Solution, such that DMS obtains CMS certification and

receives federal financial participation (FFP) as outlined in Optum Proposal Attachment G1.

- f. The Contractor must meet all federal regulations regarding standards for privacy, security, and individually identifiable Protected Health Information (PHI) as identified in the HIPAA of 1996 and updates to the Act known as HIPAA II.

Remedy: The Contractor shall be liable for all penalties that DMS is assessed for failure to meet HIPAA Compliance Requirements.

- g. The DSS solution achieves federal certification and continues to remain certifiable by the Contractor throughout the DSS Product's life cycle during the licensed contract period.

Remedy: The Contractor shall be liable for the difference between the maximum allowable FFP and that actually received by DMS for the assembly portion of the new Product Components, if CMS does not fully compensate DMS at the maximum allowable FFP rate for the Contractor's firm, fixed-price contract as delivered by the Contractor for reasons attributable to performance or nonperformance of the Contractor.

- h. The Contractor must maintain at all times and grant access to its project records upon request by State or federal government entities, as described in Addendum A. The Contractor must make requested project records available to DMS or federal government entities within three (3) State work days of request.

Remedy: Three hundred dollars (\$300) per request per State work day or any part of a State work day (past the allowable three (3) State work days) for failure to produce requested records. If, upon review, the records fail to comply with the request, the Contractor agrees to pay the same amount for each State work day or part of a State work day the Contractor fails to correct the records to the satisfaction of DMS.

- i. Ninety-eight percent (98%) of all State support calls in a calendar day shall have ring-answer contact (i.e., not receive a busy signal).

Remedy: Fifty dollars (\$50) per call over two percent (2%) of all calls in a calendar day receiving a busy signal.

- j. Every call with ring-answer contact (i.e., not receiving a busy signal) must be in the control of an authorized and trained specialist or technical services representative within thirty (30) seconds after initial contact is made.

Remedy: Fifty dollars (\$50) for each call that is not in the control of an authorized and trained specialist or technical services representative within thirty (30) seconds.

C. Program Deliverable: The DSS Contract Deliverable Requirements.

1. Performance Indicator:

- a. The Contractor must provide the DSS contract deliverables as defined in Optum Proposal Attachment G1, Section 7. Minimum requirements for each deliverable are defined in Optum Proposal Attachment G1, Sections 2–6. Deliverables must be provided for the following phases:
 - Project Initiation Deliverables
 - Project Management Office and Administration Deliverables
 - Phase I – Project Planning and Startup Deliverables
 - Phase II – Infrastructure and Development, Configuration, and Integration Deliverables
 - Phase III – Operations Readiness, Production Cutover, and Facilities Rollout Deliverables
 - Phase IV – Initial Operations Deliverables
 - Phase V – Operations and Federal Certification Deliverables
 - Phase VI – Turnover and Contract Closeout Deliverables
- b. The Contractor must provide the DSS contract deliverables according to the schedule in Attachment 4.

2. Acceptable Performance:

- a. The Contractor will report progress in developing and delivering Deliverables according to the approved Deliverables Schedule in the Status Reports: Operations Summary; Performance Summary; Enhancements Summary and Change Control Summary. The Contractor must provide a Monthly Status Report within five (5) State work days after the end of each calendar month.

Remedy: Two hundred fifty dollars (\$250) per State work day the Monthly Status Report is not received or is unacceptable to DMS.

- b. The Contractor must deliver to DMS all Deliverables required in Optum Proposal Attachment G1 in final form on the dates specified in Attachment 4. DMS shall review and provide final acceptance in written form of all Deliverables.

Remedy: Five hundred dollars (\$500) per Deliverable for each State work day the Deliverable is late or deemed unacceptable by DMS (excludes waived Deliverables determined in advance of start-date not subject to the standard reviews and rework cycle times by DMS and the Contractor due to volume, size, or complexity in subject matter or development)

- c. The Contractor must submit a Corrective Action Plan (CAP) to DMS within twenty-four (24) business hours from the time a Severity 2 defect is identified. All Defects identified within the Production Environment must have a CAP produced by the Contractor.

Remedy: Five hundred dollars (\$500) per every four (4) hours in a calendar day a CAP with clearly defined actionable steps is not provided.

- d. The Contractor must submit a completed Defect Analysis within four (4) hours from receipt of a Severity Level 1 Notice for any Defect in the DMS Production Environment that DMS deems to be Severity Level 1.
Remedy: Five hundred dollars (\$500) per four (4) hours in each calendar day a Defect Analysis is not provided to DMS.
- e. The Contractor must evaluate for reasonableness and complexity all DMS-requested Change Order due dates within three (3) State work days of receipt of the Change Order.
Remedy: Two hundred fifty dollars (\$250) per calendar day that the Contractor's response exceeds the defined time frame. The Contractor must complete the approved Change Order by the mutually agreed upon Effective Date 100% of the time.
Remedy: Two hundred fifty dollars (\$250) per calendar day the Commitment Date is delayed per Change Order.
- f. DMS and the Contractor will conduct regularly scheduled Score Card performance reviews.
Remedy: Two hundred fifty dollars (\$250) per calendar day the Contractor does not meet the schedule as mutually agreed upon with DMS.
- g. If the DMS Score Card reflects the Contractor's performance to be below the defined metrics or thresholds and not otherwise addressed in the contract provisions, the Contractor must submit to DMS a Score Card Corrective Action Plan (SCCAP) within five (5) State work days. DMS will review the CAP within five (5) State work days, and, upon request by DMS, the Contractor must modify the CAP within five (5) State work days.
Remedy: Five hundred dollars (\$500) per calendar day past the commitment date specified in the SCCAP that the deficiency is not corrected to the satisfaction of DMS.
- h. The Contractor must provide to DMS an electronic copy of all approved Documentation on a Contractor web site or a State designated electronic repository within ten (10) State work days after DMS approval of the initial Product or Product Changes.
- i. The Contractor must update all Documentation as required to ensure that Documentation is current when modification(s) have been made to the Product after the initial delivery.
- j. The Contractor must provide the required Documentation to DMS in the original formats within twenty (20) calendar days of final approval from DMS to fully implement the modification(s).
- k. The Contractor must provide an online (PDF) version of all Documentation and, upon request by DMS, one (1) printed hardcopy of Documentation.
- l. The Contractor must correct any Documentation (in whole or in part) not meeting DMS standards and resubmit to DMS for approval within fifteen (15) calendar days of the initial electronic copy transmittal date.

Remedy: Five hundred dollars (\$500) per State work day the Documentation is not submitted or is unacceptable to DMS (includes number of copies delivered, if less than the requested count, or in the incorrect format or media). Payments are assessed separately for each deliverable document that is out of compliance and each instance of the documentation (i.e., project portal, State portal, and backup and recovery site).

- m. Any publicity concerning this contract, including notices, information pamphlets, press releases, research, reports, signs, Web posting, and similar public notices prepared by or for the Contractor will contain a statement indicating sponsorship by the Contractor and DMS.

Remedy: The language of the statement will be specified by DMS after the contract is awarded. The Contractor must obtain prior written approval from DMS before issuing any new publicity associated with the contract. The payment will be twelve thousand, five hundred dollars (\$12,500) per incident in which DMS approval is not obtained.

D. Program Deliverable: The DSS Contractor Staffing Requirements.

1. Performance Indicator:

a. **DDI Staffing Requirements**

As a minimum requirement, the Contractor shall provide the following key personnel positions for the DDI period. Key personnel responsibilities and qualifications are defined in Attachment 10.

- a. Project/Account Manager (may be the same as in Operations)
- b. DDI Manager
- c. Technical Solution Manager
- d. Business Solution Manager
- e. Testing Manager
- f. Documentation/Training Manager
- g. Interface/Data Manager

The Contractor is encouraged to assign additional non-key personnel to perform services necessary to fulfill the requirements of the contract.

b. **Operations Staffing Requirements**

The Contractor shall provide the following key personnel positions for the Operations period. Key personnel responsibilities and qualifications are defined in Attachment 10.

- a. Project /Account Manager (may be the same as in DDI)
- b. Documentation/Training Manager (will transition from the DDI period)
- c. Additional positions within its proposed organizational structure, as nominated by the Contractor, that should be designated as key Operations personnel.

c. **Services Staffing Requirements**

The Contractor shall provide a Program Integrity and DSS Services staff with the minimum qualifications defined in Optum Proposal Attachment G2 and commitments made in its submitted technical proposal dated March 19, 2013

The Contractor may augment and propose a Services staffing model as an alternative to positions defined by DMS. Any recommendation must include defined requirements associated with the position. DMS must approve each position description prior to any individual being assigned to the position.

2. Acceptable Performance:

- a. The DDI Key Personnel shall configure and install the Contractor's DSS solution and ensure that the solution is fully capable of supporting operations.
- b. The Contractor must identify candidates to fill any Key Personnel positions within Operations at least ninety (90) days prior to commencement of operations (approximately the Contract Award Date plus nine (9) months).
- c. The Operations Key Personnel shall use the DSS solution provided through the DDI period to execute the day-to-day business activities required of their contract.
- d. The Contractor must maintain Key Personnel positions at all times for the following contract periods:
 - DDI
 - Project/Account Manager
 - DDI Manager
 - Technical Solution Manager
 - Business Solution Manager
 - Testing Manager
 - Documentation/Training Manager
 - Interface/Data Manager
 - Operations
 - Project /Account Manager
 - Documentation/Training Manager
- e. Positions that are designated as Key Personnel shall not remain vacant for more than thirty (30) calendar days. A temporary replacement acceptable to DMS must be named within five (5) calendar days of the date the Key Personnel position becomes vacant. A permanent replacement must be named within sixty (60) calendar days of the date the position becomes vacant.

Key Personnel positions shall not be filled with employees who are acting in a temporary capacity and also maintain responsibilities for another position for more than sixty (60) calendar days after the vacancy. No position may be filled with a temporary appointee for more than sixty (60) calendar days in any one (1) year period. This requirement does not relate to annual leave taken by Key Personnel.

Remedy: Five hundred dollars (\$500) per State work day up to thirty (30) calendar days and one thousand dollars (\$1,000) per State work day over 30 calendar days, starting two (2) weeks after the position becomes vacant and

continuing until filled by a temporary employee acceptable to DMS or sixty (60) calendar days after the date the temporary employee assumes the position and ending with the first date the position is filled with a permanent employee that has been approved by DMS. .

- f. The Contractor's Key Personnel must be available 8:00 a.m. to 6:00 p.m. Central time every State business day, with the exclusion of State-observed holidays and State-observed inclement weather closings during the Contractor's contract period (or as agreed upon with DMS in advance for Key Personnel schedule changes or commitments).

Remedy: One hundred dollars (\$100) per hour after four (4) hours of no Contractor Key Personnel contact electronically, in writing or by phone.

- g. The Contractor must request and receive written approval from DMS for all Key Personnel changes.
- h. As a minimum requirement, the Contractor shall provide an Operations staff, as requested in Attachment 10 and Optum Proposal Attachment G2.
- i. The Contractor must maintain the minimum number and levels of qualified Product and Project staff specified in the contract, and in all other respects meet the Product and Project staffing requirements of the Project Organization and Personnel Plan and WBS.

Remedy: The Contractor's staffing levels are subject to State audit at any time during the contract. If the audit reveals staffing levels more than five percent (5%) below the requirements of the contract for a staffing category, payment to the Contractor shall be reduced by the number of FTE vacant positions in the staffing category multiplied by the effective rate of pay for those FTEs.

E. Program Deliverable: The Contractor Shall meet facilities requirements.

1. Performance Indicator:

- d. The Contractor must take responsibility, ownership, and control of three distinct facilities:
 - i. Data Center – Computing Environment
 - ii. DSS DDI Project Office
 - iii. Operations (Business Services) Facility

Data Center – Computing Environment

The Contractor must provide a data center with a computing environment operating at a commercially available grade as defined in Optum Proposal Attachment G1. The Data Center must leverage the existing assets of the Contractor or the Contractor's preferred third-party relationships.

The Contractor must provide diagrams for each computing environments, either physical or virtual architectures, it deems necessary to permit project life cycles and the demands or instances of environmental configurations, including training that may exist to support the development, configuration, testing, integration, and production go-live project events. The applicable computing environments are defined in Optum Proposal Attachment G1.

DSS DDI Project Office

The DDI Project Office must accommodate the workspace requirements for DMS staff, PMO, and IV&V contracted staff. These requirements are in addition to any facility and staffing needs of the Contractor. The workspace and technical requirements are defined in Optum Proposal Attachment G1.

The DDI Project Office must be located within five (5) miles of 700 Main Street, Little Rock, Arkansas.

The Contractor must provide a local temporary work space for itself until the permanent DDI Project office is operational.

Operations (Business Services) Facility

The Contractor's Operations (Business Services) Facility must interoperate with DMS' technical infrastructure, regardless of the facility's physical location within or outside the state of Arkansas.

The Operations Facility must contain the business services provided by the Contractor's Key Personnel, Product and Project staff, and other FTEs.

The Contractor must provide a Bill of Materials (BOM) of recommended State-owned and operated operations equipment and the peripheral hardware and software (e.g., desktop and laptop computers, monitors, printers, scanners) for use by the Stakeholders when minimum installation is required.

The Contractor must meet the additional Operations Facility requirements defined in Optum Proposal Attachment G1.

2. Acceptable Performance:
 - a. The Contractor must provide the documented statements of the Data Center's ability to provide the following capabilities and assurances:
 - SSAE 16 Type II Audits (Statement on Standards for Attestation Engagements)
 - Information Technology Infrastructure Library (ITILv3) Best Practice Standards
 - Service Level Agreements (SLAs)
 - b. The DDI Project Office must be operational sixty (60) calendar days after the Contract Execution Date and remain open until six (6) weeks after the System Implementation Date (Stage 1), according to the project milestone schedule.
 - c. The DDI Project Administrative Office hours must be from 7:30 a.m. to 5:00 p.m. Central time.
 - d. The Operations Facility must reside within the continental United States, Alaska, or Hawaii.
 - e. The Contractor must provide all remote facility infrastructure and communications and collaboration products and services needed to interoperate with DMS' infrastructure during the contract period.
 - f. The Contractor must notify DMS of all remote site infrastructure downtime. Planned downtime will be provided in writing to DMS five (5) State work days in advance. Unplanned downtime will be provided in writing to DMS no later than thirty (30) minutes after the event occurs at the Contractor's remote facility.

Remedy: Two hundred fifty dollars (\$250) per failure for planned downtime. Five hundred dollars (\$500) per failure for unplanned downtime.

V. REMEDIES FOR UNACCEPTABLE PERFORMANCE

Acceptable performance of all provisions and performance indicators in this contract shall be determined in the sole discretion of the contracting division. In addition to other remedies identified herein, one or more of the following remedies may be imposed for unacceptable performance of a provision or performance indicator:

1. Contractor will be required to submit and implement an acceptable corrective action plan. Payment may be delayed pending satisfactory implementation of the plan.
2. Payment may be withheld or reduced.
3. The Contract may be terminated.

The remedies listed above are in addition to all others available at law or equity.

Exhibit to Attachment 1, Performance Indicators

Changed Pages to Optum's Technical Proposal Dated March 19, 2013

For those items noted below from Optum's Technical Proposal dated March 19, 2013 ("Optum's Original Technical Proposal") and more specifically found in Attachment G2, Section 3 of such Technical Proposal, based on the Questions and Answers issued by the State prior to bid opening, the State agreed it would discuss and clarify various points as part of contract negotiations. The changes to the indicated page and Section of Optum's Original Technical Proposal are noted below and supersede the corresponding portions from Optum's Original Technical Proposal

P.546, Optum Original Response, together with clarifications that show as Track Changes:

We respond to each of the Table 17 pharmacy audit requirements in the remainder of this section.

Table 17 Pharmacy Audits Responsibilities – Contractor

Pharmacy Audits Responsibilities – Contractor	
Identifier	Description
AU1.1	Perform audits. Preliminary audit findings will be communicated to the State by the contractor. The State PI unit will communicate final audit findings to the provider.

CONFIDENTIAL

Optum will comply with this requirement using our subcontractor National Audit who will provide a pharmacist licensed in Arkansas, pharmacy technicians and business analysts. The Pharmacist's name is Ms. Summer Moody, PharmD, J.D. and she has practiced in Arkansas for more than 15 years. She also holds a Juris Doctor degree from the University of Arkansas. Her resume is provided in Attachment A, Key Personnel Requirements.

Pharmacy Audit Process

CONFIDENTIAL

It is our understanding that the Arkansas Pharmacy Audit team is expected to conduct an audit of all 840 enrolled pharmacies each year through a combination of automated recoupment, desk reviews and onsite visits. During the question and answer process, The State indicated it would assign 200-250 audits per year and that it anticipated as onsite and 20-25 desk audits per month. ~~We also understand that the~~ The AME allows is open to considering the use of stratified corporate sampling to maximize benefits and reduce cost and time for reviewing the ten major chains in the State (chains include those pharmacy Providers with multiple locations and that use a similar corporate billing system and software) as well as any other group of pharmacies falling within the definition of a "chain". For purposes of this Proposal, the term "chain" shall mean a group of four (4) or more pharmacies that are all under the same ownership and all has the same name and tax identification number.

Optum will work with the PIU to make sure that all audits deliver what the State desires. For example, auditing every single pharmacy provider costs more, and is more a form of pharmacy monitoring because the findings in a routine audit do not necessarily result in high recoveries. If

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the PI goal is to recover as much improperly paid money as possible, there are specific audit sampling strategies and specialized analytics that we will suggest to maximize those opportunities.

Before any audits begin, regardless of being onsite or by desk audit, we will first meet with the PIU to obtain and validate all contact protocols. This will include using AME PIU letterhead or our own, setting up letter templates, defining preferred and required language in all letters, obtaining all Arkansas required legal rights statements, appropriate Arkansas administrative code citations, and all other messaging and procedural instruction the PIU requires. We will then present the PIU with a written manual adapted to the State which we will use to comply with the requirements.

DRAFT

P. 548:

Pharmacy Audits Responsibilities – Contractor	
Identifier	Description
AU1.2	Perform pharmacy audit functions to include, but not be limited to, policy issues as Usual and Customary and NDC miss-bill.

CONFIDENTIAL

Optum acknowledges and will comply with this requirement. Based on clarification provided by the State during the question and answer process, we understand that in addition to using the results from SURS, Fraud Analytics, and referrals from the PIU, we will conduct an audit of every provider once per year. This involves an audit of all 840 enrolled pharmacies each year through a combination of automated recoupment, desk reviews and onsite visits. The State further clarified during the question and answer process that it would assign 200-250 onsite audits per year and 20-25 desk audits per month. ~~We also understand that the State is open to considering~~The AME allows the use of stratified corporate sampling to maximize benefits and reduce cost and time for reviewing the ten major chains in the State.

The pharmacy providers will be thoroughly audited to identify all potential problem areas as well as suspect areas detected in an analytic or complaint referral. We use a number of algorithms to detect usual and customary and NDC miss-billings. At the present time, Optum is successfully providing this functionality to Medicaid PI Units in Washington State (where Optum also provides detection assistance in addition to our FADS), Iowa (where Optum is the outsourced PI Unit and uses our FADS and other Optum tools), New Jersey, Missouri, Colorado, New Mexico, Montana, Wyoming, and the District of Columbia.

P. 549:

3.1.1.1 Key Performance Indicators - Pharmacy Audits

Table 18 Key Performance Indicators - Pharmacy Audits

Key Performance Indicators - Pharmacy Audits	
Identifier	Description
AU2.1	Complete one quarter of the Pharmacy Provider audits each three month period of the year.

CONFIDENTIAL

Optum acknowledges and will comply with this requirement. It is our understanding that the Arkansas Pharmacy Audit team is expected to conduct an audit of all 840 enrolled pharmacies each year through a combination of automated recoupment, desk reviews and onsite visits. During the question and answer process, the State clarified that it would assign 200-250 onsite audits per year and 20-25 desk audits per month. ~~We also understand that t~~The AME [allows is open to considering](#) the use of stratified corporate sampling to maximize benefits and reduce cost and time for reviewing the ten major chains in the State. The State requirements have defined our pricing to meet these requirements as listed.

P. 566:

Provider Profiling Responsibilities – Contractor	
Identifier	Description
PP1.11.2	The Contractor is responsible for visiting pharmacy Provider site to conduct reviews of pharmacy records.

CONFIDENTIAL

Optum acknowledges and will comply with this requirement. As described in Proposal Section 3.1.3, Pharmacy Audits, Optum agrees that we will be responsible for visiting pharmacy provider sites to conduct reviews of pharmacy records. Based on our experience, the State's requirements and the number of pharmacies to be audited, will have staffed the pharmacy auditing group with one Arkansas-licensed ds Pharm D and fourfive certified pharmacy technicians supporting. We are committed to this level of staffing, and can adjust it based on the demand and number of required audits.

DRAFT

P. 588:

Key Performance Indicators - Review of Cases	
Identifier	Description
DRC3.2	<p>In each Contract year, recover no less than 350% of the total State cost of SURS and Provider review activities including the following:</p> <ol style="list-style-type: none">1. Measurable and quantifiable recoveries, which are actual recoupment's made and money received.2. Avoided costs, which are those expenses eliminated or reduced as reducing future costs of the Medicaid program (such as identifying a AME Core System edit that will reduce costs of Medicaid claims).3. Enhanced revenues that are additional recoveries that the SURS staff identified, including those funds that are included in pending appeal hearings at any point in time. <p>This KPI is measured across two (2) consecutive contract years. If the Contractor fails to meet this KPI the State will take appropriate action to remedy the deficiency. State actions may result in termination of the contract.</p>

CONFIDENTIAL

Optum understands and will comply with this requirement. Optum will project and document the accurate ROI from our SURS module of our FADS component and audit activities. We conduct PI for Iowa Medicaid and provide a methodology for projecting ROI that has been reviewed by CMS as compliant. It is our understanding that this key performance indicator that measures 350% of the total State cost of SURS and Provider review activities:

- Includes all identified amounts made by Optum, sent to the State and reduced to a written demand by the State to a Provider, pharmacy, supplier, member, or other responsible person or entity as a result of Optum's direct or indirect efforts in its SURS, Provider review, and other fraud, waste and abuse activities pursuant to the Contract actual recoveries identified through the SURS and provider review activities for and recovered by the Arkansas PI Unit
- Includes cost avoidance computations
- Assumes that all pharmacy(ies) reviewed by other contractors and agencies will relieve Optum of any requirement to conduct an annual review of the reviewed pharmacy(ies), and that all identifications made by the other contractor or agency and reduced to a written demand as a result of these reviews will count toward the 350% requirement. Requires recovery of 350 percent of the State Cost of the Contractor's SURS and provider review costs incurred through this contract

P. 604:

Key Performance Indicators – Surveillance and Utilization Review	
Identifier	Description
PIU1.7	Produce a written framework within ninety (90) calendar days of Contract Start Date for the State's participation in the CMS Medicare/Medicaid project to include written protocols for identifying Providers, claims, and overpayments.

Optum acknowledges and will comply with this requirement. Optum will produce a written framework within 90 calendar days of Contract Start Date for the State's participation in the CMS Medicare/Medicaid project to include written protocols for identifying providers, claims, and overpayments, [as well as coordinating review and audit activities with the AME and other state and federal agencies and contractors as appropriate.](#)

DRAFT

Replacement Summary Price Sheet

Design Development and Implementation (DDI)									
DDI - Deliverables	Total	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
Phase I	\$ 1,525,000.00	\$ 1,525,000.00	\$ -						
Phase II	\$ 5,069,585.00	\$ 3,802,188.00	\$ 1,267,397.00						
Phase III	\$ 1,524,997.00	\$ -	\$ 1,524,997.00						
Subtotal	\$ 8,119,582.00	\$ 5,327,188.00	\$ 2,792,394.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
DDI - Facilities	Total	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
Development Facility	\$ 239,509.20	\$ 99,795.50	\$ 139,713.70						
Data Center (Vendor Facility)	\$ 507,899.11	\$ 211,087.31	\$ 296,811.80						
Installation/Configuration Costs	\$ 33,938.53	\$ 33,938.53	\$ -						
Facility Build-Out	\$ 248,143.35	\$ 103,393.06	\$ 144,750.29						
Subtotal	\$ 1,029,490.19	\$ 448,214.40	\$ 581,275.79	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Hardware	Total	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
Total Cost	\$ -								
Maintenance Fee	\$ -								
Subtotal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Software	Total	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
Total Cost	\$ 2,746,731.82	\$ 2,677,117.82	\$ 69,614.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Maintenance Fee	\$ 9,978,366.01	\$ 1,074,019.74	\$ 1,517,744.41	\$ 1,589,102.83	\$ 1,654,812.92	\$ 1,697,360.26	\$ 1,762,101.68	\$ 683,224.16	\$ -
Maintenance Fee Paid in Advance for 2021	\$ 1,030,019.23							\$ 1,030,019.23	
Subtotal	\$ 13,755,117.06	\$ 3,751,137.56	\$ 1,587,358.41	\$ 1,589,102.83	\$ 1,654,812.92	\$ 1,697,360.26	\$ 1,762,101.68	\$ 1,713,243.39	\$ -
Total DDI Cost	\$ 22,904,189.25	\$ 9,526,539.96	\$ 4,961,028.20	\$ 1,589,102.83	\$ 1,654,812.92	\$ 1,697,360.26	\$ 1,762,101.68	\$ 1,713,243.39	\$ -
Operations									
	TOTAL	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
Deliverables	\$ 123,648.00	\$ -	\$ -	\$ -	\$ -	\$ 123,648.00	\$ -	\$ -	\$ -
Operations beginning before Month 36									
Facilities	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Professional Services	\$ 4,530,887.31	\$ -	\$ -	\$ 4,530,887.31	\$ -	\$ -	\$ -	\$ -	\$ -
Operations beginning in Month 36									
Facilities	\$ 5,675,090.25	\$ -	\$ 443,666.78	\$ 1,089,091.44	\$ 1,048,788.68	\$ 976,962.83	\$ 1,040,620.57	\$ 1,075,959.95	\$ -
Professional Services	\$ 24,939,627.37	\$ -	\$ 1,919,234.05	\$ 4,526,670.99	\$ 4,503,786.30	\$ 4,547,690.96	\$ 4,662,355.57	\$ 4,779,889.49	\$ -
Subtotal	\$ 35,269,252.93	\$ -	\$ 2,362,900.84	\$ 10,146,649.74	\$ 5,552,574.98	\$ 5,648,301.79	\$ 5,702,976.14	\$ 5,855,849.44	\$ -
Total Operations Cost	\$ 35,269,252.93	\$ -	\$ 2,362,900.84	\$ 10,146,649.74	\$ 5,552,574.98	\$ 5,648,301.79	\$ 5,702,976.14	\$ 5,855,849.44	\$ -
Total Cost (DDI + Operations)	\$ 58,173,442.18	\$ 9,526,539.96	\$ 7,323,929.03	\$ 11,735,752.57	\$ 7,207,387.91	\$ 7,345,662.05	\$ 7,465,077.83	\$ 7,569,092.83	\$ -
Total price for Proposal Evaluation*	\$	52,898,124.82							

Note - For evaluation purposes, the State will deduct all pricing related to operations beginning before Month 36 of the contract, build out costs for the DDI facility, and build out costs for the operations facility from the total price. These will be added back into the contract of the winning bidder.

Replacement Deliverables Price Sheet

PHASE I – PROJECT PLANNING										
Number	Deliverable	Total Cost	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
1	Project Facility Plan - Data Center	\$ 30,500.00	\$ 30,500							
2	Infrastructure Assets Inventory	\$ 30,500.00	\$ 30,500							
3	Computing Environment Plan	\$ 30,500.00	\$ 30,500							
4	Project Facility Plan - DDI Project Office	\$ 30,500.00	\$ 30,500							
5	Project Facility Plan - Operations	\$ 30,500.00	\$ 30,500							
6	Project Management Plan	\$ 305,000.00	\$ 305,000							
7	Incoming Orientation Plan	\$ 61,000.00	\$ 61,000							
8	Requirements Traceability Matrix (RTM)	\$ 91,500.00	\$ 91,500							
9	Training Master Plan	\$ 106,750.00	\$ 106,750							
10	Staffing Master Plan	\$ 30,500.00	\$ 30,500							
11	Performance Management Plan	\$ 76,250.00	\$ 76,250							
12	Data Center Computing Environment Specifications Plan	\$ 76,250.00	\$ 76,250							
13	Systems Engineering Management Plan (SEMP)	\$ 76,250.00	\$ 76,250							
14	Test and Evaluation Management Plan (TEMP)	\$ 106,750.00	\$ 106,750							
15	Technical Architecture Specifications	\$ 106,750.00	\$ 106,750							
16	Information Architecture Specifications	\$ 106,750.00	\$ 106,750							
17	Business Architecture Specifications	\$ 152,500.00	\$ 152,500							
18	Phase 1 Completion Report	\$ 76,250.00	\$ 76,250							
Phase I Subtotal		\$ 1,525,000.00	\$ 1,525,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Phase II - DEVELOPMENT, CONFIGURATION, AND UAT TEST										
Number	Deliverable	Total Cost	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
19	Technical Architecture	\$ 1,013,917.00	\$ 1,013,917	\$ -						
20	Information Architecture	\$ 1,774,354.00	\$ 1,774,354	\$ -						
21	Business Architecture	\$ 1,013,917.00	\$ 1,013,917	\$ -						
22	End-to-End Integration Test	\$ 760,438.00	\$ -	\$ 760,438						
23	User Acceptance Test	\$ 506,959.00	\$ -	\$ 506,959						
Phase II Subtotal		\$ 5,069,585.00	\$ 3,802,188.00	\$ 1,267,397.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Phase III Operations Readiness, Production Cutover, and Facilities Rollout										
Number	Deliverable	Total Cost	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
24	Implementation Master Plan	\$ 304,999.00	\$ -	\$ 304,999						
25	Detailed Training Plan	\$ 76,250.00	\$ -	\$ 76,250						
26	Detailed Data Conversion Plan	\$ 304,999.00	\$ -	\$ 304,999						
27	Detailed End-to-End Integraion	\$ 152,500.00	\$ -	\$ 152,500						
28	Detailed User Acceptance Test Plan	\$ 304,999.00	\$ -	\$ 304,999						
29	Detailed Performance Management Plan (Operations)	\$ 152,500.00	\$ -	\$ 152,500						
30	Detailed Operations Readiness Review Plan	\$ 152,500.00	\$ -	\$ 152,500						
31	Operations Readiness Report and State Approvals	\$ 45,750.00	\$ -	\$ 45,750						
32	Final Acceptance Certification	\$ 30,500.00	\$ -	\$ 30,500						
Phase III Subtotal		\$ 1,524,997.00	\$ -	\$ 1,524,997.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Phase IV Operations and CMS Certification										
Number	Deliverable	Total Cost	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
33	Federal Certification Review Package	\$ 123,648.00	\$ -				\$ 123,648.00			
Phase IV Subtotal		\$ 123,648.00	\$ -	\$ -	\$ -	\$ -	\$ 123,648.00	\$ -	\$ -	\$ -
Phase V Turnover (Contract Closeout)										
Number	Deliverable	Total Cost	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
34	Turnover Plan - Detailed Planning	\$ -								
35	Turnover Management and Status Reporting	\$ -								
36	Turnover Deliverables and Archive Complete	\$ -								
37	Turnover Final Status Report	\$ -								
Phase V Subtotal		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Deliverables Total		\$ 8,243,230.00	\$ 5,327,188.00	\$ 2,792,394.00	\$ -	\$ -	\$ 123,648.00	\$ -	\$ -	\$ -

Replacement Development Facility Price Sheet

Item Number	Description	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021	TOTAL
DEV.1	Development Facility	\$ 99,795.50	\$ 139,713.70							\$ 239,509.20
DEV.3	Data Center (Vendor Facility)	\$ 211,087.31	\$ 296,811.80							\$ 507,899.11
DEV.4	Installation/Configuration Costs	\$ 33,938.53	\$ -							\$ 33,938.53
DEV.4.1	Facility Build-Out	\$ 103,393.06	\$ 144,750.29							\$ 248,143.35
Total by SFY		\$ 448,214.40	\$ 581,275.79	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,029,490.19

Replacement Hardware Price Sheet																					
CI	Hardware Product	Number of Licenses	COTS or Proprietary	Total Cost	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021	Total Cost	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021
Number					Purchase Cost							Annual Maintenance Fee*									
	Included with the hosting			\$ -									\$ -								
5				\$ -									\$ -								
6				\$ -									\$ -								
7				\$ -									\$ -								
8				\$ -									\$ -								
9				\$ -									\$ -								
10				\$ -									\$ -								
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44			Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
45																					

Invoice Milestone Price Sheet

Number	Estimated Invoice Date*	Total Invoice Amount	DDI - Deliverables	DDI - Facilities	Software Purchase	Software Maintenance	Professional Services	Facilities	Professional Services
61	5/31/18	\$ 460,387.82	\$ -		\$ -	\$ -	\$ 378,974.25	\$ 81,413.57	\$ -
62	6/30/18	\$ 460,387.82	\$ -		\$ -	\$ -	\$ 378,974.25	\$ 81,413.57	\$ -
	Total FY 2018	\$ 7,345,662.05	\$ 123,648.00	\$ -	\$ -	\$ 1,697,360.26	\$ 4,547,690.96	\$ 976,962.83	\$ -
63	7/31/18	\$ 475,248.01	\$ -	\$ -	\$ -		\$ 388,529.63	\$ 86,718.38	\$ -
64	8/31/18	\$ 475,248.01	\$ -	\$ -	\$ -	\$ -	\$ 388,529.63	\$ 86,718.38	\$ -
65	9/30/18	\$ 475,248.01	\$ -	\$ -	\$ -	\$ -	\$ 388,529.63	\$ 86,718.38	\$ -
66	10/31/18	\$ 475,248.01	\$ -	\$ -	\$ -	\$ -	\$ 388,529.63	\$ 86,718.38	\$ -
67	11/31/18	\$ 475,248.01	\$ -	\$ -	\$ -	\$ -	\$ 388,529.63	\$ 86,718.38	\$ -
68	12/31/18	\$ 490,461.77	\$ -	\$ -	\$ -	\$ 15,213.76	\$ 388,529.63	\$ 86,718.38	\$ -
69	1/31/19	\$ 475,248.01	\$ -	\$ -	\$ -	\$ -	\$ 388,529.63	\$ 86,718.38	\$ -
70	2/28/19	\$ 850,565.78	\$ -	\$ -	\$ -	\$ 375,317.77	\$ 388,529.63	\$ 86,718.38	\$ -
71	3/31/19	\$ 1,846,818.16	\$ -	\$ -	\$ -	\$ 1,371,570.15	\$ 388,529.63	\$ 86,718.38	\$ -
72	4/30/19	\$ 475,248.01	\$ -	\$ -	\$ -	\$ -	\$ 388,529.63	\$ 86,718.38	\$ -
73	5/31/19	\$ 475,248.01	\$ -	\$ -	\$ -	\$ -	\$ 388,529.63	\$ 86,718.38	\$ -
74	6/30/19	\$ 475,248.01	\$ -	\$ -	\$ -	\$ -	\$ 388,529.63	\$ 86,718.38	\$ -
	Total FY 2019	\$ 7,465,077.82	\$ -	\$ -	\$ -	\$ 1,762,101.68	\$ 4,662,355.57	\$ 1,040,620.57	\$ -
75	7/31/19	\$ 487,987.45	\$ -	\$ -	\$ -		\$ 398,324.12	\$ 89,663.33	\$ -
76	8/31/19	\$ 487,987.45	\$ -	\$ -	\$ -	\$ -	\$ 398,324.12	\$ 89,663.33	\$ -
77	9/30/19	\$ 487,987.45	\$ -	\$ -	\$ -	\$ -	\$ 398,324.12	\$ 89,663.33	\$ -
78	10/31/19	\$ 487,987.45	\$ -	\$ -	\$ -	\$ -	\$ 398,324.12	\$ 89,663.33	\$ -
79	11/30/19	\$ 487,987.45	\$ -	\$ -	\$ -	\$ -	\$ 398,324.12	\$ 89,663.33	\$ -
80	12/31/19	\$ 503,657.62	\$ -	\$ -	\$ -	\$ 15,670.17	\$ 398,324.12	\$ 89,663.33	\$ -
81	1/31/20	\$ 487,987.45	\$ -	\$ -	\$ -		\$ 398,324.12	\$ 89,663.33	\$ -
82	2/29/20	\$ 875,159.44	\$ -	\$ -	\$ -	\$ 387,171.99	\$ 398,324.12	\$ 89,663.33	\$ -
83	3/31/20	\$ 1,798,388.67	\$ -	\$ -	\$ -	\$ 1,310,401.22	\$ 398,324.12	\$ 89,663.33	\$ -
84	4/30/20	\$ 487,987.45	\$ -	\$ -	\$ -	\$ -	\$ 398,324.12	\$ 89,663.33	\$ -
85	5/31/20	\$ 487,987.45	\$ -	\$ -	\$ -	\$ -	\$ 398,324.12	\$ 89,663.33	\$ -
86	6/30/20	\$ 487,987.45	\$ -	\$ -	\$ -	\$ -	\$ 398,324.12	\$ 89,663.33	\$ -
	Total FY 2020	\$ 7,569,092.82	\$ -	\$ -	\$ -	\$ 1,713,243.38	\$ 4,779,889.49	\$ 1,075,959.95	\$ -
	Total Contract	\$ 58,173,442.17	\$ 8,243,230.00	\$ 1,029,490.19	\$ 2,746,731.82	\$ 11,008,385.22	\$ 24,939,627.37	\$ 5,675,090.25	\$ 4,530,887.31

"The "Contract Start Date" shall be the effective date of the Contract; i.e., the Contract has been fully executed by both parties, CMS approval has been obtained and the State has issued Contractor a Purchase Order. For purposes of this Invoice Milestone Pricing Sheet, the Contract Start Date is assumed to be December 3, 2013. Actual invoice date is date deliverable or service being invoiced is accepted.

Replacement Labor Rates Price Sheet

Item Number	Labor Category	Hourly Rate						
		Base Year	Renewal Year 1	Renewal Year 2	Renewal Year 3	Renewal Year 4	Renewal Year 5	Renewal Year 6
1	Analytic Developer	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
2	Audit Manager	\$ 152.86	\$ 157.45	\$ 162.17	\$ 167.04	\$ 172.05	\$ 177.21	\$ 182.53
3	Business Analyst/QA	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
4	CPA	\$ 110.00	\$ 113.30	\$ 116.70	\$ 120.20	\$ 123.81	\$ 127.52	\$ 131.35
5	DBA	\$ 152.86	\$ 157.45	\$ 162.17	\$ 167.04	\$ 172.05	\$ 177.21	\$ 182.53
6	ETL Specialist	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
7	Java Developer	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
8	Metadata/Documentation Specialist	\$ 110.00	\$ 113.30	\$ 116.70	\$ 120.20	\$ 123.81	\$ 127.52	\$ 131.35
9	Pharmacist	\$ 175.00	\$ 180.25	\$ 185.66	\$ 191.23	\$ 196.97	\$ 202.88	\$ 208.97
10	Policy SME	\$ 88.57	\$ 91.23	\$ 93.97	\$ 96.79	\$ 99.69	\$ 102.68	\$ 105.76
11	Prepayment Modeler	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
12	Prepayment Modeling Lead	\$ 152.86	\$ 157.45	\$ 162.17	\$ 167.04	\$ 172.05	\$ 177.21	\$ 182.53
13	Prepayment Technical SME	\$ 190.00	\$ 195.70	\$ 201.57	\$ 207.62	\$ 213.85	\$ 220.27	\$ 226.88
14	Product Analyst/SME	\$ 152.86	\$ 157.45	\$ 162.17	\$ 167.04	\$ 172.05	\$ 177.21	\$ 182.53
15	Product Manager	\$ 152.86	\$ 157.45	\$ 162.17	\$ 167.04	\$ 172.05	\$ 177.21	\$ 182.53
16	Program Manager	\$ 190.00	\$ 195.70	\$ 201.57	\$ 207.62	\$ 213.85	\$ 220.27	\$ 226.88
17	Project Manager	\$ 152.86	\$ 157.45	\$ 162.17	\$ 167.04	\$ 172.05	\$ 177.21	\$ 182.53
18	Report Specialist	\$ 110.00	\$ 113.30	\$ 116.70	\$ 120.20	\$ 123.81	\$ 127.52	\$ 131.35
19	Reviewer Trainer	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
20	Rule Developer	\$ 88.57	\$ 91.23	\$ 93.97	\$ 96.79	\$ 99.69	\$ 102.68	\$ 105.76
21	Rules Lead	\$ 152.86	\$ 157.45	\$ 162.17	\$ 167.04	\$ 172.05	\$ 177.21	\$ 182.53
22	SME	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
23	Software Engineer	\$ 110.00	\$ 113.30	\$ 116.70	\$ 120.20	\$ 123.81	\$ 127.52	\$ 131.35
24	Support Analyst	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
25	Technical Lead	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
26	Technical Support Analyst	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
27	Technician	\$ 110.00	\$ 113.30	\$ 116.70	\$ 120.20	\$ 123.81	\$ 127.52	\$ 131.35
28	Testing Analyst	\$ 128.57	\$ 132.43	\$ 136.40	\$ 140.49	\$ 144.70	\$ 149.04	\$ 153.51
29	Training Specialist	\$ 88.57	\$ 91.23	\$ 93.97	\$ 96.79	\$ 99.69	\$ 102.68	\$ 105.76
30								
31								
32								
33								

DDI Invoice Milestone Price Sheet

PHASE I – PROJECT PLANNING					
Number	Deliverable	Milestone Amount	Estimated Milestone Date	Invoice Amount	Estimated Invoice Date
1	Project Facility Plan - Data Center	\$ 30,500.00	3/26/14		
2	Infrastructure Assets Inventory	\$ 30,500.00	3/19/14		
3	Computing Environment Plan	\$ 30,500.00	3/26/14		
4	Project Facility Plan - DDI Project Office	\$ 30,500.00	3/26/14		
5	Project Facility Plan - Operations	\$ 30,500.00	3/12/14		
6	Project Management Plan	\$ 305,000.00	3/26/14		
7	Incoming Orientation Plan	\$ 61,000.00	3/26/14		
8	Requirements Traceability Matrix (RTM)	\$ 91,500.00	3/26/14		
9	Training Master Plan	\$ 106,750.00	3/26/14		
10	Staffing Master Plan	\$ 30,500.00	3/26/14		
11	Performance Management Plan	\$ 76,250.00	3/26/14		
12	Data Center Computing Environment Specifications Plan	\$ 76,250.00	3/26/14		
13	Systems Engineering Management Plan (SEMP)	\$ 76,250.00	3/26/14		
14	Test and Evaluation Management Plan (TEMP)	\$ 106,750.00	3/26/14		
15	Technical Architecture Specifications	\$ 106,750.00	3/26/14		
16	Information Architecture Specifications	\$ 106,750.00	3/26/14		
17	Business Architecture Specifications	\$ 152,500.00	3/26/14		
18	Phase 1 Completion Report	\$ 76,250.00	3/26/14	\$ 1,525,000	3/26/14
Phase I Subtotal		\$ 1,525,000.00		\$ 1,525,000.00	
Phase II - DEVELOPMENT, CONFIGURATION, AND UAT TEST					
Number	Deliverable	Milestone Amount	Milestone Date	Invoice Amount	Invoice Date
19	Technical Architecture	\$ 1,013,917.00	6/18/14	\$ 1,013,917	6/18/14
20	Information Architecture	\$ 1,774,354.00	6/26/14	\$ 1,774,354	6/26/14
21	Business Architecture	\$ 1,013,917.00	6/30/14	\$ 1,013,917	6/30/14
22	End-to-End Integration Test	\$ 760,438.00	11/21/14	\$ 760,438	11/21/14
23	User Acceptance Test	\$ 506,959.00	12/3/14	\$ 506,959	12/3/14
Phase II Subtotal		\$ 5,069,585.00		\$ 5,069,585.00	
Phase III Operations Readiness, Production Cutover, and Facilities Rollout					
Number	Deliverable	Milestone Amount	Milestone Date	Invoice Amount	Invoice Date
24	Implementation Master Plan	\$ 304,999.00	1/14/15		
25	Detailed Training Plan	\$ 76,250.00	1/14/15		
26	Detailed Data Conversion Plan	\$ 304,999.00	1/14/15		
27	Detailed End-to-End Integraion	\$ 152,500.00	1/14/15		
28	Detailed User Acceptance Test Plan	\$ 304,999.00	1/14/15		
29	Detailed Performance Management Plan (Operations)	\$ 152,500.00	1/14/15	\$ 1,296,247	1/14/15
30	Detailed Operations Readiness Review Plan	\$ 152,500.00	1/5/15	\$ 152,500	1/5/15
31	Operations Readiness Report and State Approvals	\$ 45,750.00	1/20/15	\$ 45,750	1/20/15
32	Final Acceptance Certification	\$ 30,500.00	5/26/15	\$ 30,500	5/26/15
Phase III Subtotal		\$ 1,524,997.00		\$ 1,524,997.00	
Phase IV Operations and CMS Certification					
Number	Deliverable	Milestone Amount	Milestone Date	Invoice Amount	Invoice Date
33	Federal Certification Review Package	\$ 123,648.00	2/5/18	\$ 123,648	2/5/18
Phase IV Subtotal		\$ 123,648.00	\$ 43,136.00	\$ 123,648.00	\$ 43,136.00
Phase V Turnover (Contract Closeout)					
Number	Deliverable	Milestone Amount	Milestone Date	Invoice Amount	Invoice Date
34	Turnover Plan - Detailed Planning	\$ -			

35	Turnover Management and Status Reporting	\$	-		
36	Turnover Deliverables and Archive Complete	\$	-		
37	Turnover Final Status Report	\$	-		
<i>Phase V Subtotal</i>		\$	-	\$	-
Deliverables Total		\$	8,243,230.00	\$	8,243,230.00

Actual Milestone Date will be based on then current, mutually agreed upon project plan

Actual Invoice Date will be based on actual milestone date set forth in the mutually agreed upon project plan for the deliverable being invoiced.

Replacement Operations Price Sheet

Line Item Description	SFY2014	SFY2015	SFY2016	SFY2017	SFY2018	SFY2019	SFY2020	SFY2021	Total
Operations Before Contract Month 36									
Salaries and Benefits									\$ -
Administrative Overhead									\$ -
Other Costs (itemized in the following rows)									
Data Center (Vendor Facility)									\$ -
Operations Office Spaces									\$ -
Operations Facility Build Out									\$ -
Miscellaneous Costs			\$ 4,530,887.31						\$ 4,530,887.31
Operations less Facility Costs	\$ -	\$ -	\$ 4,530,887.31	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,530,887.31
Total	\$ -	\$ -	\$ 4,530,887.31	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,530,887.31
Operations Starting in Contract Month 36									
Salaries and Benefits	\$ -	\$ 1,165,384.47	\$ 2,765,234.84	\$ 2,816,840.25	\$ 2,889,761.25	\$ 2,964,505.28	\$ 3,041,117.92		\$ 15,642,844.01
Administrative Overhead		\$ 105,440.21	\$ 250,418.98	\$ 254,947.19	\$ 261,320.87	\$ 267,853.89	\$ 274,550.24		\$ 1,414,531.39
Other Costs (itemized in the following rows)									
Data Center (Vendor Facility)		\$ 244,671.69	\$ 612,553.88	\$ 676,165.46	\$ 746,782.24	\$ 808,063.10	\$ 840,954.30		\$ 3,929,190.67
Operations Office Spaces		\$ 95,602.03	\$ 228,394.21	\$ 227,872.93	\$ 230,180.58	\$ 232,557.47	\$ 235,005.65		\$ 1,249,612.88
Operations Facility Build Out		\$ 103,393.06	\$ 248,143.35	\$ 144,750.29	\$ -	\$ -	\$ -		\$ 496,286.70
Subcontractor / Audit		\$ 621,453.81	\$ 1,446,323.81	\$ 1,299,344.80	\$ 1,331,915.48	\$ 1,365,303.03	\$ 1,399,527.97		\$ 7,463,868.89
Miscellaneous Costs		\$ 26,955.57	\$ 64,693.36	\$ 132,654.07	\$ 64,693.36	\$ 64,693.36	\$ 64,693.36		\$ 418,383.08
Operations less Facility Costs	\$ -	\$ 1,919,234.05	\$ 4,526,670.99	\$ 4,503,786.30	\$ 4,547,690.96	\$ 4,662,355.57	\$ 4,779,889.49	\$ -	\$ 24,939,627.37
Total	\$ -	\$ 2,362,900.84	\$ 5,615,762.43	\$ 5,552,574.98	\$ 5,524,653.79	\$ 5,702,976.14	\$ 5,855,849.44	\$ -	\$ 30,614,717.62

Project Deliverables Time Table

Phase Deliverable Summary Table ¹		
Identifier	Description	Completion Date ²
Project Initiation		Contract Start³ Date plus 60 Calendar Days⁴
Del 0.1	Data Center Facility 1. Option 1 – Contractor Hosted Plan	Template at Contract Start Date plus 60 calendar days; Final Deliverable at Contract Start Date Plus 113 Calendar Days
Del 0.3	Infrastructure Assets 1. Inventory (Bill of Materials)	Template at Contract Start plus 60 calendar days; Final Deliverable at Contract Start Date Plus 106 Calendar Days
Del 0.4	Computing Environment Plan 1. Development 2. System 3. End-to-End Integration 4. User Acceptance 5. Production Operations 6. Training 7. Reporting 8. Model Office or Simulation	Template at Contract Start plus 60 calendar days; Final Deliverable at Contract Start Date Plus 113 Calendar Days
Del 0.5	DDI Project Office Facility 1. Local Facility Plan 2. Staffing Plan 3. Technical Requirements	Template at Contract Start plus 60 calendar days; Final Deliverable at Contract Start Date Plus 113 Calendar Days
Del 0.6	Operations Facility 1. Local or Remote Facility Plan 2. Staffing Plan 3. Technical Requirements	Template at Contract Start plus 60 calendar days; Final deliverable at Contract Start Date Plus 99 Calendar Days

¹ All Completion Dates set forth in this Attachment 3 may be subject to change based upon the mutually agreed upon Project Workplan.

²The “Completion Date”, in so far as it represents the estimated date for obtaining State approval of the final deliverable (e., not a template) also represents the invoice date for the deliverable.

³ Per the terms of Addendum A, Section 5, Term, the “Contract Start Date” shall be the latter to occur of (a) both parties signing the Contract, (b) CMS approval and (c) the issuance by the Department of a purchase order to Optum for the products and services described in the Contract for the period ending June 30, 2014.

⁴ If the Completion Date for any Deliverable falls outside of a State working day, the Deliverable shall be due on the first State working day following the Completion Date shown.

Project Deliverables Time Table

Project Management Office and Administration		Contract Start Date plus 60 Calendar Days
Del 0.7	Project Management Plan 1. PMBOK / IEEE Individual Plans	Template at Contract Start plus 60 calendar days; Final Deliverable at Contract Start Date Plus 113 Calendar Days
Del 0.8	Project Tools and Techniques 1. Organization Charts / Contact Lists 2. Documentation Repository 3. Performance Management Tracking Tool 4. Defect Management Tool 5. Work Plans Management Tool 6. Change Control Tracking Tool 7. Deliverables Tracking Tool 8. Status Reporting Tool 9. Task Orders Tool 10. Project Collaboration Tool 11. Configuration Management Tool	Template at Contract Start plus 60 calendar days; Final Deliverable at Contract Start Date Plus 99 Calendar Days
Del 0.9	Project Methods and Procedures 1. Deliverables Tracking and Approval Process 2. Defect Identification and Problem Resolution 3. Change Tracking Process 4. Status Reporting Process 5. Environmental Impacts Analysis Process Performance Management Process - DDI Phases	Template at Contract Start plus 60 calendar days; Final Deliverable at Contract Start Date Plus 99 Calendar Days
Del 0.10	Project Initiation, Management and Administration Setup 1. Completion Certification - DDI Project 2. Office or Project Management Office (PMO)	Template at Contract Start plus 60 calendar days; Final Deliverable at Contract Start Date Plus 99 Calendar Days

Project Deliverables Time Table

Phase I – Project Planning and Startup		Contract Start Date – Plus 60 State Work Days
Del 1.1	Planning Kick-off Meeting Objectives	Contract Start Date, plus 60 calendar days
Del 1.2	Planning Kick-off Meeting Deliverables 1. Incoming Orientation Plan 2. Contractor Documentation 3. Requirements 4. Traceability Matrix (RTM) 5. Training Master Plan 6. Staffing Master Plan 7. Performance Management Plan – Operations 8. Data Center Computing Environment - Specifications Plan 9. Systems Engineering Management Plan (SEMP) Engineering Requirements (all components and services) 10. Test and Evaluation Management Plan (TEMP) (all components and services)	Templates at Contract Start Date plus 60 calendar days; Initial Final Deliverable at Contract Start Date Plus 111 Calendar Days; Updates throughout project as indicated in the work plan.
Technical Architecture Specifications		
Del 1.3	Technical Services Requirements (Attachment G2) 1. Federally Mandated (MECT) Requirements 2. State-Specified Requirements	Contract Start Date Plus 111 Calendar Days
Del 1.4	Technical Infrastructure Plan 1. Infrastructure Assets Inventory (BOM) 2. Configuration (environment) Management Plan 3. Release Management Plan 4. Security and Privacy Plan 5. Network Design and Management Plan 6. Disaster Recovery – Business Continuity and Contingency Plan	Contract Start Date Plus 111 Calendar Days
Del 1.5	Software and Services Implementation Plan	Contract Start Date Plus 111 Calendar Days
Del 1.6	Shared Services Implementation Plan	Contract Start Date Plus 111 Calendar Days
Del 1.7	Federal Certification Criteria / Mapping Plan	Contract Start Date Plus 111 Calendar Days
Del 1.8	Configuration and Integration Plan (Hardware and Networks)	Contract Start Date Plus 111 Calendar Days
Del 1.9	Configuration Management Plan (Software and Services)	Contract Start Date Plus 111 Calendar Days
Del 1.10	Defect Identification and Resolution Plan	Contract Start Date Plus 111 Calendar Days

Project Deliverables Time Table

Information Architecture Specifications		
Del 1.11	Data Management Requirements	Contract Start Date Plus 111 Calendar Days
Del 1.12	Data Conversion and Migration Plan	Contract Start Date Plus 111 Calendar Days
Del 1.13	Data Models and Data Dictionaries	Contract Start Date Plus 111 Calendar Days
Business Architecture Specifications		
Del 1.14	Facilities Blueprints (Facility, Function, Work Group)	Contract Start Date Plus 111 Calendar Days
Del 1.15	Facilities Equipment, Engineering, and Test Plan	Contract Start Date Plus 111 Calendar Days
Del 1.16	Services (Exchange/Messaging) Activation Plan	Contract Start Date Plus 111 Calendar Days
Del 1.17	Services Requirements (G3) 1. Federally Mandated MECT Requirements 2. State-Specified Requirements	Contract Start Date Plus 111 Calendar Days
Del 1.18	Services Workflow Analysis and Design Plan	Contract Start Date Plus 111 Calendar Days
Del 1.19	Services Acceptance Test Plan	Contract Start Date Plus 111 Calendar Days
Del 1.20	Services Training Plan	Contract Start Date Plus 111 Calendar Days
Del 1.21	Services Rollout Plan	Contract Start Date Plus 111 Calendar Days
Del 1.22	Services Assurance Plan (post-installation) Plan	Contract Start Date Plus 111 Calendar Days
Del 1.23	Score Card Criteria Plan	Contract Start Date Plus 111 Calendar Days
Del 1.24	Turnover Management Plan (High-Level)	Contract Start Date Plus 111 Calendar Days

Project Deliverables Time Table

Del 1.25	Phase I Completion Report	Contract Start Date Plus 111 Calendar Days
Phase II – Infrastructure and Development, Configuration and Integration		
Del 2.1	Technical Architecture 1. Technical Infrastructure Deployment (Data Center Option) – Specifications and Guide 2. Technical Infrastructure Administration Procedures	Contract Start Date Plus 195 Calendar Days
Del 2.2	Information Architecture 1. Interface Control Documents (RFP Specific)	Contract Start Date Plus 203 Calendar days
Del 2.3	Business Architecture 1. Functional Design Documents (RFP Specific)	Contract Start Date Plus 207 Calendar Days
Del 2.4	End-to-End Integration Test 1. Test Plans (Objectives and Criteria) 2. Test Results	Contract Start Date Plus 351 Calendar Days
Del 2.5	User Acceptance Test 1. Test Plans (Objectives and Criteria) 2. Test Results	Contract Start Date Plus 363 Calendar Days
Phase III – Operations Readiness, Production Cutover, and Facilities Rollout		
Del 3.1	Implementation Master Plan 1. Training Plan – Detailed 2. Data Conversion Plan – Detailed 3. End-to-End Integration Plan – Detailed a. Test Plans b. Test Results c. Defect Repairs d. State-Approvals (Ready to UAT) 4. User Acceptance Test Plan – Detailed a. Test Plans b. Test Results c. Defect Repairs d. State-Approvals (Ready to Cutover) 5. Performance Management Plan (Operations) Detailed 6. Operations Rollout Preparations (Detailed)	Contract Start Date plus 405 Calendar days
Del 3.2	Operations Readiness Review Plan (Detailed)	Contract Start Date plus 397 Calendar days
Del 3.3	Readiness Certification: Operational Readiness Report	Contract Start Date plus 401 Calendar days
Production Cutover		
Del 3.4	Implementation Events (Rollout #1, Rollout #2) 1. Facility, Function, or Work Group Cutovers 2. Facility, Function, or Work Group (Implementation) Final Reports	Contract Start Date plus 421 Calendar Work Days

Project Deliverables Time Table

Del 3.5	Post-Implementation Events (Rollout #1, Rollout #2) 1. Facility, Function, or Work Group Evaluations 2. Facility, Function, or Work Group Remediation Periods 3. Post-Implementation Summary Report	Contract Start Date plus 505 Calendar Work Days
Del 3.6	Performance Verification Period 1. Validation and Incident Reporting	(30 calendar day Observance) Contract Start Date plus 505 Calendar Days
Del 3.7	Final Acceptance 1. Certification of Compliance (State Final Acceptance)	Contract Start Date plus 539 Calendar Days
Phase IV – Initial Operations		(RFP System Implementation – Stage 1 Date)
Del 4.1	Warranty Period	Contract Start Date Plus 789 Calendar Days ⁵
Del 4.2	Operations Support: SFY Remainder (Monthly Invoices) 1. Status Reporting 2. Maintenance and Operations Support Services 3. Modifications and Enhancements Services 4. Performance Analysis Services 5. Planning Analysis (Infrastructure) Services	Ongoing starting at Contract Start Date Plus 424 Calendar Days
Phase V – Operations and Federal Certification		
Del 5.1	Federal Certification 1. Certification Plan 2. Certification Activities Report 3. Certification Review Package (to State)	Contract Start Date Plus 1,523 Calendar Days
Del 5.2	Operations Support: SFY Renewal Periods (Monthly Invoices) 1. Status Reporting 2. Maintenance and Operations Support Services 3. Modifications and Enhancements Services 4. Performance Analysis Services 5. Planning Analysis (Infrastructure) Services	Ongoing starting at Contract Start Date Plus 424 Calendar Days

⁵ Based on the Q&A provided by the State, the warranty period shall cover the first twelve (12) month period of Operations, with the understanding that the Contractor shall be responsible for remediating all findings that result from the CMS certification process as falling within the Contractor’s scope of work.

Project Deliverables Time Table

Phase VI – Turnover and Contract Closeout		
Del 6.1	Operations Support: SFY Renewal Periods (Monthly Invoices) 1. Status Reporting 2. Maintenance and Operations Support Services 3. Modifications and Enhancements Services 4. Performance Analysis Services 5. Planning Analysis (Infrastructure) Services	Ongoing starting at Contract Start Date Plus 404 Calendar Days
Del 6.2	Turnover 1. Turnover Plan - Detailed 2. Turnover Progress Reports	June 30, 2020, unless Contract expires due to non-renewal; in which event the Completion Date shall be upon contract expiration
Del 6.3	Contract Closeout 1. Office of State Procurement Requirements	June 30, 2020, unless Contract expires due to non-renewal; in which event the Completion Date shall be upon contract expiration
Del 6.4	Turnover and Contract Closeout 1. Certification of Completion – Turnover Status Report	June 30, 2020, unless Contract expires due to non-renewal; in which event the Completion Date shall be upon contract expiration

BUSINESS ASSOCIATE AGREEMENT

between

ARKANSAS DEPARTMENT OF HUMAN SERVICES

and

_____,
(Business Name)

(Business Taxpayer Identification Number)

This Business Associate Agreement (“Agreement”) is made effective the ____ day of _____, _____, (the “Effective Date”) by and between the Arkansas Department of Human Services (“Covered Entity”) and _____, (“Business Associate”) (“collectively the “Parties”).

1. BACKGROUND

- a. Covered Entity has been designated as a hybrid entity for purposes of the HIPAA Privacy Rule, and it has designated several of its component agencies as health care components.
- b. In accordance with the laws of Arkansas, Business Associate provides services for Covered Entity unrelated to treatment, payment or healthcare operations and therefore the Parties believe a Business Associate Agreement is required. The provision of such services may involve the disclosure of individually identifiable health information from Covered Entity to Business Associate.
- c. The relationship between Covered Entity and Business Associate is such that the Parties believe Business Associate is or may be a “business associate” within the meaning of the HIPAA Privacy Rule.
- d. The Parties enter into this Agreement with the intention of complying with the HIPAA Privacy and Security Rule provisions and the Health Information Technology for Economic and Clinical Health (HITECH) Act, that a covered entity may disclose protected health information to a business associate, and may allow a business associate to create or receive protected health information on its behalf, if the covered entity obtains satisfactory assurances that the business associate will appropriately safeguard the information.

2. DEFINITIONS.

Unless some other meaning is clearly indicated by the context, the following terms shall have the following meaning in this Agreement:

- a. “Breach” shall have the meaning set out in its definition at 45 C.F.R. § 164.402, as such provision is currently drafted and as it is subsequently updated, amended or revised.
- b. “HIPAA” shall mean the Administrative Simplification Provisions, Sections 261 through 264, of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

- c. "Individual" shall have the same meaning as the term "individual" in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- d. "Jurisdiction" means a geographic area smaller than a state, such as a county, city or town.
- e. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- f. "Protected Health Information" ("PHI") shall have the same meaning as the term "protected health information" in 45 CFR 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- g. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.103.
- h. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his designee.
- i. "State" For the purpose of notification of breaches of unsecured Protected Health Information, State shall include any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Northern Mariana Islands.
- j. "Unsecured Protected Health Information" shall have the meaning set out in its definition at 45 C.F.R. Section 164.402; as such provision is currently drafted and as it is subsequently updated, amended or revised.

Unless otherwise defined in this Agreement, terms used herein shall have the same meaning as those terms have in the HIPAA Privacy Rule.

3. OBLIGATIONS OF BUSINESS ASSOCIATE

In connection with this Agreement and in consideration of the mutual promises contained herein, the sufficiency of which is acknowledged by the parties, the parties hereby agree as follows:

- a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Agreement or as required by law.
- b. Business Associate agrees to use reasonable administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- d. Business Associate agrees to report to Covered Entity any unauthorized acquisition, access, use, or disclosure of unsecured PHI the Business Associate holds on behalf of the covered entity, including the identity of each individual who is the subject of the unsecured PHI of which it becomes aware without unreasonable delay and in no case later than ten calendar days after the discovery of the breach.
- e. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

- f. Business Associate agrees to provide access, at the request of Covered Entity, to Protected Health Information in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
- g. Business Associate agrees, at the request of Covered Entity, to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526.
- h. Unless otherwise prohibited by law, Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- i. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528, and to provide this information to Covered Entity or an Individual to permit such a response.

Business Associate agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Health Information that the Business Associate creates, receives, maintains or transmits on behalf of the Covered Entity.

4. PERMITTED USES AND DISCLOSURES

- a. Except as otherwise limited in this Agreement or by other applicable law or agreements, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Professional Services or Technical Services Contract (“the Contract”) between the parties, provided that such use or disclosure:
 - 1) would not violate the Privacy Rule if done by Covered Entity; or
 - 2) would not violate the minimum necessary policies and procedures of the Covered Entity.
- b. Notwithstanding the foregoing provisions, Business Associate may not use or disclose Protected Health Information if the use or disclosure would violate any term of other applicable law or agreements.

5. DISCOVERY AND NOTIFICATION OF BREACH

- a. Business Associate shall implement reasonable systems, policies, and procedures for discovery of possible HIPAA violations and breaches (as defined below), and shall ensure that its workplace members and other agents are adequately trained and aware of the importance of timely reporting of possible breaches.
- b. Upon the discovery of any HIPAA violation by the Business Associate or any member of its workforce, (which includes, without limitation, employees, subcontractors and agents), with respect to Protected Health Information ("PHI"), the Business Associate shall promptly perform a risk assessment to determine whether a breach of unsecured PHI has occurred and whether or not

the breach has resulted in reputation harm to the owner of the PHI as required by HITECH Act.

- c. When performing such risk assessment, the Business Associate shall consider who impermissibly used or to whom the information was impermissibly disclosed and the type and amount of PHI involved, keeping in mind that many forms of health information are considered sensitive for purposes of the risk of reputational harm to an individual.
- d. When performing risk assessments with respect to impermissible use or disclosure of limited data sets, which include zip codes and dates of birth, the Business Associate shall consider the risk of re-identification.
- e. The Business Associate shall maintain fact specific documentation of all risk assessments performed with respect to the PHI for a minimum of six years from the date the documentation is created, and shall make such documentation available to the ADHS upon request. Such documentation shall include whether the HIPAA violation that triggered the risk assessment was or was not determined to be a breach and the reason for such determination.
- f. The Business Associate shall take immediate steps to mitigate any HIPAA violation with respect to the Covered Entity's PHI that is discovered and shall provide the Covered Entity with written documentation of such steps.
- g. If the Business Associate determines that a breach of unsecured PHI has occurred, the Business Associate shall notify the Covered Entity of such breach within ten calendar days.

Such notice shall include:

- (i) A brief description of the occurrence, including the date of the breach and the date of discovery, if known;
- (ii) To the extent possible, the identity of each individual whose unsecured PHI has been, or is reasonably believed to have been, breached;
- (iii) A description of the types of unsecured PHI involved;
- (iv) A brief description of what the owners of the PHI can do to protect themselves;
- (v) A brief description of what the Business Associate is doing to investigate the breach, mitigate harm to affected individuals, and protect against further breaches; and
- (v) Any other information that the Covered Entity reasonably believes necessary to enable it to comply with its obligations under HIPAA.

- h. The Business Associate shall continue to provide the Covered Entity with any additional information related to the required disclosures that becomes available following initial notice of the breach.
 - 1) For a breach involving unsecured PHI of more than 500 individuals of a state or jurisdiction, the Business Associate shall promptly provide notice of such breach to the Covered Entity.
 - 2) The Business Associate agrees to maintain a log of all breaches of unsecured PHI, and to submit such log to the Secretary of Health and Human Services ("Secretary") annually, no later than 60 days after the end of each calendar year.
 - 3) The Business Associate agrees to maintain documentation of all breaches of unsecured PHI for

a minimum of six years after the creation of the documentation, and shall make such documentation available to the Secretary upon request.

- i. The Business Associate hereby agrees to indemnify and hold the Covered Entity harmless from and against all liability and costs, including attorney's fees, created by any breach resulting from the acts of its employees, agents or workforce members.

7. TERM AND TERMINATION

- a. **Term.** This Agreement shall be effective as of the effective date stated above and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or if it infeasible to return or destroy the Protected Health Information, protections acceptable to Covered Entity are extended to such information in accordance with the termination provisions below.
- b. **Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity may, at its option, provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement and the Contract
- c. If Business Associate does not cure the breach or end the violation within the time specified by Covered Entity; as provided in 45 C.F.R. Section 165.504(e)(2)(iii), the Covered Entity may immediately terminate this Agreement and any related agreements, including the Contract between the Covered Entity and DHS, if the Covered Entity makes the determination that the Business Associate has breached the Business Associate Agreement and has not taken steps to cure such breach. Alternatively, the Covered Entity may choose to: (i) provide the Business Associate with ten days written notice of the existence of an alleged material breach; and (ii) afford the Business Associate an opportunity to cure said alleged material breach upon mutually agreeable terms. Nonetheless, in the event that mutually agreeable terms cannot be achieved within 30 days, the Business Associate must cure said breach to the satisfaction of the Covered Entity within 30 days. Failure to cure this breach to the satisfaction of the Covered Entity is grounds for immediate termination of this Agreement. If neither termination nor a cure is feasible, Covered Entity shall report the violation to the Secretary as provided in the Privacy Rule.

d. Effect of Termination.

- i. Except as provided in paragraph (2) of this section or in this Agreement or by other applicable law or agreements, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, including PHI disclosed to its agents or subcontractors pursuant to 45 C.F.R. Section I 64.504(e)(2)(I) and upon destruction of the PHI provide a Certificate of Destruction acceptable to Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information. In addition, certain provisions and requirements of the Agreement shall survive its expiration or other termination in accordance with Section 5 (e) above.
- ii. In the event that Business Associate determines that destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make destruction not feasible. Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be executed in its name and on its behalf effective as of this Effective Date.

Business Associate: _____

By: _____

Title: _____

Date: _____

SOFTWARE TERMS AND CONDITIONS

The foregoing software terms and conditions are further supplemented and clarified by Optum's Technical Proposal, and more specifically, Optum's response to Section 1.12 regarding Software Maintenance and Support applicable to the Commercial Off the Shelf Software products that comprise the Optum solution and Section 1.25 regarding the terms of applicable software license agreements and Appendices D-K referenced therein.

A. Software Maintenance and Support

Changes in the software that would have the effect of causing the Department to incur additional costs for either hardware or software upgrades or both must be identified in writing to the Department ninety (90) calendar days in advance of the software's commercial availability date. Said changes in the software will be accompanied with the software documentation as a part of the release notes.

The Contractor is required to notify the Department in the event a HotFix or Service Pack or general software enhancement is incompatible with the Department's delivered software.

Software maintenance and support begins after the warranty period.

Maintenance and support can be cancelled by the state with a written 30 calendar day notification.

The Contractor will provide the state with all changes, modifications, enhancements, or customized features it makes to any state licensed and delivered software.

The Contractor will maintain a list of all licensed and delivered software provided to the State, sufficiently identifiable within the Contractor's software and services identification standards and dating of materials for all commercial product offerings. Identification standards include product or service name, number, version, release, issue date, packaging series.

B. Software Compliance Audits

A license compliance audit will only be requested and performed by the software manufacturer.

Only the current version of software, plus one prior version of software, may be audited, regardless of the released version available in the marketplace.

The manufacturer must provide details of the required data for purposes of an audit.

All audits will be done at the State facility during normal business hours, and applicable security restrictions will apply.

Should Licensor's current installs of software not delete the prior installs of software, prior installs of software will not be subject to licensing restrictions or audits.

C. Software Documentation

All software must be provided with complete installation documentation.

All manufacturer software and services documentation will be made accessible in electronic format (Microsoft Word or portable document format {PDF}) for use by the State via the Internet on the software manufacturer's web site or software and services portal.

D. Federal Requirements

In accordance with 45 CFR 95.617 and 45 CFR 92.34, all appropriate Federal agencies, including but not limited to the Centers for Medicare & Medicaid Services (CMS), will have a royalty free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use for Federal government purposes: (i) software, modifications, and documentation designed, developed or installed with Federal financial participation under 45 CFR subpart F; (ii) the Custom Software and modifications of the Custom Software, and associated Documentation designed, developed, or installed with Federal Financial Participation under the Contract; (iii) the copyright in any work developed under this Contract; and (iv) any rights of copyright to which Contractor purchases ownership under this Contract.

E. Software Disposal

Software disposal will be conducted according to the established Department of Finance and Administration (DFA) guidelines. All related hard copy media will be shredded. Disposed software will be removed from audit counts.

F. Software Copies

The State has the right to have a backup copy of the software for disaster recovery and business continuity and contingency planning (DR-BCCP) purposes.

The State has the right to deploy software through various types of deployment applications.

G. Software Warranty

Software warranty 'Warranty Period' starts on the date that the software begins use in the production environment and will continue for the next 12 months.

While the Warranty Period will expire before the CMS certification will take place, the Contractor is responsible for remediating all findings that result from the CMS certification process to the satisfaction of the State and CMS.

H. Software Acceptance

Date of Acceptance is the date of Final Acceptance of the software and related platform hardware.

The State of Arkansas owns all documents, communication, and materials received by the Contractor from Providers, Members and the State, all documents, materials, and reports generated through new MMIS Software or components and processing, documents relating to administration and support of the new MMIS Software or components, and all documents, materials, and reports produced by the Product Contractor from any information, communication, or material received from or transmitted to the State.

I. Open Source Software

Any open source software utilized by the Contractor must use third-party commercially supported products by more than one Contractor having an integrated package with compact disc (CD) or other electronic media, documentation, and support contracts.

Any open source software must be developed with the source code and revisions freely available. Any revisions to the open source commercially supported software product must be made available back to the open source community and the State using a common methodology for change control unless otherwise approved by the State in writing.

J. No Surreptitious Code

The Contractor warrants to the State that the Software, including but not limited to the Proprietary Software provided to the State under this Contract, contains or will contain no Self Help Code nor any Unauthorized Code.

The Contractor warrants it will not introduce, via modem or otherwise, any code or mechanism that electronically notifies Contractor of any fact or event, or any key, node, lock, time out, or other function, implemented by any type of means or under any circumstances, that may restrict the State's use of or access to the Software, Data, or Equipment, in whole or in part, based on any type of limiting criteria, including without limitation frequency or duration of use for any copy of the Software provided to the State under this Contract.

K. Industry Exit or Bankruptcy

Should the software manufacturer exit the industry, or go out of business, the State will retain software ownership rights that extend to the following:

- All computer programs including all software for use in the Contract as well as any and all object code, source code, intermediate code and databases. This includes all software on State-owned mainframes, servers, minicomputers, PCs or any other types of computers, together with those that directly or indirectly impact the Contractor's ability to fulfill its obligations under this Contract.
- All data files and form designs.
- All documentation used in the performance of operations and support of the Contract, including claims resolution manuals, claims processing manuals, any reports generated by the Contractor, policy manuals, and financial accounts manuals.

L. Transferability

1. All Contractor computer software utilized for the performance of the Contract, wherein the Contractor is unable to transfer proprietary rights to the State because it does not hold such proprietary rights, must meet one of the following conditions:
 - Be available in the public domain.
 - Be available at established catalog or market prices and licensed or sold to the general public in substantial quantities. An "established catalog or market price" must be printed, published, regularly maintained, current, readily available to a wide number of commercial customers, and a large number of the listed items are actually being sold at the listed prices. "Sold to the general public in substantial quantities" means the items in the commercial catalog or price list must actually be sold in large enough quantities to show that customers are actually paying those prices.
2. To verify this, the Contractor will assure that the company has a reasonable sales volume for its size; and prices listed are comparable to those shown in the price lists of other companies in the same business.
3. The sales to the general public will account for at least 50 percent of the company's total sales; and, at least 75 percent of the sales to the general public will be at the catalog prices
4. Be otherwise approved by the State in writing prior to its use under the Contract

5. All licenses are to be obtained in the State's name or include an option for transferability either to a subsequent Contractor or to the State, at no additional cost. Where a license cannot be transferred, the Contractor will, if requested by the Contract Administrator, assist the State in obtaining a license of its own, at the Contractor's cost.

M. Proprietary Software

Contractor grants the State an irrevocable, perpetual, non-transferable license to use and reproduce all Proprietary Software and related documentation. The State's license includes the right to all Software fixes, updates, upgrades, enhancements, and configurable modifications for operational use produced by or for the Contractor. The payments paid by the State under the Price Proposal will be the sole source of payment for the cost of such Software fixes, updates, upgrades, enhancements and configurable modifications during the term of the Contract.

The Contractor may charge a commercially reasonable additional license fee for updates, upgrades, or other enhancements following the expiration or termination of the Contract but such fee will be no greater than five percent higher than the fee on the last year of the Contract term.

N. Subcontractor Proprietary Software

The Contractor will obtain, at no additional cost to the State, an irrevocable perpetual, non-transferable, and non-exclusive license to use and reproduce all Subcontractor Proprietary Software and related documentation. The State's license will include the right to Software fixes, updates, upgrades, enhancements, and configurable modifications for operational use produced by or for the Subcontractor. The payments paid to the Prime Contractor by the State under the Price Proposal will be the sole source of payment for the cost of such Software fixes, updates, upgrades, enhancements, and configurable modifications during the term of the Contract.

O. Commercial Software

The Contractor will procure all commercial software and related documentation in the Department's name, necessary for the MMIS project. All licensing, rights or remedies granted by the commercial software manufacturer to consumers of its software will be granted directly to the State.

The Contractor will obtain all maintenance and all updates, upgrades, or other enhancements to commercial software during the term of the Contract.

The payments paid by the Department under the Price Proposal will be the sole source of payment for such updates, upgrades, or other enhancements during the term of the Contract.

The Contractor will provide to the Department copies of any applicable third-party license agreement from the licensor of the third-party software to the Department in which third-party software is included as part of the Software to the Department or as part of the new MMIS that will require the Department to execute a license agreement from the licensor.

The Contractor will assign to the Department applicable licenses for the third-party software that begins upon Acceptance of the System.

P. Inventory of Software

The Contractor will provide an inventory of all software and software related documentation used or required to perform the Contract, five State work days after the Contract Start Date, which shall be updated, and provide updates to the Software documentation every six months thereafter.

Q. Replacement Equipment

The Department will be entitled to exercise its rights to the Software on the equipment or any replacement equipment used by the Department and with any replacement third-party software chosen by the State without payment of additional charges, fees, or other dollar amounts.

R. Versions

Unless otherwise mutually agreed to in writing, Contractor will, during the Contract, maintain any and all third-party software products at their most current version or no less than one version back from the most current version at no additional charge, provided that such third-party software version upgrades can be installed and maintained with the State staff proposed in the Proposal for the Maintenance and Support services.

However, the Contractor will not maintain any third-party software versions, including one version back, if any such version would prevent the Department from using any functions, in whole or in part, or would cause deficiencies or defects in the Software within the new MMIS.

If implementation of an upgrade to a third-party software product requires Contractor personnel in addition to the State staff proposed in the Proposal for the Maintenance and Support Services, the State and Contractor will discuss whether to implement such an upgrade and, if mutually agreed upon in writing, the additional charges, if any, to be paid by the State for such upgrade. Any additional costs that are charged by a third-party software manufacturer for an upgrade to a third-party software product that is not covered by such Software's Maintenance and Support agreement will be charged to and paid for by Contractor.

S. Software and Product Changes

The Department anticipates the Contractor will introduce changes to the initial product and software during the initial licensed period and subsequent periods of annual license renewals in the form of new software and products, new versions, new releases, enhancements or upgrades and critical fixes known as emergency patches as part of the firm, fixed-price Contract.

The Contractor will establish a mutually agreed software management schedule with the State for planned software changes or introductions into the State's software operating environment without change to the Contractor's firm, fixed-price Contract.

T. Software and Product Warranty

The Contractor warrants all software and product changes will be compatible, forward and backward, with two (2) successive versions which include the then in effect or embedded releases, enhancements or upgrades, critical fixes known as emergency patches which are also compliant with all Federal regulatory (Centers for Medicare & Medicaid (CMS)) and State statutory requirements and of then in-effect licensed software and products accepted and executing within the State's production operating environment.

The Contractor warrants the product performs in accordance with the software and product configuration and design specifications as provided to the State in Exhibit G1.

The Contractor warrants that it will comply with the Technology Access clause, paragraph 33, of Addendum A, with respect to all technology products developed or purchased as encompassed by this Contract.

U. Software and Product User Group

The Contractor will establish, or make known to the Department, a software and product user group consisting of the Contractor's installed software customer base. The Contractor will provide a toll-free conference line to assemble a user group forum on a monthly basis or an interval mutually agreed upon with the State. The Contractor's toll-free conference line will accommodate, at a minimum, four (4) individuals of the State.

V. Software Roadmap

The Contractor will make the software roadmap available to the State illustrating the Contractor's funded advancements in changed or new software features and functionality due to be delivered to the State with each commercially available software version, release, or enhancement.

DRAFT

Agreement Number: _____

Attachment Number: 6

Action: _____

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**CERTIFICATION REGARDING LOBBYING
CERTIFICATION FOR CONTRACTS, SUB-GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
DHS-9350**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: _____ Date _____
(Authorized Provider Representative)

For: Optum Government Solutions, Inc.
Name of Provider Agency

Title of Grant Program

Title of Grant Program

Title of Grant Program

Title of Grant Program

Title of Grant Program