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CONTRACT BETWEEN

THE GEORGIA DEPARTMENT OF COMMUNITY HEALTH

AND

FOR

**ADMINISTRATIVE SERVICES OF THE CONSUMER DRIVEN
HEALTH HRA, HDHP, HMO, PPO, AND
MEDICARE ADVANTAGE PLANS**

Contract No. XXXX

THIS CONTRACT, with an effective date of _____ (hereinafter referred to as the “Effective Date”), is made and entered into by and between the Georgia Department of Community Health (hereinafter referred to as the “DCH”) and _____ (hereinafter collectively referred to as the “Contractor”).

WHEREAS, the DCH is responsible for health care policy, purchasing, planning and regulation pursuant to the Official Code of Georgia Annotated (O.C.G.A.) § 31-5A-4 *et seq.*;

WHEREAS, the DCH has been established and is responsible for the administration of the State Health Benefit Plan (hereinafter referred to as the “SHBP”) on a self-insured basis pursuant to the authority granted in O.C.G.A. §§ 45-18-1 *et seq.*, §§ 20-2-880 *et seq.* and §§ 20-2-910 *et seq.*;

WHEREAS, the DCH provides health benefits for State and public employees, dependents and retirees under the SHBP;

WHEREAS, the provision of healthcare services to be performed for the SHBP through this Contract are exempt from the State Purchasing Act pursuant to the Official Code of Georgia Annotated (“O.C.G.A.”) §§ 31-5A-1, 45-18-2, 45-18-3, 45-18-6, DCH has contracted directly with Contractor;

WHEREAS, the DCH had caused Request for Approach (“RFA”) Number _____, which is attached to this Contract as Exhibit 1 and expressly incorporated into this Contract as if completely restated herein, that was issued through the DCH for an organization to provide Administrative Services of the Consumer Driven Health HRA, HDHP, HMO, PPO, and Medicare Advantage plan;

WHEREAS, Contractor is a third party administrator (“TPA”) that has access to and will maintain contractual arrangements with physicians, hospitals, pharmacies, and other health care providers to offer a network of health care providers for services under a Consumer Driven Health Plan with Health Reimbursement Arrangement (“HRA”), Health Maintenance Organization (“HMO”), Preferred Provider Organization (“PPO”), High Deductible Health Plan (“HDHP”) or Medicare Advantage Private Fee- For -Service Plan (“MA PFFS”) option that meets the health care needs of Members;

WHEREAS, the DCH has received from Contractor an Approach in response to the RFA (hereinafter referred to as “Contractor’s Approach”), which is attached to this Contract as Exhibit 2 and expressly incorporated into this Contract as if completely restated herein;

WHEREAS, the Contractor, including its Subcontractors, has the skills, qualifications, expertise, financial resources and experience necessary to perform the services described in this Contract in an efficient, cost-effective manner, with a high degree of quality and responsiveness and has performed similar services for other public and private entities;

WHEREAS, the DCH and the Contractor are both committed to the delivery of quality health care services in an efficient and effective manner, recognizing the need to control and contain costs, and recognizing the need to maintain and improve the quality of health care;

WHEREAS, the Contractor has thoroughly reviewed, analyzed and understood the RFA;

WHEREAS, the Contractor has timely raised all questions or objections to the RFA and received satisfactory answers or responses;

WHEREAS, the Contractor has had the opportunity to review and fully understand the Department's operating environment for the activities that are the subject of this RFA and Contract and Contractor understands the needs and requirements of the Department;

WHEREAS, DCH accepts Contractor's Proposal to provide Administrative Services of the HRA, HDHP, HMO, PPO, and Medicare Advantage Plans; and

WHEREAS, the DCH and the Contractor desire to set forth the terms and conditions under which the Contractor will provide coverage for health care services to Members who enroll in either the HRA, HMO, HDHP, PPO, or MA PFFS options.

NOW THEREFORE, and in consideration of the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the DCH and the Contractor (each individually a "Party" and collectively the "Parties") hereby agree as follows:

1. DEFINITIONS AND TERMS

Whenever capitalized in this Contract, the following terms have the respective meaning set forth below, unless the context clearly requires otherwise. In the event of a conflict or disagreement among the Parties, the DCH's interpretation shall control.

1.1 **"Account Manager or Account Director"**: means the individual employed full-time by (and is legally empowered by) the Contractor to oversee the management and coordination of the DCH account. This individual must have decision-making authority to adjust and meet program needs. Any change in personnel to this position requires prior written approval from the DCH.

1.2 **"Administrative Service Fees"**: means the schedule of monthly payments from the DCH to the Contractor based on the respective monthly enrollment counts of Subscribers enrolled in either one of the plan options as determined by the DCH. The DCH agrees to pay Contractor on a fixed "per employee per month" ("PEPM") fee as set forth in the Administrative Fees attached as Exhibit 3 which

is specifically incorporated herein by reference. For purposes of this definition, employee means Subscriber or Member or both.

- 1.3 **“Board of Community Health” or “Board”**: means the governing body authorized to exercise jurisdiction over the SHBP pursuant to O.C.G.A. §§ 31-5A-3 and §§ 31-5A-4.
- 1.4 **“Bridges to Excellence[®]” (BTE)** means a not-for-profit organization that designs and creates programs that encourage physicians and physician practices to deliver safer, more effective and efficient care by giving them financial and other incentives to do so.
- 1.5 **“Business Day”**: means every day except Saturdays, Sundays, and those holidays designated by law pursuant to O.C.G.A. § 1-4-1.
- 1.6 **“Calendar Day”**: means all seven days of the week.
- 1.7 **“Case Management”**: means a collaborative process that assesses, plans, implements, coordinates, monitors, and evaluates the options and services required to meet an Eligible Member’s health needs. It uses communication and available resources to promote quality, cost-effective outcomes and maximize benefits. It is distinguished from Utilization Management in that it is voluntary, and it is distinguished from Disease State Management by its intensity and focus on any disease(s) and/or condition(s) the Eligible Member may have.
- 1.8 **“Claim”**: means any bill, invoice, or other written statement from a specific Provider for Health Care services or supplies submitted in accordance with the requirements of the SHBP for a specific Eligible Member.
- 1.9 **“Claims Run-Out Period”**: means the time period beginning on the date of termination of the SHBP pursuant to this Contract and ending twelve (12) months following the date of such termination as set forth in Section 8E of this Contract.
- 1.10 **“Complete Claim”**: means a claim for charges that is not in dispute, is not missing any information necessary to process said claim, is not under appeal as to the benefit entitled for such claim, or does not involve coordination of benefits, third party liability or subrogation, and is represented by a properly completed billing form (UB-04 and CMS 1500 or an acceptable electronic equivalent as determined by Contractor).
- 1.11 **“Commissioner”**: means the Commissioner of the Department of Community Health as created by O.C.G.A. § 31-5A-6.

- 1.12 **“Contract”**: means this instrument and its appendices and any subsequent amendments that have been executed by the Parties to indicate that they have entered into a contractual agreement.
- 1.13 **“Contract Documents”**: means the Request for Approach for HRA, HMO, HDHP, PPO and MA FFS Plan services (“RFA”), the Approach submitted by Contractor in response to the RFA (the “Approach”), and this Contract. If provisions of the Contract Documents conflict but are otherwise consistent with law, the terms of the separate Contract Documents shall prevail over one another in the following order: this Contract, the RFA, the Contractor’s Proposal, and documents incorporated by reference.
- 1.14 **“Corrective Action Plan”**: means the detailed written plan required by the DCH to remedy or resolve a deficiency or event that may or may not cause the assessment of a liquidated damage against the Contractor.
- 1.15 **“Covered Services”**: means those Medically Necessary health care services or benefits for such services provided to Members under the Plan options, including but not limited to, hospital services and physician services, the payment or indemnification of which is covered under the applicable plan.
- 1.16 **“Custodial Care”**: means any type of care, including room and board, that: (a) does not require the skills of a professional or technical health care Provider; (b) is not furnished by, nor is under the supervision of, such a professional or technical health care Provider; (c) does not, otherwise, meet the requirements of a post hospital skilled nursing facility; or (d) is a level of care, such that an Eligible Member has reached his/her maximum level of physical or mental functioning, and is not likely to make further significant improvements. Custodial Care includes, but is not limited to, any type of care in which the primary purpose of care is to attend to the Eligible Member’s activities of daily living. Such care does not entail or require the continuing attention or observation by trained medical or paramedical health care Providers. Generally, care is considered custodial if it can be provided by an untrained adult with little or no supervision.
- 1.17 **“Demand Management” (“DM”)**: means a 24-hour, 7 days a week nurse advice line, staffed with registered nurses who are licensed in the state in which they are employed, who access a health information protocol system to provide non-diagnostic assessments, triage, health information, education, home treatment options, and authorization of referrals to emergency room, urgent care facilities, and/or physician offices.
- 1.18 **“Department of Community Health” (the “DCH”)**: means the Georgia Department of Community Health, an agency of the State of Georgia (or the “State”) governed by the Board, which is responsible for health care policy, purchasing, planning, and regulation pursuant to O.C.G.A. § 31-5A-4 et seq.

- 1.19 **“Disease State Management (“DSM”)”**: means intervention and educational programs designed for individuals with chronic diseases which are intended to prevent recurrence of symptoms, maintain high quality of life, and prevent or reduce the need for medical resources by using an integrated, comprehensive approach to health care.
- 1.20 **“Eligible Member” or “Member”**: means each employee, member of the general assembly, or retiree and his or her dependents enrolled in the HRA, HMO, HDHP, PPO or MA options of the SHBP.
- 1.21 **“Health Information Exchange (HIE)”**: means having the capability to electronically move clinical information between health care information systems while maintaining the meaning of the information being exchanged.
- 1.22 **“Health Information Technology (HIT)”**: means the use of computers and computer programs to store, protect, retrieve, and transfer clinical, financial, and administrative information electronically.
- 1.23 **“Health Insurance Portability and Accountability Act of 1996”: (“HIPAA”)** means 42 U.S.C. § 201 et seq. which encompasses standards related to the administrative simplification, privacy, and security of healthcare information.
- 1.24 **“Health Reimbursement Arrangement (“HRA”)”**: means an account set up on behalf of the Member in which reimbursement for Covered Services rendered under the CDHP with HRA are reimbursed. Said account shall be maintained in accordance with applicable provisions of the IRC and Treasury Department rulings and formal guidelines, including Revenue Ruling 2002-41 and Notice 2002-45. Such services may include co-insurance and deductibles incurred under the CDHP.
- 1.25 **“HRA, HMO, HDHP, PPO, or MA FFS Member”**: means any person who is eligible for and enrolled in one of the Plan options and entitled to receive Covered Services pursuant to that option under the Plan, including eligible state employees, public school teachers, public school employees, retirees and their covered dependents, who presents an Identification Card which identifies them as a participant in one of the Plan options.
- 1.26 **“HRA, HMO, HDHP, PPO or MA FFS Network”**: means the network of all Providers who have contracted with Contractor for the provision of Covered Services to SHBP Members under the HRA, HMO, HDHP, PPO or MA FFS options of the Plan.

- 1.27 **“HRA, HMO, HDHP, PPO or MA FFS Option”**: means the self-insured group health benefit option under the SHBP that provides access to the HRA, HMO HDHP, PPO or the fully-insured MA FFS Network.
- 1.28 **“HRA, HMO, HDHP, PPO or MA FFS Physicians”**: means the primary care and specialty care physicians who meet Contractor’s credentialing criteria and have entered into a contract with Contractor for the provision of Covered Services to Members under one of the Plan options.
- 1.29 **“HRA, HMO, HDHP, PPO or MA FFS Providers”**: means the primary care physicians, specialty care physicians, hospitals, pharmacies or others who render health care services that meet Contractor’s credentialing criteria and have contracted with Contractor to supply or arrange for the provision of Covered Services to SHBP Members under the HRA, HMO, HDHP, PPO or MA FFS option of the Plan.
- 1.30 **“Internal Revenue Code (IRC)”**: means Internal Revenue Code, as amended from time to time.
- 1.31 **“Identification Card”**: means the card issued by the Contractor identifying the Member as eligible to receive Covered Services from HRA, HMO, HDHP, PPO or MA Providers under the HRA, HMO, HDHP, PPO or MA FFS option of the Plan.
- 1.32 **“Managed Behavioral Health/Substance Abuse” (“MBH/SA”)**: means the provision of inpatient and/or residential or outpatient mental health and substance abuse treatment and services by the Contractor for Eligible Members.
- 1.33 **“Medically Appropriate”**: means those Covered Services performed by Providers to identify or treat an illness or injury which, as determined under its UM Program, are:
- i). Appropriate and consistent with the diagnosis of the patient’s condition and the omission of which could adversely affect or fail to improve the patient’s condition;
 - ii). Compatible with the standards of acceptable medical practice in the United States;
 - iii). Not provided solely for the Eligible Member’s convenience or the convenience of the doctor, health care Provider, or hospital;
 - iv). Not primarily Custodial Care;

- v). Provided in a safe and appropriate setting given the nature of the diagnosis and the severity of the symptoms; and
 - vi). Consistent with the standards of the UM Program’s medical policy and clinical guidelines.
- 1.34 **“Member Services”**: means a customer service unit responsible for responding to Eligible Members’ questions, comments, and inquiries as prescribed by the DCH approved policies and procedures.
- 1.35 **“Network Pharmacy” or “Network Pharmacies”**: means the pharmacies which have entered into or are governed by contractual arrangements with the Contractor or the Contractor’s affiliate or subcontractor under which they agree to provide prescription drug coverage to Members.
- 1.36 **“Network Provider”**: means any Provider who participates in one of Contractor’s Provider Networks.
- 1.37 **“Non-Covered Services”**: means all health care services rendered to HRA, HMO, HDHP, PPO or MA Members other than Covered Services. HRA, HMO, HDHP, PPO or MA FFS Providers are not entitled to reimbursement under the Plan for Non-Covered Services provided to HRA, HMO, HDHP, PPO or MA FFS Members.
- 1.38 **“Personal Health Assessment (PHA)”**: means a health questionnaire completed by Members to be used as a tool to help Contractor and Members become more aware of medical conditions of the Member.
- 1.39 **“Plan”**: means the State Health Benefit Plan (SHBP).
- 1.40 **“Plan Option”**: means HRA, HDHP, HMO, PPO, or MA FFS plan.
- 1.41 **“Provider(s)”**: means the primary care physicians, specialty care physicians, hospitals, or other health care Providers.
- 1.42 **“Quality Management/Quality Improvement” (“QM/QI”)**: means a systematic, data-driven effort to measure and improve Member, client, and /or health care services including Member safety as related to the efforts or results of treatment modalities or practices for a particular disease, condition, or process. The goal of Quality Management/Quality Improvement is to improve UM functions by monitoring and analyzing the data and modifying processes in response to this data.

- 1.43 **“Rebates”**: means all pharmaceutical rebates (e.g. formulary, incentive, market share, and related considerations, such as administrative fees, which are paid by pharmaceutical manufacturers to Contractor, pursuant to the terms of a contract).
- 1.44 **“Software”**: means all Software and any updates thereto (including executable computer program code together with the associated data files, data structures and databases) within the control of and used by the Contractor to administer the programs described in this Contract.
- 1.45 **“State Health Benefit Plan” (“SHBP”)**: means the health benefit plan administered by DCH covering state employees, public school teachers, public school employees, members of the General Assembly, retirees, and their dependents.
- 1.46 **“Summary Plan Description”**: means a booklet that contains information regarding Member eligibility requirements, descriptions of covered benefits and plan exclusions.
- 1.47 **“Subscriber”**: means the contract holder who may be the Employee, Retiree, Member of the general assembly, contract Employee, or extended beneficiary and who is eligible for coverage and who has paid the necessary deduction or premium for such coverage.
- 1.48 **“Systems”**: Contractor’s Information Systems that it makes available to the DCH to access and facilitate the transfer of information in conjunction with this Contract or that otherwise support functions associated with this Contract.
- 1.49 **“Utilization Management Program”**: means a service(s) and/or utilization review service(s) performed through programs including, but not limited to, UM, MBH/SA, DM, DSM programs, offered by the Contractor which seek to assure that Covered Services provided to Eligible Members are in accordance with Plan provisions and appropriate under the standards and requirements established by this Contract.

2. **SCOPE OF SERVICE**

- A. The purpose of this Contract is the provision of coverage for healthcare services for eligible SHBP Members in a self-insured HRA, HMO, HDHP, PPO or fully-insured MA FFS Plan Option. Subject to the terms and conditions set forth herein, DCH retains Contractor to furnish all of the goods, services, and other deliverables, all as contemplated by this Contract, the RFA, the Contractor’s Response to the RFA (“Approach”), and any amendments to the Contract collectively, the “Contract Documents.”

- B. The Parties agree that the Contractor will act as an independent agent in the performance of its duties under this Contract. The Parties agree that the DCH will retain all final authority and responsibility for the operation of the SHBP and interpretation of eligibility, rules, policies and procedures. The Contractor may act on behalf of the DCH in connection with SHBP only as expressly stated in this Contract or as mutually agreed to in writing by the Contractor and the DCH as applicable.
- C. Additionally, the Parties agree that the DCH shall not pay or otherwise compensate the Contractor for any services, goods, or deliverables outside of the above Scope of Service. The DCH shall not make any exceptions or waivers on this matter. In the event of a dispute regarding whether an item is within the scope of service or statement of work, the Parties will attempt to reach a mutually agreeable solution. If the Parties fail to reach a mutual agreeable solution, Section 30, ***Conflict Resolution***, of this Contract shall control, govern, and not be subject to appeal.
- D. In event of a conflict in language between the various documents incorporated into or referenced by this Contract, the terms, conditions, provisions and requirements of the RFA shall control and govern. In the event of a conflict in language between the RFA and this Contract, the terms, conditions, provisions and requirements set forth in this Contract shall govern and control without exception. Any other conflicts shall be clarified or decided by DCH.

3. **DCH RESPONSIBILITIES**

The DCH shall complete the following tasks and actions:

3.1 **Legal Compliance**. Throughout the term of this Contract, remain in compliance with all applicable State and federal laws and regulations.

3.2 **Eligibility Verification System**. Arrange for a mechanism for timely verification of eligibility of persons known as HRA, HMO, HDHP, PPO or MA FFS Members in accordance with the provisions under the specific Plan Option. Contractor acknowledges and agrees that verification of a Member's eligibility status will not guarantee full payment for services since the Member may be responsible for co-payment amounts and Non-Covered Services under the chosen Plan Option. Standards and systems relative to the verification of eligibility shall conform, in all cases, to applicable State and federal law.

3.3 **Communications**. Make diligent good faith efforts to facilitate effective and continuous communication with Contractor, and to notify Eligible Members of the status of Contractor and Plan Option Providers under this Contract through appropriate education and information to SHBP Members.

3.4 **Administrative Fees**. Pay to Contractor for its services under this Contract the monthly Administrative Fees as set forth in Exhibit "4" and as reflected in Contractor's

cost proposal. The SHBP shall issue payment to Contractor by the 15th day of each month making necessary adjustments as allowed by this Contract and State and federal law. The DCH's determination of the appropriate adjustment shall be final and not subject to appeal.

3.5 Use of Name/Trademarks/Logos for Marketing Purposes. The DCH shall permit Contractor to use the DCH name, trademarks and logos for the limited purpose of informing Eligible Members of the HRA, HMO, HDHP, PPO and MA FFS Plan Options. Additionally, the Contractor's Provider directories and any electronic or Internet publication of such directories displaying the names, trademarks and/or logos of the DCH shall be approved by the DCH or the SHBP, as applicable, in writing prior to distribution or other release. Any other desired use or dissemination by Contractor of the name of the DCH or the SHBP in any connection with the services provided by Contractor shall require the prior written consent of the DCH and the SHBP, as applicable. Contractor shall immediately cease to use the DCH name, trademark and/or logo upon receipt of a communication from DCH directing Contractor to cease and desist from using the same or upon the termination of this contract. Contractor's logos shall not be used by the DCH or the SHBP without the prior written consent of Contractor.

3.6 Review and Approval of Implementation Plan. The DCH shall review and approve the implementation plan including Contractor and the DCH team assignments. The SHBP shall provide oversight for the implementation team.

3.7 Communication Materials. The DCH shall review and approve all communication materials including letters, brochures and informational mailings and any other documents that Members at large shall receive prior to their being sent to Eligible Members on behalf of the DCH within five to ten business days of receipt from Contractor.

3.8 Electronic Communications. The DCH shall review and approve the content of any web-site information, telephone recorded greetings and messaging (including on-hold messaging), telephone prompts, and automated voice response system(s) prior to their being made available exclusively or uniquely for SHBP Eligible Members on behalf of the DCH within five to ten business days of receipt from Contractor. Contractor shall not make changes to the website and any and all greetings without written approval of DCH.

3.9 HRA, HDHP, and PPO Option Differentials. With respect to the schedule of benefits under the HRA, HDHP, or PPO Option, the DCH shall offer and maintain significant differentials in cost sharing to provide an incentive to Members to utilize HRA, HDHP, or PPO Providers rather than Out-of-Network Providers.

3.10 Deadline Extensions. The DCH shall extend deadlines or change scheduled dates in the best interest of the DCH toward the attainment of the DCH mission in writing through an Amendment to the contract. The Contractor acknowledges and understands that such extensions and changes may affect performance guarantees available under this

Contract. When due to Contractor's failure, liquidated damages or other contractually appropriate action (s) may be taken.

3.11 Member Eligibility. The DCH shall provide the Contractor with the most current and complete set of Member eligibility data and assist the Contractor with interfaces with Data Manager.

3.12 Programmatic Audits. Except as otherwise permitted herein, during the term of the Contract, and at any time within eighteen (18) months following its termination upon Contractor's receipt of a signed mutually agreeable confidentiality agreement, the DCH, or a mutually agreeable entity not related to DCH, may conduct programmatic audits to determine whether Contractor is fulfilling the terms of this Contract. DCH may also conduct site visits to review and audit vendor performance and compliance, and DCH requires all contractors to submit progress reports representative of performance or delivery of services associated with this Contract.

The DCH will advise Contractor in writing of the DCH's intent to audit. With respect to Contractor's transaction processing services, the audit scope and methodology shall be consistent with generally acceptable auditing standards, including a statistically valid random sample or other acceptable audit technique as may be reasonably requested by the DCH.

The DCH will provide Contractor with a copy of any audit reports within sixty (60) days after the DCH receives the final audit report(s) from the auditor specific to this Contract.

3.13 Description of the Plan Options. The DCH will give Contractor a written description of the Plan benefits and provisions within thirty (30) days after execution of the Contract so that Contractor will be able to provide its services under this Contract on the Effective Date and within ninety (90) days prior to the beginning of each Calendar year for subsequent Contract years.

3.14 Staffing Plan. The Contractor must submit their Staffing Plan within forty-five (45) Calendar days of Contract Award. The DCH must give final approval of Contractor's staffing plan prior to go live date but no later than thirty (30) days before full implementation. Contractor may not increase or decrease the number of staff approved by the DCH without the DCH written approval. Such approval shall not be unreasonably withheld.

3.15 Banking.

3.15.1 Funding and Payment of Claims. The SHBP is self-funded. DCH is solely responsible for providing funds for payment for all SHBP benefits payable to Network Providers or Out-of-Network Providers under circumstances for which coverage is available under the terms of the SHBP Option, e.g. emergency services.

3.15.2 Bank Account. The Contractor shall own and establish a bank account for purposes of providing Contractor with a means to access the DCH's funds for payment of SHBP benefits and related expenses.

3.15.3 Balance In Account. The DCH shall maintain a balance in the bank account in an amount which will be sufficient at all times to fund the checks written on it for payment of SHBP benefits and related expenses.

3.15.4 Issuing and Providing Funds for Checks. When the checks Contractor writes and issues for SHBP benefits are presented to the bank, the bank will notify Contractor and Contractor will direct the bank to accept or reject the checks. Then the bank will withdraw funds from the established Contractor bank account to fund the checks that are cashed.

3.15.5 Transfers of Funds. Funds will also be withdrawn from the established Contractor bank account when a transfer of funds by the Contractor has been made to pay SHBP benefits. For example, when a wire transfer has been made to a health care provider to pay for services.

3.15.6 Calls for Funds. The withdrawals for SHBP benefits and Administrative Fees are paid for by the balance the DCH maintains in the bank account.

3.15.7 Underfunding. If the DCH does not provide the required amounts for the balance in its bank account or for the funds that have been withdrawn from the bank account: (1) Contractor will provide the DCH with immediate notice, so that the DCH can correct the problem within ten (10) business days. (2) Contractor may stop issuing checks for the period of time the DCH does not provide the required payment. Contractor may also place stop payments on checks if Contractor determines that the DCH does not have enough funds in the bank account to pay the checks that have been issued but not yet cashed.

3.15.9 Outstanding Checks. Contractor will place stop payments on all checks Contractor has issued under this Agreement if they have not been cashed within a certain period. This period will be reasonable and mutually agreed upon by the parties.

3.15.10 Termination of Contract. When this Contract terminates, the current method of providing funds to the bank account will remain in place for up to six months after the run-out period. At the end of this period, Contractor, upon approval of the DCH, will place stop payments on all checks that remain un-cashed, and the DCH will instruct Contractor to close the bank account and recover any funds remaining in it to the DCH. Contractor will provide bank account statements and bank reconciliation reports, including reports the DCH needs for the purposes of escheatment.

3.15.11 Escheat. To the extent that abandoned or unclaimed property does not exist as a result of the negligence of the Contractor, the DCH is solely responsible for

complying with all abandoned property or escheat laws, and for making any required payments, and for filing any required reports. Contractor is required to perform due diligence in accordance with O.C.G.A. Section 44-12-192 on stale-dated checks. Three months after the Effective Date of the Contract and for every three months thereafter, the Contractor will provide the DCH with a report of all unclaimed funds.

3.15.12 Bank Account Responsibility. Contractor shall indemnify and save the DCH harmless from any loss proximately caused by criminal or intentionally wrongful acts by any employee of Contractor arising out of its use of the bank account and the corollary check stock under its control. This indemnity shall survive the termination of this Contract.

4. **GENERAL CONTRACTOR RESPONSIBILITIES**

As of the Contract Effective Date, and at all times throughout the term of this Contract, Contractor shall be and remain in compliance with all the applicable federal, State, and local laws, as stated more fully in Section 29, ***Compliance with all Laws***, of this Contract, and all of the rules and regulations of the DCH as contained in the SHBP Summary Plan Description (“SPD”), legal regulations, and any Plan documents located on the DCH website, as well as any of the terms and conditions of this Contract.

The Contractor shall immediately notify the DCH of any of the following changes:

1. Change in business address, telephone number, facsimile number, or e-mail address;
2. Change in corporate status or nature, which shall not occur without DCH’s prior written consent;
3. Change in business location;
4. Change in solvency;
5. Change in corporate officers, executive employees, or corporate structure;
6. Material change in control (i.e. 50.1% or more change in ownership), including but not limited to the new majority owner’s legal name, business address, telephone number, facsimile number, and e-mail address; or,
7. Change in federal employee identification number or federal tax identification number;

8. Change in Long-Term Credit Rating or Short-Term Credit Rating as measured by Standard & Poor's Rating Services;
9. Should DCH not consent to any of these actions set forth in this Section 4 and the Contractor desires to proceed with such action, then DCH may, at its option, elect to terminate this Contract at such date as determined by the DCH.

5. SPECIFIC CONTRACTOR RESPONSIBILITIES AND DELIVERABLES

The Contractor shall perform and complete all the tasks, obligations and responsibilities described and set forth in this Contract. The Contractor shall complete the following actions, tasks, obligations and responsibilities:

5.1 Eligibility Submission. Contractor shall comply with the provisions of the Plan's eligibility and enrollment requirements as outlined in the RFA section 3.10. The DCH shall solely determine eligibility for the Plan. Contractor agrees to accept, in the DCH format, the nightly electronic file updates with Eligible Members for the HRA, HMO, HDHP, PPO or MA Plan Option Members. Full eligibility files will be submitted to Contractor on a monthly basis.

5.1.1 The DCH format will be in compliance with the Health Insurance Portability and Accountability Act of 1996 as amended from time to time (HIPAA).

5.1.2 Contractor agrees to accept retroactive additions/deletions of at least one hundred and eighty (180) days and collect and reconcile claim payments made in error during this period.

5.1.3 The SHBP anticipates that it will provide an eligibility interface to the Contractor in an X12N 834 compliant electronic data interchange transaction set. Notwithstanding, the SHBP reserves the right to continue to use a proprietary format that is used at Execution of this Agreement as outlined in section 3.10 of the RFA and file layout in Exhibit 2 of the RFA or that DCH selects during the term of the contract.

5.2 Contractor Administration. Contractor shall be responsible for the administration of the Plan Options and in connection therewith shall advise Network Providers and Network Pharmacies of this Contract and benefits, policies and procedures of the SHBP. Contractor shall maintain formal contracts with all Network Providers that address the level of reimbursement, provider access, quality requirements and other key factors. Contractor shall inform Providers in writing that their files are subject to audit under this Contract. In the case of third parties with which Contracts are formed to provide services to Members, the Contractor shall maintain standards as set forth by the National Committee for Quality Assurance (NCQA).

5.3 Account Services. Contractor shall assign a dedicated Account Director and service representatives (account management team) for purposes of working directly with the DCH. The account management team shall devote the necessary time to the account, including being available for frequent telephone and on-site consultations with the DCH. The Contractor shall be proactive in making recommendations to the DCH to help reduce healthcare costs and increase quality and Member satisfaction through enhanced benefit designs or other healthcare solutions. The account management team shall be comprised of individuals with specialized knowledge of Contractor's corporate operations, claims and eligibility systems, systems reporting capabilities, and claims adjudication policies and procedures and all other requirements necessary to fulfill Contractor's responsibilities. The Contractor's staff shall be thoroughly familiar with all Contractor's services that relate directly and indirectly to the DCH and shall act on behalf of the DCH in minimizing administrative delay. The account management team shall conduct, at a minimum, monthly meetings to review and analyze Claims data utilization and customer service statistics with the SHBP representatives. The DCH may change the frequency of these meetings as it determines appropriate.

5.4 Identification Cards. Contractor will arrange for the issuance of an Identification Card for each Plan Option Member which shall contain appropriate information to denote selection of the Option Plan by each Member. Contractor shall submit a front and back sample of the ID card within sixty (60) Calendar days of Contract award for review and approval by the DCH. ID cards shall be postmarked within ten (10) Business Days of Contractor's receipt of a valid eligibility file. Member ID cards will be delivered to Member's home address prior to the effective date of coverage as specified in Exhibit 4, Performance Guarantees.

5.5 Summary Plan Description. Contractor will provide a Summary Plan Description (SPD) Booklet summarizing benefit coverage for each Member in the chosen Plan Option. The language and content in the SPD must be approved by the DCH ninety (90) Calendar Days prior to publication and distribution each Plan year. In addition, the Contractor shall mail, upon request by the DCH, the SPD to retired employees and shall have the SPD available via electronic means to the SHBP membership.

5.6 Eligibility Verification. Contractor shall encourage Network Providers and Network Pharmacies to verify the Member's eligibility under the SHBP by contacting the number listed on the Identification Card, unless otherwise authorized by the SHBP. Contractor shall encourage Network Providers and Network Pharmacies to make diligent good faith efforts to verify the identity of the person presenting the Identification Card as the Member named thereon.

5.7 Data Reporting. Contractor agrees to provide data reports in accordance with the requirements in the RFA and Performance Guarantees in Exhibit 4. The Contractor shall provide monthly, quarterly, and annual reports as well as ad hoc reports as requested by the DCH.

5.8 Performance Guarantees. Contractor agrees to provide reporting on the specific Performance Guarantees as defined in Exhibit 4. Continued failure to meet these terms and conditions will be considered a cause for termination of the Contract.

5.9 Utilization Management (UM). Contractor shall operate, on behalf of Plan, UM and QM /QI Programs for Eligible Members of the SHBP as outlined in the RFA and in this Contract. In addition to the UM and Medical Case Management (CM), the UM program areas include DSM, DM, and MBH/SA.

The UM and QM/QI programs shall be accredited by the National Committee for Quality Assurance (NCQA) and/or the Utilization Review Accreditation Committee (URAC) and meet all turnaround times as set forth by NCQA/URAC, except where designated otherwise by the DCH/SHBP. Contractor shall follow NCQA/URAC standards regarding use of appropriate level of staff to conduct review activities (except when instructed otherwise in writing by the DCH).

Contractor shall require each Network Provider to participate in and cooperate with the UM Program including the facilitation of information and record exchanges necessary to administer the program. Any determination under the UM Program that services provided or proposed to be provided cannot be approved shall in no case be construed as a substitute for professional medical judgment of the Network Physician; rather, such findings are intended to be, and shall be, limited to the determination of benefit coverage and payment for health care services. Decisions regarding the nature and extent of health care services to be provided, as well as decisions regarding choice of provider, shall be made exclusively by the Network Provider and the Member, although reimbursement for services by the SHBP may differ depending on the choice of treatment or Provider.

5.9.1 Prior Approval. Contractor shall require each Provider to obtain and review all necessary information prior to authorizing approval or denial of both inpatient and outpatient procedures as set forth by the Plan.

5.9.2 Medical Necessity and Benefit Exclusions. Contractor will, in compliance with applicable state and federal laws, inform Network Providers and Network Pharmacies of all benefit exclusions contained in the Plan Options under the SHBP. Contractor will hold Members harmless for any charges resulting from a denial of Medical Necessity or a benefit exclusion unless the Provider has written authorization from the Member acknowledging that the service to be provided is excluded and will be provided on a self-pay basis.

5.10 Laws and Regulations. Contractor agrees to comply with the provisions of the O.C.G.A. § 33-46-1 et seq., regarding private review agents and shall remain in compliance with all applicable State and federal laws and regulations.

Contractor shall be and remain in compliance with HIPAA requirements so as to ensure that the security and confidentiality of the medical and private data and records associated with the proposed programs are maintained.

5.11 24-Hour Utilization Review. The Contractor shall provide the ability to accept 24-hour pre-certifications of procedures seven (7) days a week including all state and federal holidays in

accordance with O.C.G.A. §§ 33-23-1 et. seq.. Contractor shall have a dedicated unit for UM services, telephone device for the deaf (TDD) feature, translation services available and toll-free access numbers.

Contractor shall be financially liable for any Non-Covered Services that are pre-certified or approved as a result of the Contractor's and/or its subcontractor(s) negligence, omission, or failure to act in interpreting and/or applying benefit coverage.

5.12 Case Management (CM). Contractor shall have a comprehensive CM program that is integrated with utilization review services and offers early proactive CM interventions, education, and assistance to eligible Plan Members through a variety of methods as required in the RFA.

Contractor's CM Program interventions shall include, but may not be limited to, the following cases: short and long-term home health, hospice, high risk pregnancies, high cost durable medical equipment, high cost medical/pharmacy Claims, catastrophic illnesses and injuries and requests for transplantations.

5.12.1 Transplant Services. Transplant CM shall include at a minimum, prior approval for all transplantation services and access to a Network of Centers of Excellence in Georgia, as well as, regional and national facilities.

Transplant services shall include evaluation of the Member for transplant, donor search, organ acquisition and procurement, hospital and physician fees, transplant procedures and follow-up care for a period up to a minimum of one year after the transplant.

5.13 Demand Management (DM). Contractor shall provide a DM program as outlined in the RFA to include a 24-hour toll-free nurse advice line seven days a week and health education materials.—Additionally, the program should include a telephone system that is capable of documenting and tracking all incoming and outgoing calls and referrals. Contractor shall provide a telephone device for the deaf (TDD) feature available on the toll-free DM line and the information on the phone tree shall be provided in English and Spanish.

5.14 Disease State Management (DSM). Contractor shall offer DSM programs for specific diseases to include, at a minimum, asthma (adult and pediatric), diabetes (adult and pediatric), congestive heart failure, coronary artery disease, oncology conditions (lung, breast and colon-rectal), and co-morbid conditions. Contractor shall offer DSM programs for other disease states at the request of DCH.

Contractor agrees to use only properly licensed and credentialed experienced health care professionals to comprise the multidisciplinary team. DSM review nurses shall be registered nurses at a minimum.

5.14.1 DSM Member Enrollment. Contractor's DSM program shall have the ability to identify potential enrollees from multiple sources of reports/data such as pharmacy Claims data, medical Claims data, UM data as well as conducting baseline assessments from information gathered through health risk assessment questionnaires.

5.14.2 Risk Stratification. The Contractor shall have policies and procedures that include a risk stratification process for assessing Members and assigning risk levels based on detailed Claims data. Contractor's interventions shall include evidence-based clinical guidelines and be specific to the Member's risk level.

5.14.3 Member Compliance. Contractor's DSM program shall include the development of Care Plans to document interventions, provide education, and monitor Member compliance throughout their enrollment.

5.15 Bridges To Excellence[®] (BTE) is a not-for-profit organization that designs and creates programs that encourage physicians and physician practices to deliver safer, more effective and efficient care by giving them financial and other incentives to do so. The Contractor shall participate in the BTE program for Diabetes Care. If not a current BTE participant, the Contractor must commit to becoming an active BTE participant within 90 business days upon award of the contract and shall not charge DCH any cost for becoming a new participant. The Contractor also agrees to participate in any future BTE programs as requested by the DCH.

5.16 Wellness and Prevention Programs. The Contractor shall have a Wellness and Prevention Program that is overseen by a Wellness Director who actively participates on the DCH Wellness Committee. The Wellness and Prevention Programs must promote statewide health and wellness initiatives for all SHBP members, and will include, but is not limited to, personal health assessments (PHA), tobacco cessation programs, nutritional and weight management education, stress management techniques, worksite wellness, and DCH approved incentives to engage participation.

5.17 Managed Behavioral Health/Substance Abuse. Contractor shall provide SHBP Members access to a national network of credentialed mental health and substance abuse Providers, as well as, access to partial hospitalization and intensive outpatient programs. The program services shall include inpatient admission authorization, concurrent review, and prospective review of non-inpatient services, intensive CM services including development of treatment plans, and monitoring the after-care treatment plan for one year post treatment and a 24-Hour telephone intake, assessment and referral service. Additionally, Contractor shall remain current with mental health/substance abuse trends and Contractor shall make recommendations for plan benefit re-design/enhancements, at a minimum, on a yearly basis.

5.17.1 MBH/SA Case Management. Contractor's MBH/SA CM program should include, at a minimum, early identification, referral to community resources as appropriate, and monitoring the patient through the full continuum of care.

5.18 Quality Management/Quality Improvement Programs (QM). The QM program shall monitor compliance of all UM and Claims functions for state and federal regulations, as well as, the DCH/SHBP policies where applicable and as contained in the SPD. The Contractor shall provide oversight and monitoring of its subcontractors for quality purposes.

Contractor agrees to use diligent good faith efforts to include in the Plan Options a requirement that any QM Program must include the following provisions: (i) a Contract to comply with the provisions of O.C.G.A. §§ 33-46-1 *et seq.*, regarding private review agents; (ii) adequate appeals mechanisms permitting Network Providers and SHBP Members to obtain reconsideration of any denial of certification or recertification of medical care, whether based on a lack of medical necessity and/or a determination that services are Non-Covered Services.

5.18.1 QM Program Evaluation. Contractor shall conduct an annual evaluation of its QM program to assess overall program effectiveness, measure goals and objectives (met or not met), identify potential and actual barriers, and recommend revisions and/or modifications to the QM program for the upcoming year. Contractor shall provide such evaluation to the DCH when concluded.

5.19 Hospital and Physician Access. Contractor warrants that all Network hospitals and physicians are participating under a contract, either held directly by the provider or by a third party with whom Contractor contracts for the Plan Options of the SHBP.

5.20 Access to Other Health Care Providers. Contractor agrees to provide access for SHBP Members to additional health care providers, professionals and/or facilities including but not limited to, home health, durable medical equipment, physical therapy, occupational therapy, speech therapy, and Chiropractors.

5.21 Provider Credentialing. Contractor will require each contracted Provider to comply with all requirements of the law relating to the furnishing of medical and health care services to the public, and now has and will maintain in effect all permits, licenses and governmental or board approvals which may from time to time be necessary for that purpose. Contractor shall maintain the certification granted by the National Committee for Quality Assurance (NCQA) in accordance with Exhibit "4" Performance Guarantees.

5.22 Maintenance of Network Composition. Contractor agrees to maintain the general composition of and number of Network Providers in Contractor's current HRA, HMO, HDHP, PPO or MA PFFS network. Significant changes to the Network in Georgia must be communicated to the DCH at least sixty (60) days in advance or within ten (10) days of notification by the Network Provider to Contractor, whichever is less. A significant change is defined as any of the following:

- (i) Any provider in a specific specialty where another provider in-network of equal services is not available within 15 miles in an Urban market, 25 miles in a Suburban market and 45 miles in a Rural market;

- (ii) Loss of a hospital in an area where another provider of equal service is not available within 10 miles in an Urban market, 20 miles in a Suburban market and 45 miles in a Rural market; or
- (iii) Other changes to the composition of the Network which impair or deny the SHBP Member's adequate access to Network Providers.

In addition, Contractor must have written selection and retention policies and procedures that must be submitted to the DCH for review and approval in accordance with the timeframes and requirements outlined in the RFA. At a minimum, the Contractor must meet the following criteria regarding management of the Provider Network:

- (i) Provide for the expected utilization of services and conduct trend analysis periodically to identify and track changes in Member population both by volume and demographic of a geographical area;
- (ii) Provide the numbers and types (in terms of training, experience, and specialization) of Providers required to furnish Covered Services;
- (iii) Provide the number of Network Providers who are not accepting new patients; and
- (iv) Meet the GeoAccess requirements stated in Worksheet 21 of the RFA.

If Contractor declines participation to a Provider, Contractor must give the affected Provider(s) written notice of the reason(s) for the decision if the Contractor declines to include individual Providers or groups of Providers in its network in accordance with Contractor's credentialing policies and procedures.

Contractor does not employ Network Providers and they are not Contractor's agents or partners. Network Providers participate in Networks only as independent Contractors. Network Providers and the Members are solely responsible for any health care services rendered to Members.

5.23 Provider Communication. Contractor shall issue a Provider manual to all Network Providers during implementation and for each new Provider contract that is signed and must also provide a reference guide with information specific to the SHBP, including, but not limited to SHBP Covered Services, exclusions, policies and procedures, and applicable statutes. Contractor must provide training to all Providers and their staff regarding the requirements of the SHBP within thirty (30) Calendar Days of placing a newly contracted Provider on active status and must monitor Provider knowledge and understanding of Provider requirements, and take corrective actions to ensure compliance with the SHBP.

5.24 Healthcare Information Exchange (HIE). Contractor shall have in place or develop initiatives towards HIE and health care transparency that would encourage the use of electronic health records, personal health records (PHRs), and make available to Members increased

information on cost and quality of care, and offer provider incentives that reward high quality at low cost. Contractor shall demonstrate to the DCH its strategies and development toward improving health care transparency and HIE activities as outlined in accordance with Exhibit 4 Performance Guarantees.

5.25 Provider Referrals. Contractor shall use diligent good faith efforts to ensure that Network Providers refer to other Network Providers in admitting or referring Members for diagnosis, treatment, or therapy, except in case of an Emergency. Network Providers will inform Members if a referral is being made to an out-of-network Provider, and also will inform Members of those Network Providers who may be available and qualified to care for the HRA, HMO, HDHP, PPO, or MA Member.

5.26 Consumer Choice Option. Contractor agrees to administer and abide by the applicable provisions of the “consumer choice option” legislation and applicable rules promulgated by O.C.G.A. §§ 33-20A-9.1 *et seq.*, whereby enrollees of a managed care plan have a right to access Covered Services outside of any plan provider panel under the terms and conditions of the managed care plan. To the extent required by Georgia law, the DCH will inform HRA, HMO, HDHP, and PPO Members about the consumer choice option under the SHBP during open enrollment periods. In addition to any other obligations to implement applicable provisions of the statute referenced in this Par. 5.23, Contractor shall provide consumer choice provider nomination information and forms to Members, maintain a formal procedure for processing nominations, respond to the inquiries of Members, notify Members in writing of denied and approved nominees, and coordinate claims payment information.

5.27 Member Services. Contractor shall operate a toll-free dedicated Member Services telephone line to respond to Member questions, comments and inquiries between the hours of 8:00 a.m. and 6:00 p.m. Eastern Time Monday through Friday, excluding holidays. If the Contractor does not have a dedicated provider services line, the Member Services telephone line must be able to handle Provider questions, comments, and inquiries. Contractor shall develop policies and procedures that address staffing, personnel, hours of operation, access and response standards, monitoring of calls via recording or other means, and compliance with standards. Contractor shall submit these telephone policies and procedures, including performance standards pursuant to this Contract to the DCH for review and approval within sixty (60) Calendar Days after effective date of Contract.

5.27.1 Non-English Speaking Calls. Contractor shall provide Member Services that handle calls from Spanish speaking callers, as well as calls from Members who are hearing impaired. Contractor shall also provide Member Services that handles calls from other non-English speaking callers through a translation service.

5.27.2 Other Minimum Requirements. At a minimum, the DCH requires that Contractor’s Member Services:

- i). Have the capability to track call management metrics and provide monthly, quarterly and annual reports (as outlined in Exhibit 4, Performance Guarantees);
- ii). Consist of Member Services staff trained to respond to Member questions in all areas, including, but not limited to, Covered Services, the Provider Network, and any prior approval or pre-certification requirements;
- iii). Consist of Member Services staff that have specialized training in assisting the needs of a retired population who have no access to employer assistance and have Medicare coordination of benefits and procedures;
- iv). Record all calls and keep recordings for a period of twenty (24) months; and
- v). Allow the SHBP staff to have monitoring capability for live and/or recorded calls remotely and onsite. If recorded calls, allow SHBP to select a sampling on a weekly basis.

5.28 Member Communication Materials. Contractor shall provide the DCH with Contractor's collateral materials, marketing materials, Provider directories, wellness/health promotion newsletter and program description as well as other materials necessary to adequately inform and educate Eligible Members concerning utilization of the HRA, HMO, HDHP, PPO and MA Option Plans. Contractor shall not release any communication materials without the prior approval of the DCH.

5.29 Open Enrollment. Contractor agrees to participate in the SHBP open enrollment period by attending benefit fairs, open enrollment and retiree meetings, and train-the-trainer programs throughout the State upon the DCH's request. Contractor must submit copies of all marketing materials (written for handouts and presentations) that it and any of its subcontractors may distribute during open enrollment to the DCH for review and approval prior to dissemination.

5.29.1 Health Plan Decision Guide. Contractor agrees to share in the cost of producing and printing the Health Plan Decision Guide. The method of calculating the Contractor's share is based on proportionate costs for all of the Plan's Options.

5.30 Provider Directory. Without cost to the DCH or SHBP Members, Contractor shall publish or cause to be published the names, addresses, contact information, and services, including types and levels of specialties, offered by Providers in directories (the "HRA, HMO, HDHP, PPO, and MA Provider Directory") to be furnished to the DCH in the amounts requested for distribution to employing entities and shall also be made available for viewing and printing via Contractor's website. The Contractor shall mail Provider directories upon request to Subscribers within ten (10) Business Days of receiving the request of the directory.

5.31 Resolution of Complaints. Contractor agrees to cooperate in activities with the DCH in responding to complaints or issues from any HRA, HMO, HDHP, PPO, or MA Member. Furthermore, Contractor agrees to cooperate with the DCH in resolving any Provider access issues, including but not limited to: Providers not accepting new patients, lengthy wait times for appointments, or lack of specialty care physician coverage.

Contractor shall acknowledge any and all complaints from Members addressed to the post office box address on the Member ID card and related to services under this Contract within five (5) Business Days of the complaint. Resolution shall be completed within ninety (90) Calendar Days and if not the Contractor must provide a written status of the delay to the Member.

5.31.1 Tracking of Complaints. Contractor will respond to all Member complaints or issues within seven (7) Business Days after notification of the complaint/issue from the Member or the legal representative, or the DCH. Contractor shall administer a tracking, monitoring and response system for addressing the complaints or issues of Members, and a reporting system for providing data to the DCH on a monthly and quarterly basis in accordance with Exhibit 4, Performance Guarantees.

5.32 Adequate Provision of Services; Non-Discrimination. Contractor shall require Network Providers to provide Covered Services which are Medically Appropriate to Members within the scope of the Provider's license and in accordance with the Plan. At all times throughout the term of this Contract, Contractor shall require Network Providers to maintain adequate facilities, equipment, personnel and administrative services to perform their obligations under and as prescribed for the Plan Options of this Contract and under the Plan. Network Providers shall render Covered Services to Eligible Members in the same manner, in accordance with the same standards and with the same time availability as offered to other non-HRA, HMO, HDHP, PPO or MA Members. Network Providers shall not differentiate or discriminate unlawfully in the treatment of any Member on account of race, color, national origin, religion, sex, marital status, sexual orientation, age, disability, health status, or source of payment and shall comply with Title VII of the Civil Rights Act of 1964 as well as applicable state laws regarding discrimination.

5.33 Surveys. Contractor shall conduct surveys of Members served by the Network Providers under this Contract, in a format and under a methodology, with respect to quality, access, utilization and service levels of Network Providers. Contractor shall investigate and provide the DCH with a written report of all quality problems identified by the DCH in conducting these surveys, as requested by the DCH in writing, on a quarterly basis. Furthermore, Contractor shall implement measures to correct quality problems identified by the DCH pursuant to this section. Contractor agrees that it will conduct annual Member satisfaction surveys of HRA, HMO, HDHP, PPO, and MA Members served by Contractor in accordance with required performance standard in Exhibit 4.

5.34 Internet Presence/Web Site. Contractor shall provide general and up-to-date information about the SHBP, the Provider and Pharmacy Network, its customer service, explanation of benefits (EOBs), HRA balances, the appeals process, and fraud and abuse notification on its web

site. This can be achieved via links to other sites, if needed. Contractor shall also maintain a site that allows Subscribers to access a searchable Provider and Pharmacy directory that shall be updated, at a minimum, weekly upon changes to the Provider and Pharmacy Network consistent with the standards outlined in the RFA. The web site shall have the capability for Eligible Members to submit questions and comments to the Contractor and receive responses and must comply with the DCH policies and procedures and with requirements for written materials described in the RFA and must be consistent with applicable State and federal laws.

In addition, Contractor web site must provide cost estimator tool for Members to utilize for comparison of provider charges and pharmacy costs in addition to facility and physician quality comparisons. Contractor must submit web site screenshots to the SHBP for review and approval sixty (60) Calendar Days prior to implementation and must submit monthly Internet activity reports that shall include at a minimum the requirements outlined in the RFA in section 3.12 to the SHBP.

5.35 Health Information Technology. Offeror shall commit to developing improvements in its technology as outlined in section 3.12 in the RFA (e.g., decision support systems to provide physicians with up to the minute information on best practices and treatment options, access to confidential personal health information online for Members, web-based health information for Members, electronic and more efficient communication between providers and other providers as well as between Members and providers, etc.).

5.36 Claims. Contractor shall require Network Providers to file Complete Claims on behalf of Members and to collect no more than the co-payment, deductible, out-of-pocket, or co-insurance amounts from Eligible Members. Contractor must determine if the claimant is an Eligible Member of the SHBP on the date of service, calculate benefit liability according to the SHBP approved benefit schedule and medical policy guidelines, and, thereafter issue payment for the benefit. If Contractor needs additional information for accurate adjudication, it must elicit the information and notify the Provider and Eligible Member of the delay and require submission of adequate information in order to perfect the Claim. If a Provider breaches this provision, the DCH, at its discretion, may require that Contractor terminate that Provider from participation in the SHBP.

In applying the Plan's provisions, Contractor will use Claim procedures and standards developed by Contractor for benefit determination. The DCH delegates to Contractor the discretion and authority to use such procedures and standards.

Contractor shall assume all costs associated with Claims processing, including the interest charges assessed past the Clean Claims filing law, the cost of reprocessing/resubmission, or costs due to un-recovered overpayments caused solely by the Contractor or the design of Systems within the Contractor's span of control.

5.36.1 Claims System Edits. Contractor shall utilize a Claims system with processes and edits in place to identify improper Provider billing. This includes,

but is not limited to, up-coding, unbundling of services, and duplicate bill submissions. Contractor shall also identify overpayments and maintain records of any incorrectly paid Claims, issue requests for repayment and maintain a process for collecting benefit overpayments.

5.36.2 Electronic Claims. Contractor shall support an Automated Clearinghouse (ACH) mechanism that allows Providers to request and receive electronic funds transfer (EFT) of Claims payments. Contractor shall make good faith efforts to encourage that its Providers, as an alternative to the filing of paper-based Claims, submit and receive Claims information through electronic data interchange (EDI), i.e. electronic Claims. As part of this Electronic Claims Management (ECM) function, the Contractor shall also provide on-line and phone-based capabilities to obtain Claims processing status information.

5.36.3 Claims Turnaround Time. Turnaround time for all Claims will be measured from the date the Claim is first received by the Claims administration office to the date it is processed. A processed Claim is one that generates payment or provides reasons for no payment. Time needed to request and obtain additional information and/or documentation will not be included in the claim turnaround time because claims are closed/denied when additional information is requested or required. Contractor shall adhere to performance standards required in Exhibit 4.

5.36.4 Payment Accuracy. Claim payment accuracy is defined as the percentage of Claims paid correctly (no overpayment or underpayment.). Contractor shall adhere to performance standards required in Exhibit 4.

5.36.5 Financial Accuracy. Financial accuracy is defined as the percentage of dollars paid correctly. Contractor shall adhere to standards required in Exhibit 4.

5.36.6 Procedural Accuracy. Procedural accuracy is defined as the percentage of claims paid in the correct amount; to the correct party and under the correct claimant's file, but the claims payment and documentation guidelines were not followed. Contractor shall adhere to performance standards required in Exhibit 4.

5.37 Cost Avoidance Recovery. Contractor must have procedures and processes in place for cost avoidance to the SHBP to identify, investigate, track and recover third party and workers' compensation liabilities, including coordinating coverage through cross-over with Medicare. Contractor is authorized to enter into subcontract(s) for the identification of Claims for which a third party may be liable and for the pursuit of the SHBP's right of reimbursement, subject to the approval of the DCH. Contractor shall provide monthly, quarterly, and annual reports that include at a minimum the requirements outlined in the RFA.

5.37.1 Contractor must track and report all refunds for the SHBP, identifying trends and assisting in activities that will avoid incorrect payment of the SHBP funds. You must

provide reports on a monthly, quarterly and annual basis. Reports should include the following.

- A. Beginning backlog/status
- B. Number of closed cases
- C. Number of new cases added to backlog
- D. Number of cases with recoveries
- E. Dollar amount of total payout for each case
- F. Dollar amount of recovery for each case
- G. Month ending backlog
- H. Trending by month and year
- I. Ratio of recovery by month
- J. Comment area that may be needed to explain elements on report by month and year.

5.39 Medicare Secondary Payer. Contractor shall handle all Claims in relation to the Medicare Secondary Payment provisions in accordance with federal law. As such, Contractor must provide a data-match file in accordance with the Medicare Voluntary Data-Match Contract. Additionally, Contractor must receive and process Medicare demand letters within the timeframes specified by the federal government in the letters to avoid interest charges, notify employing entities and the SHBP of Medicare payments in relation to the demand letters, handle all telephone calls in relation to Medicare demand payments, from Employees, employing entities, and collection agencies.

5.40 Benefit Determination and Appeals. The DCH appoints Contractor as named fiduciary under the each Plan Option with respect to (i) performing Claims processing and payment, (ii) performing the fair and impartial review of initial appeal, and (iii) performing the fair and impartial review of final appeals. As such, the DCH delegates to Contractor the discretionary authority to (i) construe and interpret the terms of the Plan Options, (ii) determine the validity of charges submitted to Contractor under the Plan Option, and (iii) make final, binding determinations concerning the availability of Plan Option benefits.

If it is determined that a benefit is payable, Contractor will issue a check for, or otherwise credit the benefit payment to the appropriate payee. If Contractor determines that all or a part of the benefit is not payable under the Plan Option, Contractor will notify the claimant of the denial and of the claimant's right to appeal the denial.

If Contractor denies a Plan Option benefit Claim, the claimant shall have the appeal rights set forth in the Certificate of Coverage Booklet and/or which are required under applicable law. Contractor will process the appeal and determine whether a Plan Option benefit is available. If, after exhaustion of all levels of appeal, Contractor determines that the Plan Option benefit is still not available, Contractor will notify the claimant that the denial has been upheld. This determination will be final and binding on the claimant.

5.41 Coordination of Benefits and Subrogation. The following provisions apply regarding coordination of benefits available for Covered Services:

5.41.1 COB and Subrogation. Contractor and Network Providers recognize that certain claims for services rendered to Members are claims for which another payor may be primarily responsible under coordination of benefit (COB) rules. Contractor shall, and shall require Network Providers, to use diligent good faith efforts to pursue and process any coordination of benefit or subrogation claims which relate to services provided by the Network Provider. Reimbursements obtained by the Network Provider as a result of the pursuit of COB or subrogation claims will be retained by the Network Provider, but Contractor shall ensure that in no event shall the Network Provider receive and retain more than one hundred percent (100%) of its eligible charges for Covered Services rendered to the Members.

5.41.2 COB Savings and Spending Reports. The DCH requires that Contractor report COB savings to the SHBP with the amount of COB spending being reported separately from the savings amount. Reports shall be provided to the DCH on a monthly, quarterly, and annual basis. Reports shall include at a minimum the requirements outlined in the RFA. Contractor should calculate the COB savings percentage by using the following formula:

$$\frac{Lpl - Ps}{Pt}$$

Pt

Lpl = the amount of the SHBP as primary liability

Ps = the actual payment of the SHBP as secondary liability

Pt = total benefit payments

5.41.2 Network Providers. Contractor shall ensure that Network Providers agree to cooperate with the DCH to exchange information relating to COB or subrogation claims with regard to any Member for whom the Network Provider is providing or has provided Covered Services under the HRA, HMO, HDHP, or PPO Option of the Plan.

5.41.3 COB with Medicare. Contractor agrees to administer COB and subrogation of Medicare claims according to standard Medicare rules and regulations and pursuant to, and also consistent with, Plans' policies and procedures for Medicare eligible employees.

5.42 Explanation of Benefits. Contractor assumes the responsibility of generating Explanation

of Benefits (EOB) and Remittance Advices in accordance with State standards for formatting, content and timeliness.

5.43 Electronic Data Processing (EDP) Environment and Software. The EDP environment-the physical, Software, security features and the internal controls used by Contractor must meet the minimum internal accounting control standards outlined in the current edition of the Auditor's Study and Evaluation of Internal Control in EDP Systems, published by the American Institute of Certified Public Accountants.

5.43.1 EDP System Audits. Contractor shall agree to authorize the DCH and the State Department of Audits personnel to have access to detailed EDP system documentation and all subsystems relevant to services provided for the DCH at the Contractor's facilities or such other documentation that is responsive to the DCH request. Access must be granted within five (5) days of the request. Documentation must include, but not be limited to file structures, program libraries, program logic, program edits, establishment of fee schedules, and interface programs or subsystems.

5.43.2 System Security. Contractor shall utilize sufficient and secure EDP/telecommunications facility with hardware, etc., sufficient to process, store and access the volume of submitted transactions on behalf of SHBP Eligible Members and to handle any projected and actual growth in membership over the term of the Contract. Moreover, Contractor must maintain documented, state-of-the-art Software to accurately process transactions submitted on behalf of SHBP Eligible Members and must provide a state-of-the-art secure EDP system that authorizes different levels of access and prevents and records attempts of unauthorized access to information (Software, data, or media of any kind). Contractor shall provide for sufficient information technology staff to customize the Software to meet the State's business needs. Contractor is responsible for the creation of a firewall to secure information about utilization, pricing information or other information that is useful to the Contractor in marketing or expanding non-State business relationships.

5.43.3 HIPAA-Compliant System. Contractor must utilize a Claims system that is HIPAA-compliant and that conforms to all security and privacy rules as required under federal and State laws. In order to assure compliance with privacy and confidentiality laws, Contractor must seek the DCH approval for any release of data regarding Claim and membership information not specifically authorized under the State.

5.43.4 Date-Stamp Capacity. Contractor shall maintain a Claims management system that can identify date of receipt (the date the Contractor receives the Claim as indicated by the date-stamp), real-time-accurate history of actions taken on each Provider Claims when paid, denied, or appealed, and date of payment (the date of the check or other form of payment).

5.43.5 Electronic Data Transfer. Contractor shall provide all requirements for electronic transfers of data to and from the DCH and make provisions for other DCH vendors to use electronic transfers of data for interfaces as required in the RFA under performance standards in Exhibit 4.

5.43.6 On-Line Processing. Contractor shall process Claims “on-line” or process Claims in “real time” for manually keyed initial Claims and adjustments. Contractor’s Claims process will include imaging, scanning, or other EDI media, an appropriate balance of on-line and batch processing applications is required. Contractor must also utilize an on-line system able to retain and display Claims information in detail for a period of twenty-four (24) months from the date of Claim payment or non-payment. The system must be able to retain and display Claims information in an off-line report for a minimum of an additional five years from the date of adjudication. Contractor will make use of on-line help screens and user manuals to increase the number of questions/problems that can be resolved without reference to paper manuals.

5.43.7 Enterprise Data Warehouse (EDW). The Contractor will maintain an enterprise data warehouse (EDW) for ease in generating user-defined reports and ad hoc reports for the SHBP. The process of transferring data to the warehouse and using the SHBP data must be subject to the confidentiality and data security policies of the DCH.

5.43.8 Remote Access Test Region. Contractor shall provide, via the Internet, remote access to a test region for the Claims adjudication.

5.43.9 Absorption of Costs. Contractor shall be liable and responsible for all costs incurred to achieve and maintain compliance with state and federal laws in effect on the Effective Date and throughout the life of the Contract.

5.44 System Access. Contractor grants the DCH the nonexclusive, nontransferable right to access and use, on a view-only basis, the functionalities contained within the Systems, under the terms set forth in this Contract. The DCH agrees that all rights, title, and interests in the Systems and all rights in patents, copyrights, trademarks, and trade secrets encompassed in the Systems will remain Contractor’s. In order to obtain access to the Systems, the DCH shall obtain, and be responsible for maintaining at no expense to Contractor, the hardware, Software, and Internet browser requirements Contractor provide to the DCH, including any amendments thereto. The DCH shall be responsible for obtaining an Internet Service Provider or other access to the Internet. The DCH shall not (a) access Systems or use, copy, reproduce, modify, or excerpt any of the Systems documentation provided by Contractor in order to access or utilize Systems, for purposed other than as expressly permitted under this Contract; or (b) share, transfer or lease the DCH’s right to access and use Systems, to any other person or entity which is not a party to this Contract. The DCH may designate any third party to access Systems on the DCH’s behalf, provided the third party agrees to these terms and conditions of Systems access.

The DCH will use commercially reasonable physical and software-based measures, and comply with Contractor's security procedures, as may be amended from time to time, to protect the System, its functionalities, and data accessed through Systems from any unauthorized access or damage (including damage caused by computer viruses). The DCH will notify Contractor immediately if any breach of the security procedures, such as unauthorized use, is suspected. Contractor reserves the right to terminate the DCH's System access (i) on the date the DCH fails to accept the hardware, software and browser requirements provided by Contractor, including any amendments thereto or (ii) immediately on the date Contractor reasonably determines that the DCH has breached, or allowed a breach of, any applicable provision of this Section. The DCH's System access will also terminate upon termination of this Contract, provided however that if run-out is provided in accordance with this Contract in Section 8, the DCH may continue to access applicable functionalities within the Systems during the run-out period. Upon any of the termination events described in this Contract, the DCH agrees to cease all use of Systems, and Contractor will deactivate the DCH's identification numbers, passwords, and access to the System.

5.44 Fraud and Abuse. Contractor shall have written program integrity policies and procedures, including a mandatory compliance plan designed to guard against fraud and abuse. The program integrity policies and procedures shall include policies, procedures, and standards of conduct for the prevention, detection, reporting, and corrective action for suspected, reported and investigated cases of fraud and abuse in the administration and delivery of services under this Contract.

5.44.1 Compliance Plan. Contractor must establish a compliance plan that must include, but may not be limited to, the following:

- i). Provision for internal monitoring and auditing of suspected, reported and investigated fraud and abuse violations, including specific methodologies for such monitoring and auditing;
- ii). Written standards for organizational conduct;
- iii). Effective training and education for the Compliance Officer and the organization's employees, management, board members, and subcontractors, as described herein below;
- iv). Inclusion of information about fraud and abuse waste identification and reporting in Provider and Member materials; and
- v). Provisions for the investigation, corrective action and follow-up of any suspected fraud and abuse reports.

5.44.2 Compliance Officer and Staff Training. As a part of its compliance plan, Contractor shall designate a Compliance Officer who is accountable to

Contractor's senior management and is responsible for ensuring that policies are established and followed for effective lines of communication between the Compliance Officer and Contractor's staff, as well as between the Compliance Officer and the DCH staff. Contractor shall be responsible for ensuring the effective training and education for the Compliance Officer and the organization's employees, management, board members, and subcontractors.

5.44.3 Policies and Procedures. At a minimum, Contractor's policies and procedures shall consist of the following:

- i). Policies to ensure that all officers, directors, managers and employees know and understand the provisions of the Contractor's fraud and abuse compliance plan;
- ii). Policies to establish a compliance committee that meets at least quarterly and reviews fraud and abuse compliance issues;
- iii). Policies to ensure that any individual who reports SHBP violations or suspected fraud and abuse will not be retaliated against;
- iv). Policies of enforcement of standards through well-publicized disciplinary standards; and
- v). Procedures for the detection of fraud and abuse that includes, at a minimum, the following:
 - a. Claims edits;
 - b. Post-processing review of Claims;
 - c. Provider profiling and credentialing;
 - d. Quality control; and
 - e. Utilization management.
- vi). Procedures for reporting suspected, investigated and reported fraud and abuse cases to the DCH's Office of the Inspector General .

5.44.4 Cooperation and Coordination with the DCH and Other Agencies. Contractor shall cooperate and assist any State or federal agency charged with the duty of identifying, investigating, or prosecuting suspected fraud and abuse cases. Contractor shall permit access to Contractor's place of business during normal business hours, provide requested information, permit access to personnel, financial and medical records, and provide internal reports of investigative, corrective and legal actions taken relative to the suspected case of fraud and abuse directly or indirectly related to services under this Contract.

5.44.5 Notification and Reports. As permitted by applicable law, the DCH must be informed about known or suspected cases of fraud and Contractor shall not investigate or resolve the suspicion without making the DCH aware of, and if appropriate involved in the investigation. Fraud and abuse reports must be submitted to the DCH on a monthly, quarterly, and annual basis.

5.45 Pharmacy Services. Contractor is offering pharmacy services through a contracted Pharmacy Benefit Manager (PBM). Pharmacy services shall include retail claims processing, benefit and plan design, drug utilization review, pharmacy care management programs, internet/telephonic based communication, support and information for providers and Members, data management and reporting, rebate administration, and manufacturer support programs. Mail Order services will not be available through this Contract.

5.45.1 Pharmacy Network. Contractor will make Network Pharmacies available to the DCH's Members a Georgia statewide and national network of Pharmacies. Contractor will determine which pharmacies are Network Pharmacies. Network Pharmacies can change at any time. Contractor will notify the DCH with thirty (30) Calendar Days advance notice of any significant changes that occur to the network.

5.45.2 Preferred Drug List (PDL) Development. Contractor shall furnish a PDL for use with the Plan. The DCH agrees not to copy, distribute, sell, or otherwise provide the PDL to another party without Contractor's prior written approval, except to Members as described below. On termination of the Contract, the DCH will stop all use of the PDL.

Contractor shall make the final classification of an FDA-approved prescription drug product to a certain tier of the PDL by considering a number of factors including, but not limited to, clinical and economic factors. Clinical factors may include, but are not limited to, evaluations of the place in therapy, relative safety or relative efficacy of the prescription drug product, as well as whether supply limits or notification requirements should apply. Economic factors may include, but are not limited to, the prescription drug product's acquisition cost including, but not limited to, available Rebates, and assessments on the cost effectiveness of the prescription drug product. Whether a particular prescription drug product is appropriate for an individual Member is a determination that is made by the Member and the prescribing physician.

Contractor may periodically change the placement of a prescription drug product among the tiers. These changes generally will occur quarterly, but no more than six times per Calendar year. These changes may occur without prior notice to the DCH. Current information may be obtained from Contractor's website, or by calling the Member Service number on the Member's ID card.

5.45.3 Pharmacy Claims Processing. Contractor will process the Claims received from Network Pharmacies in accordance with the SPD, as well as the pricing and other terms of the Network Pharmacy's participation agreement. The DCH's payment will be the same amount that Contractor reimburses the Network Pharmacy. Contractor shall apply the full point of sale benefit design edits to all paper claims and provide monthly and quarterly reports of all paper claims activity.

Contractor shall have capability to process the "wrap-around" option for the SHBP retirees enrolled in a Medicare Part D plan. Contractor shall route secondary payer data to the TrOOP contractor for the Centers for Medicare and Medicaid Services (CMS).

5.45.4 Pharmacy Network Rebate. Contractor may enter into agreements with certain entities in order to obtain cost savings on prescription drugs for the benefit of the Plan and its Members. Further, Contractor may receive Rebates directly or indirectly from such entities based on the number of drugs purchased under the Plan. The DCH will retain 100% of all Rebates received from prescription drugs.

The DCH agrees that during the term of the Contract, neither the DCH nor the Plan will negotiate or arrange or contract in any way for Rebates on or the purchase of prescription drug products from any manufacturer with respect to the pharmacy benefits under this Contract. In the event the DCH or the Plan negotiates or arranges with a drug manufacturer for Rebates on the purchase of prescription drug products or services, Contractor may, without limiting Contractor's right to other remedies, immediately terminate the DCH's entitlement to Rebates (including forfeiture of any Rebates earned but not paid).

In addition, the DCH agrees to fully cooperate with Contractor in order to obtain Rebates and will use Contractor's PDL and Contractor's Network Pharmacies. The DCH will encourage Members to electronically access the PDL on Contractor's website, and encourage Members to share the PDL with their physicians or refer their physicians to the PDL on Contractor's website.

5.45.5 Pharmacy Payments. Contractor shall provide payment to Network Pharmacies every seven (7) days.

5.45.6 Prior Authorizations and Appeals. Contractor shall review initial requests and complete review within 24 hours of receipt of complete information and first level appeals within 72 hours of receipt of all necessary information in accordance with Exhibit 4 Performance Guarantees.

5.45.7 Specialty Pharmacy Program. Contractor shall offer a Specialty Pharmacy Program that consists of a specialty pharmacy network for dispensing of certain medications such as injectable and infused therapies that are usually of high cost

with special storage requirements and is not available or cannot be readily obtained through network retail pharmacies.

5.45.8 Electronic Prescribing. Contractor shall support e-prescribing initiatives by the DCH as described in section 3.13 of the RFA.

5.46 Health Reimbursement Arrangement (HRA). Contractor shall be responsible for the administration of the Member HRAs. Contractor shall provide to the DCH monthly reports of account balances and an annual reconciliation report of each Member's account.

5.46.1 HRA Pro-ration. Contractor shall be able to administer the pro-ration of HRA for mid-year new hires.

5.47 Medicare Advantage Private Fee-for-Service (PFFS). Contractor must have process to strategically communicate with physicians and facilities to educate them on Contractor's PFFS product, including website capabilities.

5.47.1 Provider Database. Contractor shall develop and maintain a provider data base of all physicians accepting patients in the Medicare Advantage PFFS plan in accordance with Exhibit 4 Performance Guarantees.

5.47.2 Member Services. Contractor Member Service staff must be able to help locate an accepting provider within 24 hours when a Member reports a provider not accepting the PFFS plan.

5.47.3 Communication. Offeror must have a process to communicate with retirees to ensure they understand the PFFS plan and are informed about the distinctive features of the plan.

5.47.4 Encounter Data. Contractor shall have a process for encounter data submission to CMS Risk Adjustment Processing system (RAPS) including, but not limited to, timing, formats, up-front edits, error corrections and resubmission of rejected data.

5.47.5 Reconciliation. Contractor must have a process for reconciliation between plan information, Risk Adjustment Processing System (RAPS) reports, Model Output Reports (MORs), Monthly Membership Reports (MMRs), and Prescription Drug Event (PDE) return files.

5.47.6 ICD9- CM Codes. Contractor must be able to accept and submit ICD-9-CM codes to the highest specificity, including fourth and fifth digits.

5.47.7 Risk Adjustment Payments. Contractor must have a process to remain current on coding guidelines to ensure accurate risk adjustment payments. Contractor shall provide employee training and policy formation regarding proper documentation and diagnoses coding.

5.48 No Insurer Relationship. It is understood and agreed that Contractor has no responsibility to the DCH or any other person or entity, for the following:

- (i) The propriety, necessity or advisability of any recommended treatment, operation, therapeutic procedure, medicine, drug, prescription, care, maintenance, confinement or other matter relating to the rendition of any medical or other health care services by any Network Provider; or
- (ii) Payment of any Members' medical, provider or other bills, debts, obligations or other liabilities of any kind relating to or arising out of any medical or surgical treatment or confinement other than as set forth in the Certificate of Coverage Booklet.

5.49 Readiness Review. Pursuant to Section 3.2.10. of the RFA, at least sixty (60) days prior to January 1, 2009 effective date, the DCH will have a readiness review of the Contractor, including an on-site review of the Contractor's facilities. Contractor shall participate in all readiness review activities conducted by the SHBP staff to ensure the Contractor's operational readiness for all products for all services (e.g. claims, eligibility, Member services, network access, network management, medical management, Contractor's staff education, etc.). The DCH will provide the Contractor with a summary of findings as well as areas requiring corrective action.

6. COMPENSATION

6.1 Funding and Payment of Claims. The Plan Options are self-funded. The DCH is solely responsible for providing funds for payment for all Plan benefits payable to Network Providers or Out-of-Network Providers under circumstances for which coverage is available under the terms of the Plan option, e.g. Emergency services. The Contractor shall provide banking disbursements from a bank account that is solely designated for the SHBP. Payments cannot be combined with those of other clients. In addition, the account shall be owned by the Contractor. An imprest balance will be maintained and the account will be funded as the drafts clear the bank.

6.2 Contractor shall perform due diligence for stale dated checks. Contractor must maintain separate reports or some type of tracking mechanism for these items due to the requirement of the DCH to maintain a liability in the financial records for seven (7) years.

6.3 Unfunding. If transfer of funds from the DCH is not received by Contractor on or before the time it is due, Contractor may elect to take either of the following actions: (1) Contractor will provide the DCH with notice, so that the DCH can correct the problem (2) Contractor may assess interest on the unpaid amount at the rate agreed upon by the DCH or (3) Contractor may stop payment of claims for the period of time the DCH does not provide the required payment.

6.4 Provider Reimbursement. Contractor will reimburse Providers in accordance with the applicable Plan Option reimbursement schedule set forth by Contractor. Contractor ensures that Network Providers will accept such payment as payment in full for Covered Services provided to Eligible Members, as deemed Medically Appropriate under the quality and utilization standards established pursuant to the Plan Option Utilization Management program and Quality Improvement program, less applicable co-payments, co-insurance and deductibles which shall be collected by the Providers. Contractor agrees to remit timely payment to Providers under this Contract as provided by Georgia law, O.C.G.A. §33-24-59.5, within fifteen (15) working days of receipt of Complete Claims from Providers, provided that the bills are accurate, complete and properly itemized, and do not require any additional information to process.

6.5 Prompt Payment. Contractor shall comply with O.C.G.A. § 33-24-59.5 with regard to the prompt payment of claims for healthcare services provided pursuant to this Contract.

6.6 Member Liability. Contractor ensures that Network Providers agree that the only charges for which a Member may be liable and billed directly by Network Provider shall be the charges for services which are Non-Covered Services and the co-payments, co-insurance and deductibles set forth in the applicable Plan. Under no circumstance shall Contractor or Network Providers bill any Member for the difference between billed charges and the Network fee schedule for the provision of Covered Services under this Contract. Whenever any such charge has occurred, the Network Provider will refund such charge to the Member within fifteen (15) days of discovering, or receiving notification of, the charge. If DCH receives notice of any such charge, the DCH shall inform Contractor and Contractor shall address such breach with the Network Provider in accordance with its then current contract with the Network Provider. The obligations set forth in this section will survive the termination of this Contract regardless of the cause giving rise to the termination, and will be construed for the benefit of Members.

6.7 Hold Harmless.

6.7.1 The Contractor shall ensure that the Network Provider shall hold each Eligible Member harmless from the cost of Covered Services which have been determined not to be Medically Appropriate or to have been rendered in a manner not in accordance with and appropriate under the standards and requirements of the Contractor. Notwithstanding this provision, if the Member or the Member's legal representative requests Network Provider to provide services, after being informed by Network Provider that Covered Services have been determined by a Plan not to be Medically Appropriate or that such services will be rendered in a manner not in accordance with and appropriate under the applicable standards and requirements, Network Provider shall be permitted to collect from the Member its usual and customary charges for providing such services.

6.7.2 Network Provider may bill a Member for Non-Covered Services if Network Provider has obtained the written consent of the Member prior to rendering such services.

7. **TERM OF CONTRACT**

This Contract shall begin on the Effective Date and shall continue until the close of the then current calendar year unless renewed as expressed herein. The Parties also agree that the DCH, in its sole discretion, shall have **four (4)** options to renew this Contract for an additional term of **up to one (1) calendar year, which shall begin on January 1, and end at midnight on December 31, of that year**, each upon the same terms, conditions and at the Contractor's price in effect at the time of the renewal in accordance with the administrative fees outlined in Exhibit 3. Pursuant to O.C.G.A. § 50-5-64(a)(2), the renewal option shall be exercisable solely and exclusively by the DCH, depending upon funding and Contractor's performance. As to each term, the Contract shall be terminated absolutely at the close of the then current calendar year without further obligation by the DCH except that the DCH will provide payment for services provided up to the date of termination unless renewed as expressly stated herein.

8. **PAYMENT FOR SERVICES**

A. The DCH shall compensate the Contractor in accordance with the amount as set forth in the Exhibit 3, which is incorporated herein and made a part of this Contract.

The relevant deliverables shall be mailed to the Project Leader named in the *Notice* provision of this Contract.

B. The total of all payments made by the DCH to Contractor under this Contract shall not exceed the costs referenced in Exhibit 3 to this Contract (hereinafter the "Maximum Funds"), which has been provided for through the use of State or other designated funds. The DCH shall have no responsibility for payment beyond that amount. It is expressly understood that the total amount of payment to the Contractor will not exceed the Maximum Funds provided above, unless Contractor has obtained prior written approval, in the form of a Contract amendment, authorizing an increase in the total payment. Additionally, the Contractor agrees that the DCH will not pay or otherwise compensate the Contractor for any work that it performs in excess of the Maximum Funds.

C. The Contractor shall not increase any charges during any term of this Contract, except as specifically permitted herein or upon the issuance of DCH's express written authorization for the Contractor to increase charges.

D. Moreover, the Contractor's employees, designees, or assignees, consultants and independent contractors (collectively "Workers") shall not be entitled to, nor shall it receive any additional consideration, compensation, salary, wages, or any other type of remuneration from the State for services rendered under this Contract, except as specifically permitted herein. In particular, the Workers will not be

entitled, by virtue of this Contract, to consideration from the State in the form of overtime, health insurance benefits, retirement benefits, disability benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid or unpaid leaves of absence of any type or kind whatsoever for any reason.

- E. Upon termination or non-renewal of this Contract, the method of providing funds for each Plan Option benefits and for providing Claims processing services remains in place for a period of not less than twelve (12) months for health services incurred prior to the termination of the Contract as outlined herein. This processing shall include claims adjudication and processing of any recoveries for overpayments or payments made to ineligible persons, as well as third party and worker's compensation recovery services. All of the other terms and conditions of this Contract will apply to these post-termination services. The fee for run-out services will be six (6) months administrative fees at the contractual rate, which is currently in effect, as provided by Exhibit 3, for twelve (12) months of run-out services.

9. FUNDING

Notwithstanding any other provision of this Contract, the Parties hereto acknowledge that institutions of the State of Georgia are prohibited from pledging the credit of the State. At the sole discretion of the DCH, this Contract shall terminate without further obligation of the State if the source of payment for the DCH's obligation no longer exists or is insufficient. The certification by the DCH of the events stated above shall be conclusive and not subject to appeal.

10. PAYMENT OF TAXES

- A. Contractor will forthwith pay all applicable taxes lawfully imposed upon it with respect to this Contract or any product delivered in accordance herewith. The DCH makes no representation whatsoever as to the liability or exemption from liability of Contractor to any tax imposed by any governmental entity.
- B. Furthermore, Contractor shall be responsible for payment of all expenses related to, based on, or arising from salaries, benefits, employment taxes (whether State or Federal), and insurance (whether health, disability, personal, or retirement) for its employees, designees, or assignees.

11. RELATIONSHIP OF PARTIES

Neither Party is an agent, employee, assignee, or servant of the other. It is expressly agreed that Contractor and any subcontractors and agents, officers, and employees of Contractor or any subcontractor in the performance of this Contract shall act as independent contractors and not as officers or employees of the DCH. DCH shall not be responsible for withholding taxes with respect to the Contractor's compensation

hereunder. The Parties acknowledge, and agree, that the Contractor, its agents, employees, and servants shall in no way hold themselves out as agents, employees, or servants of the DCH. The parties also agree that the Contractor, its agents, employees, and servants shall have no claim against DCH hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. It is further expressly agreed that this Contract shall not be construed as a partnership or joint venture between the Contractor or any subcontractor and the DCH.

12. INSPECTION OF WORK

The DCH, the State Department of Audits and Accounts, the U.S. Department of Health and Human Services, the General Accounting Office, the Comptroller General of the United States, if applicable, or their authorized representatives, shall have the right to enter into the premises of Contractor and/or all subcontractors, or such other places where duties under this Contract are being performed for the DCH in order to inspect, monitor or otherwise evaluate the services or any work performed pursuant to this Contract. Contractor shall bear all costs associated with inspections and evaluations of work. All inspections and evaluations of work being performed shall be conducted with prior notice and during normal business hours. All inspections and evaluations shall be performed in such a manner as will not unduly delay work.

13. STATE PROPERTY

- A. Contractor agrees that any papers, materials, and other documents that are produced or received by Contractor directly and uniquely for the DCH in connection with Contractor's provision of the services under this Contract shall be the property of the DCH upon creation of such documents, for whatever use that the DCH deems appropriate, and Contractor further agrees to execute any and all documents, or to take any additional actions that may be necessary in the future to effectuate this provision fully. In particular, if the work product or services include the taking of photographs or videotapes of individuals, Contractor must obtain the written consent from such individuals authorizing the use by the DCH of such photographs, videotapes, and names in conjunction with such use. Contractor shall also obtain necessary written releases from such individuals, releasing the DCH from any and all Claims or demands arising from such use.
- B. Contractor shall be responsible for the proper custody and care of any state-owned property furnished for Contractor's use in connection with the performance of this Contract. Contractor will also reimburse the DCH for its loss or damage, normal wear and tear excepted, while such property is in the Contractor's custody or use.

14. OWNERSHIP AND USE OF DATA AND RELATED MATTERS

- A. Ownership and Use of Data

All data created from information, documents, messages (verbal or electronic), reports, or meetings by Contractor directly and uniquely for the DCH and involving or arising out of this Contract is owned by the DCH (“DCH Data”). Except as permitted by applicable law Contractor is expressly prohibited from sharing or publishing the DCH Data or any information relating to the SHBP data without the prior written consent of the DCH. In the event of a dispute regarding what is or is not the DCH Data, the Department’s decision on this matter shall be final and not subject to appeal.

B. Software and Other Upgrades

The Parties also understand and agree that any upgrades or enhancements to software programs, hardware, or other equipment, whether electronic or physical, shall be made at the Contractor’s expense only, unless the upgrade or enhancement is made at the Department’s request and solely for the Department’s use exclusive of the deliverables contemplated by this Agreement. Any upgrades or enhancements requested by and made for the Department’s sole use shall become the Department’s property without exception or limitation. The Contractor agrees that it will facilitate the Department’s use of such upgrade or enhancement and cooperate in the transfer of ownership, installation, and operation by the Department.

C. Infringement and Misappropriation

The Contractor warrants that all Deliverables provided by the Contractor do not and will not infringe or misappropriate any right of any third party based on copyright, patent, trade secret, or other intellectual property rights. In case the Deliverables or any one or part thereof is held or alleged to constitute an infringement or misappropriation, or the use thereof is enjoined or restricted or if a proceeding appears to the Contractor to be likely to be brought, the Contractor will, at its own expense, either:

1. Procure for the Department the right to continue using the Deliverables; or
2. Modify or replace the Deliverables to comply with the Specifications so that no violation of any intellectual property right occurs. If Contractor fails to comply with the terms and conditions set forth in this Section 14, DCH shall have the option to terminate the Contract; or
3. Refund the price paid for such Deliverable(s) to DCH but DCH’s acceptance of a refund does not preclude DCH from availing itself of its others rights and remedies under this Contract, or under equity or at law.

D. Customization

If the DCH requests specific customization of Software programs, hardware, or other equipment, whether electronic or physical after the initial term of this Contract begins, the Contractor shall promptly make the requested change or modification at no cost to the DCH.

E. System Changes

1. All system changes required to comply, enable, and operate data transfers pursuant to this Contract shall be enabled, completed, and operated at no cost to the DCH.
2. The Parties agree that the required system changes are not complete until they are fully implemented and tested prior to the live date of the plan. In any event, the DCH's determination on whether the system changes are complete and satisfactory shall be conclusive and final.

F. Disaster Recovery

1. The Contractor shall provide a written Disaster Recovery Plan (hereinafter referred to as the "Recovery Plan") for review and comment by the DCH designed to minimize any disruption of the Contractor's services. The Recovery Plan shall be submitted to the DCH Project Leader listed in Section 32, **Notice**, of the Contract for review and approval sixty (60) days prior to implementation. Any updates thereto, must meet or exceed the requirements of the original Recovery Plan. The Disaster Recovery Plan shall be attached to this Contract as Exhibit 5.
2. It is the sole responsibility of the Contractor to maintain adequate backup so as to ensure continued automated and manual processing of services and transactions required to be conducted under this Contract. Any claims, demands, liabilities, losses, costs or expenses, and attorneys' fees suffered by the DCH pursuant to the Contractor's failure to comply with the requirements of this section may result in the Contractor's forfeiture of the irrevocable letter of credit maintained pursuant to Section 28, **Irrevocable Letter of Credit**, of this Contract in an amount not to exceed the actual amount of such loss, cost or expense sustained by the DCH as the result of the Contractor's failure to comply.
3. The written Recovery Plan and procedures will provide, at a minimum, for the following:
 - i). Assuming the loss of the Contractor's primary processing or operational site, resumption of the processing of the Contractor's services within three (3) business days;

- ii). Backup procedures and support to accommodate the loss of on-line communications between the Contractor's processing site and the DCH or its agent. These procedures must specify an alternate location for the DCH or its agent to utilize the Contractor's on-line system in the event the Contractor's system is down in excess of three (3) business days unless otherwise approved by the DCH;
 - iii). A detailed file backup Recovery Plan and procedures, including the off-site storage of crucial transactions and master files. The Recovery Plan and procedures will include daily back up of critical files and their rotation to an off-site storage facility. The off-site storage facility will also provide for comparable security of the data stored there, including fire, sabotage and environmental considerations;
 - iv). The maintenance of existing system documentation and source program libraries at an off-site location disclosed to the DCH;
 - v). The availability of the Recovery Plan and procedures for review by the DCH, federal auditors or the State Auditor on request;
 - vi). Backup customer call center for immediate rollover of Eligible Members, Providers, and the DCH calls to alternate locations in the event of disruption of public utilities and other interruptions of service; and
 - vii). Conducting of an annual Recovery Plan Review and exercise/drill at the Contractor's own expense. The review must test all material components of the Contractor's operation, including services provided by any third party(ies) The Parties will discuss and agree as to what components are considered to be material during implementation. A written report of the findings must be delivered to the DCH within fifteen (15) business days of the date that the test is conducted. The Contractor must develop a written Corrective Action Plan for any deficiencies noted in the test and must thoroughly re-test until satisfactory results are achieved and maintained.
4. DCH, federal auditors, or the State Auditor, reserves the right to conduct a site visit of the Contractor's disaster recovery location with one (1) day prior notice.
 5. This Section shall survive termination of this Contract for any reason.

G. Discharge of Liens

The Contractor shall immediately discharge or cause to be discharged any lien or right in lien of any kind, other than in favor of DCH, which at any time exists or arises in connection with work done or equipment or other instrumentality furnished under this Contract. If any such lien or right in lien is not immediately discharged, DCH may discharge or cause to be discharged such lien or right at the expense of the Contractor

15. CONTRACTOR STAFFING

A. Staffing Assignments and Credentials

1. Contractor warrants and represents that all persons, including independent contractors and consultants assigned by it to the performance of this Contract, shall be employees or formal agents of Contractor and shall have the credentials necessary (i.e., licensed, and bonded, as required) to perform the work required herein. Contractor shall include a similar provision in any contract with any subcontractor selected to perform work hereunder. Contractor also agrees that the DCH may approve or disapprove Contractor's subcontractors or its staff assigned to this Contract prior to the proposed staff assignment. The DCH's decision on this matter shall not be subject to appeal.
2. In addition, Contractor warrants that all persons assigned by it to perform work under this Contract shall be employees or authorized subcontractors of Contractor and shall be fully qualified, as required in the RFA and specified in Contractor's proposal, to perform the services required herein. Personnel commitments made in Contractor's Proposal shall not be changed unless approved by the DCH in writing. Staffing will include the named individuals at the levels of effort proposed.
3. Contractor shall provide and maintain sufficient qualified personnel and staffing to enable the deliverables to be provided in accordance with the RFA and Contractor's Proposal. Contractor warrants that Contractor will comply with all staffing/personnel obligations set out in the RFA, including but not limited to those pertaining to security, health, and safety issues.
4. Contractor warrants that all staff used in the performance of this contract, including programming and call center staff, shall not be from an offshore location. Contractor also warrants that programming and call center staff shall be located in the United States.
5. Contractor shall provide the DCH Program Director with a staff roster

every ninety (90) days during the Term of the Contract. This roster shall set forth the names of all members of Contractor's staff (including subcontractor and Contractor affiliates), their areas of assignment and the number of hours they are required to work.

B. Staffing Changes

1. The DCH also may approve or disapprove any proposed changes in key staff, or require the removal or reassignment of any Contractor employee or subcontractor employee that the DCH deems to be unacceptable. The Department's decision on this matter shall not be subject to appeal.
2. Notwithstanding the above provisions, the Parties acknowledge and agree that the Contractor may terminate any of its employees designated to perform work or services under this Contract, as permitted by applicable law. In the event of a Contractor employee termination, the Contractor will provide the DCH with immediate notice of the termination, the reason(s) for the termination, and an action Plan for replacing the discharged employee with a person of equivalent training, experience, and talent within ten (10) calendar days of the termination.
3. The Contractor shall notify DCH prior to any changes to key staff, including, but not limited to the Overall Project Manager. The Contractor shall replace any of the key staff with a person of equivalent experience, knowledge and talent. Within ten (10) calendar days of the termination, Contractor shall provide the DCH Program Director with the resume of the proposed replacement and offer the Program Director, and/or his authorized representatives, the opportunity to interview that person. If the Program Director is not reasonably satisfied with the apparent skill and qualifications of the proposed replacement, he shall notify Contractor within ten (10) calendar days after receiving the resume or conducting the interview (whichever occurs last). Once that has occurred, the Contractor shall propose another replacement and the Program Director shall have the same right of approval. Such process shall be repeated until a proposed replacement shall be approved by the Program Director. If, after thirty (30) calendar days from the notice termination, a qualified replacement is not approved, damages may be imposed.

C. Contractor's Failure to Supervise or Comply

Should Contractor at any time: 1) refuse or neglect to supply adequate and competent supervision; 2) refuse or fail to provide sufficient and properly skilled personnel, equipment, or materials of the proper quality or quantity; 3) fail to provide the services in accordance with the timeframes, schedule or dates set forth in this Contract; or 4) fail in the performance of any term or condition contained

in this Contract; 5) knowingly or unknowingly accept payment from the DCH of an amount in excess of what it is owed at the time of the payment under the terms of this Contract, DCH may (in addition to any other contractual, legal or equitable remedies) proceed to take any one or more of the following actions after five (5) calendar days written notice to Contractor:

1. Withhold any monies then or next due to Contractor; or,
2. Obtain the services or their equivalent from a third party, pay the third party for same, and withhold the amount so paid to third party from any money then or thereafter due to Contractor; or,
3. Withhold monies in the amount of any damage caused by any deficiency or delay in the services; or,
4. Any combination of the above.
5. In addition to the consequences indicated above, if it is determined that Contractor knowingly submitted any false statement, invoice or other document to DCH, Contractor shall also be subject to the sanctions imposed by O.C.G.A. §16-10-20.

Notwithstanding the foregoing, DCH may terminate the Contract for default by the Contractor as more fully described in Section 24, *Termination of Contract*.

16. CRIMINAL BACKGROUND, EXCLUSIONS, AND DEBARMENT

- A. Contractor shall, upon request, provide the DCH with a resume or satisfactory criminal background check or both of any members of its staff or a subcontractor's staff assigned to or proposed to be assigned to any aspect of the performance of this Contract.
- B. The Contractor also agrees to abide by USC § 1320a-7, as it relates to the Federal Exclusions List. To that end, the Contractor shall not employ or use any company, entity, or individual that is on the Federal Exclusions List.
- C. By signing or executing this Contract, the Contractor states and certifies that it is and that it will continue to comply with the Anti-Kickback Act of 1986, 41 USC § 51-58 and Federal Acquisition Regulation 52.203-7.
- D. Additionally, by signing or executing this Contract, the Contractor states and certifies that neither it nor any of its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any State or federal department or agency.

- E. Contractor agrees to sign and comply with Attachment B, Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

Failure to comply with the provisions under this Section 16 shall constitute a default.

17. SUBCONTRACTS

A. Use of Subcontractors

1. Contractor will not subcontract or permit anyone other than Contractor personnel and existing subcontractors as of the Effective Date of this Contract to perform any of the core services such as claims payment, without the prior written consent of the DCH. Prior to hiring or entering into an agreement with any subcontractor or affiliate of Contractor, any and all subcontractors or affiliates shall be approved by DCH. DCH must also approve any replacement subcontractors or affiliates in the same manner. Contractor shall, in writing, provide to DCH the names of all proposed or actual subcontractors, the scope of work of each subcontractor, and the percentage of work to be performed by each subcontractor relative to the total scope of the Contract. Contractor is solely responsible for all work contemplated and required by this Contract, whether Contractor performs the work directly or through a subcontractor. DCH reserves the right to request the removal or replacement of any subcontractor. In addition, DCH reserves the right to terminate this Contract if Contractor fails to notify DCH in accordance with the terms of this paragraph.
2. All contracts must ensure that the Contractor evaluates the prospective Subcontractor's ability to perform the activities to be delegated; monitors the Subcontractor's performance on an ongoing basis and subjects it to formal review according to a periodic schedule established by DCH and consistent with industry standards or State laws and regulations; and identifies deficiencies or areas for improvement and that corrective action is taken.
3. Contractor shall give the DCH immediate notice in writing by registered mail or certified mail of any action or suit filed by any subcontractor and prompt notice of any claim made against Contractor by any subcontractor or vendor that in the opinion of Contractor, may result in litigation related in any way to this Contract.
4. Contractor shall make its subcontractor agreements available to DCH and the State upon request. For any subcontract, there must be a designated project manager who is a member of the subcontractor's staff that is directly accessible by the State. This individual's name and contact

information must be provided to the State when the subcontract is executed. The subcontract agreement must contain a provision which requires the Contractor and its subcontractors to seek binding arbitration to resolve any dispute between those parties and to provide DCH with written notice of the dispute. The State also reserves the right to oversee, manage, coordinate, change, or disagree on any terms of the subcontract during the term of this Contract or the subcontract agreement.

B. Cost or Pricing by Subcontractors

1. Contractor shall submit, or shall require any subcontractors hereunder to submit, cost or pricing data for any subcontract to this Contract prior to Contract Award. Contractor shall, also, certify that the information submitted by subcontractor is to the best of their knowledge and belief, accurate, complete and current as of the date of agreement, or the date of the negotiated price of the subcontract to the Contract or Amendment to the Contract. Contractor shall insert the substance of this section in each subcontract hereunder.

2. If DCH determines that any price, including profit or fee, negotiated in connection with this Contract, or any cost reimbursable under this Contract was increased by any significant sum because of the inaccurate cost or pricing data, then such price and cost shall be reduced accordingly and this Contract and the subcontract shall be modified in writing to reflect such reduction.

18. REQUIRED TRAVEL, TRAVEL EXPENSES AND USE OF STATE VEHICLES

- A. Should DCH formally request Contractor's participation in activities on DCH's behalf, which require travel, Contractor will be reimbursed for travel necessary to that activity in accordance with the State and DCH travel policies, procedures and prevailing per diem rates which may be found at www2.state.ga.us/Departments/AUDIT/m&lg/travlreg.html, and are incorporated herein by reference and made a part of this Contract as if completely restated herein. The travel must be specifically required and approved by the DCH Project Leader listed in Section 32, *Notice*, at least five (5) business days prior to such travel, with the duration, purpose, and location of travel and any other pertinent information requested by the Project Leader needed for approval.
- B. In all cases, DCH will only reimburse the Contractor for travel away from DCH worksites. If the specified worksite is a DCH office, (whether it is a central, satellite, secondary, or temporary office or worksite) no reimbursement will be paid for a Contractor to travel to or from DCH offices or worksites.
- C. State vehicles shall not be used in the performance of this Contract.

19. **LICENSE, CERTIFICATE, AND PERMIT REQUIREMENT**

- A. Contractor shall have, obtain, and maintain in good standing any Georgia-licenses, certificates and permits that are required prior to and during the performance of work under this Contract. Contractor agrees to provide the DCH with certified copies of all licensees, certificates and permits that may be necessary, upon the DCH's request.
- B. The Contractor warrants that it is qualified to do business in the State of Georgia and is not prohibited by its articles of incorporation, bylaws or any law of the State under which it is incorporated from performing the services under this Contract.
- C. The Contractor must obtain and maintain, in good standing, any licenses, certificates, and permits, whether State or federal, that are required prior to and during the performance of work under this Contract. Loss of the licenses, certificates, or permits shall be cause for termination of the Contract pursuant to Section 24, **Termination**, of this Contract. If any license, certificate, or permit is cancelled, revoked, suspended or expired during the term of this Contract, the Contractor shall inform the State immediately and cease all activities under this Contract, until further instruction from the DCH.
- D. The Contractor agrees to provide the DCH with certified copies of all licensees, certificates and permits necessary upon request.
- E. The Contractor warrants that there is no claim, legal action, counterclaim, suit, arbitration, governmental investigation or other legal, administrative, or tax proceeding, or any order, decree or judgment of any court, governmental agency, or arbitration tribunal that is in progress, pending, or threatened against or relating to Contractor or the assets of Contractor that would individually or in the aggregate have a material adverse effect on Contractors's ability to perform the obligations contemplated by this Agreement. Without limiting the generality of the representation of the immediately preceding sentence, Contractor is not currently the subject of a voluntary or involuntary petition in bankruptcy, does not presently contemplate filing any such voluntary petition, and is not aware of any intention on the part of any other person, or entity, to file such an involuntary petition against it.
- F. The Contractor further agrees that it will not permit any of its employees or its subcontractor's employees, including temporary or replacement employees, to perform the services under this Contract unless and until they pass any background test or check requested by the Department.

20. **RISK OF LOSS AND REPRESENTATIONS**

- A. The DCH takes no title to any of Contractor's goods used in providing the services and/or deliverables hereunder and Contractor shall bear all risk of loss for any goods used in performing work pursuant to this Contract.
- B. The Parties agree that the DCH may reasonably rely upon the representations and certifications made by the Contractor, including those made by the Contractor in the Contractor's Response to the Request for Approach and this Contract, without first making an independent investigation or verification.
- C. The Parties also agree that the DCH may reasonably rely upon any audit report, summary, analysis, certification, review, or work product that the Contractor produces in accordance with its duties under this Contract, without first making an independent investigation or verification.
- D. By submitting a Deliverable, the Contractor represents that, to the best of its knowledge, it has performed the associated tasks in a manner, which will, in concert with other tasks, meet the objectives stated or referred to in the Contract.
- E. By unconditionally approving a Deliverable, the DCH represents only that it has reviewed the Deliverable and detected no errors or omissions of sufficient gravity to defeat or substantially threaten the attainment of those objectives and to warrant the withholding or denial of payment for the work completed. The DCH's approval of a Deliverable does not discharge any of the Contractor's contractual obligations with respect to that Deliverable or the Contractor's meeting of the requirements of the RFA.

21. PROHIBITION OF GRATUITIES AND LOBBYIST DISCLOSURES

- A. Contractor, in the performance of this Contract, shall not offer or give, directly or indirectly, to any employee or agent of the State of Georgia, any gift, money or anything of value, or any promise, obligation, or contract for future reward or compensation at any time during the term of this Contract, and shall comply with the disclosure requirements set forth in O.C.G.A. § 45-1-6.
- B. Contractor also states and warrants that it has complied with all disclosure and registration requirements for vendor lobbyists as set forth in O.C.G.A. § 21-5-1, et. seq. and all other applicable law, including but not limited to registering with the State Ethics Commission. For the purposes of this Contract, vendor lobbyists are those who lobby state officials on behalf of businesses that seek a contract to sell goods or services to the State or oppose such Contract.
- C. As required by applicable Federal law, Contractor states and warrants that no federal money has been used for any lobbying of State officials, as required under applicable federal law.

- D. Contractor agrees to sign and comply with Attachment F, Vendor Lobbyist Disclosure and Registration Certification Form and Attachment H, DCH Ethics in Procurement Policy.

22. RECORDS REQUIREMENTS

Contractor agrees to maintain books, records, documents, invoices and other evidence pertaining to the costs and expenses of this Contract and/or any document that is a part of this Contract by reference or inclusion. This includes, but is not limited to, Contractor's balance sheets, income statements and invoices from subcontractors, Contractor's subcontractor affiliates or other vendors. Contractor's accounting procedures and practices shall conform to generally accepted accounting principles and the costs properly applicable to the Contract shall be readily ascertainable there from. This includes, but is not limited to, payment (with respect to salary), overhead and subcontractors.

A. Records Retention Requirements

Contractor shall preserve and make available all of its records pertaining to the performance under this Contract for a period of seven (7) years from the date of final payment under this Contract, and for such period, if any, as is required by applicable statute or by any other section of this Contract. If the Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for period of seven (7) years from the date of termination or of any resulting final settlement. Records that relate to appeals, litigation, or the settlements of claims arising out of the performance of this Contract, or costs and expenses of any such Contracts as to which exception has been taken by the State Contractor, or any of his duly authorized representatives shall be retained by Contractor until such appeals, litigation, claims or exceptions have been disposed of.

B. Access to Records

The State and Federal standards for audits of the DCH agents, contractors, and programs are applicable to this section and are incorporated by reference into this Contract as though fully set out herein.

Contractor shall make all of its books, documents, papers, Provider records, medical records, financial records, data, surveys and computer databases available for examination and audit by the DCH, State Attorney General, State Health Care Fraud Control Unit, the State Department of Audits, or authorized state or federal personnel. Any records requested hereunder shall be produced immediately for on-site review or sent to the requesting authority by mail within fourteen (14) Calendar Days following a request. All records shall be provided at the sole cost and expense of Contractor. The DCH shall have unlimited rights to use, disclose,

and duplicate all information and data received in accordance with applicable State and Federal laws and regulations.

C. Financial Records

During the entire life of the Contract, the Contractor and all subcontractors shall provide DCH with copies of its annual report and all disclosure or reporting statements or forms filed with the State of Georgia and/or the Securities and Exchange Commission (SEC) as soon as they are prepared in final form and are otherwise available for distribution or filing. In the event that the Contractor is not required to or does not prepare either an annual report or SEC disclosure or reporting statements or forms by virtue of being a subsidiary of another corporation, it shall fulfill the requirements of this Section, with respect to all such documents for any parent corporation, which reflect, report or include any of its operations on any basis. In addition, upon the written request of the Program Manager, the Contractor and all subcontractors shall furnish DCH with the most recent un-audited and audited copies of its current balance sheet within fourteen (14) calendar days of its receipt of such request. If Contractor fails to comply with the conditions set forth in this paragraph, DCH shall be entitled to retain ten (10%) of any payments due and payable to Contractor until full compliance is achieved

23. CONFIDENTIALITY REQUIREMENTS

A. General Confidentiality Requirements

1. Contractor shall treat all information that is obtained or viewed by it or through its staff and subcontractors' performance under this Contract as confidential information and shall not use any information so obtained, in any manner, except as may be necessary for the proper discharge of its obligations.
2. Employees or authorized subcontractors of Contractor who have a reasonable need to know such information for purposes of performing their duties under this Contract shall use personal or patient information, provided such employees and/or subcontractors have first signed an appropriate non-disclosure agreement that has been approved and maintained by the DCH.
3. Contractor shall remove any person from performance of services hereunder upon notice that the DCH reasonably believes that such person has failed to comply with the confidentiality obligations of this Contract. In such cases, Contractor shall replace such removed personnel in accordance with the staffing requirements of this Contract.

4. The DCH, the Georgia Attorney General, federal officials as authorized by federal law or regulations, or the authorized representatives of these parties shall have access to all confidential information in accordance with the requirements of State and Federal laws and regulations.

B. HIPAA Compliance

1. Contractor warrants to DCH that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its accompanying regulations. Upon the execution of this Contract, Contractor must provide DCH with a written description of the policies and procedures used by it to achieve and maintain compliance with HIPAA. These policies and procedures would be subject to DCH approval.
2. The Contractor also agrees to assist DCH in its efforts to comply with HIPAA and its amendments, rules, procedures, and regulations. To that end, the Contractor will abide by any requirements mandated by HIPAA or any other applicable laws in the course of this Contract. Contractor warrants that it will cooperate with DCH, including cooperation with DCH privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of this Contract so that both parties will be in compliance with HIPAA. The Contractor also acknowledges that HIPAA may require the Contractor and DCH to sign other documents for compliance purposes, including but not limited to a Business Associate Agreement. The Contractor agrees to cooperate with DCH on these matters, to sign whatever documents that may be required for HIPAA compliance and to abide by their terms and conditions.
3. Contractor agrees to sign and comply with Attachment C, ***Georgia DCH Non Profit Organization Disclosure Form***; Attachment D, ***Confidentiality Statement for Safeguarding Information***; and Attachment E, ***Business Associate Agreement***.

24. TERMINATION OF CONTRACT

This Contract may terminate or may be terminated by the DCH for any or all of the following reasons:

1. default by the Contractor, upon thirty (30) Calendar Days notice or notice as specified by DCH; or
2. convenience of DCH, upon thirty (30) Calendar Days notice; or
3. immediately, in the event of Contractor’s breach, insolvency or declaration of bankruptcy;

4. determination by DCH that the instability of the Contractor's financial condition threatens the continued performance of Contractor's responsibilities; or
5. immediately, when sufficient appropriated funds no longer exist for the payment of the DCH's obligation under this Contract.

A. Termination Procedures

Contractor shall:

1. Stop work under the Contract on the date and to the extent specified in the notice of termination;
2. Place no further orders or subcontract for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination;
4. Assign to DCH, in the manner and to the extent directed by the Contract Administrator, all of the right, title, and interest of Contractor under the orders or subcontracts so terminated, in which case DCH shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
5. With the approval of the Contract Administrator, settle all outstanding liabilities and all claims arising out of such termination or orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of the Contract;
6. Complete the performance of such part of the work as shall not have been terminated by the notice of termination; and,
7. Take such action as may be necessary, or as the Contract Administrator may direct, for the protection and preservation of any and all property or information related to the Contract that is in the possession of Contractor and in which the DCH has or may acquire an interest.

B. Termination Claims

After receipt of a notice of termination, Contractor shall submit to the Contract Administrator any termination claim in the form and with the certification prescribed by the Contract Administrator. Such claim shall be submitted promptly but in no event later than three (3) months from the effective date of termination. Upon failure of Contractor to submit its termination claim within the

time allowed, the Contract Administrator may, subject to any review required by the state procedures in effect as of the date of execution of the Contract, determine, on the basis of information available, the amount, if any, due to Contractor by reason of the termination and shall thereupon cause to be paid to Contractor the amount so determined.

Upon receipt of notice of termination, Contractor shall have no entitlement to receive any amount for lost revenues or anticipated profits or for expenditures associated with this or any other contract. Upon termination Contractor shall be paid in accordance with the following:

1. At the contract price(s) for completed deliverables and services delivered to and accepted by the DCH; and/or
2. At a price mutually agreed upon by Contractor and DCH for partially completed deliverables. Such price shall pertain to outstanding administrative fees under this Contract and the DCH shall remain responsible for funding claims in accordance with this Contract.

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

25. PERFORMANCE GUARANTEES

- A. The Contractor shall, at all times, comply with all system and operational performance requirements and expectations specified in the RFA and this Contract.
- B. In the event that Contractor fails to meet the terms, conditions, or requirements of this Contract and results in actual damages or in that financial damages are difficult or impossible to ascertain exactly, Contractor agrees that DCH shall follow procedures identified in this Section of the Contract, Performance Guarantees, and may assess Liquidated Damages, not penalties, against the Contractor for the deficiencies. See Exhibit 4, Performance Guarantees, which is completely incorporated into this Contract as if completely restated herein, for more specific information. The Parties further acknowledge and agree that the specified Performance Guarantees in Exhibit 4 are reasonable and the result of a good faith effort by the Parties to estimate the actual harm caused by the Contractor's breach.
- C. The Performance Guarantees prescribed in this Section are not intended to be in the nature of a penalty, but are intended to be reasonable estimates of the

Department's projected financial loss and damage resulting from the Contractor's nonperformance, including financial loss as a result of project delays.

- D. Contractor acknowledges, affirms, ratifies, and agrees that the damage provisions of the Contract meet the criteria for enforceable damages that are reasonable, appropriate, and necessary.
- E. DCH will assess damages based on assessment of the Contractor's success in meeting required performance standards set by DCH or based upon actual damages related to Contractor's failure to perform in accordance with the terms and conditions set forth in this Contract. If damages can be measured in actual cost, they are referred to as actual damages. If the damages are difficult to measure or cannot be measured in actual cost, they are referred to as liquidated damages. The Contractor must agree to or provide evidence acceptable to DCH to challenge the reimbursement to the State for actual damages or the amounts set forth as liquidated damages within thirty (30) days as further discussed in paragraph F below.
- F. DCH will notify the contractor in writing of the proposed damage assessment. The amounts due to DCH as actual damages may be deducted from any fees or other compensation payable to the Contractor or DCH may require the Contractor to remit the damages within thirty (30) days following the notice of assessment or resolution of any dispute. At DCH's option, DCH may obtain payment of assessed actual damages through one (1) or more claims upon any irrevocable letter of credit furnished by the Contractor. DCH may also obtain payment of liquidated damages by reducing the amount of payment due to Contractor by the amount of the damages or by requiring that Contractor directly issue payment to DCH in the amount of the damages.
- G. The Parties agree that disputes arising under this section shall be handled through negotiations with DCH Vendor Management and SHBP. The Contractor shall be allowed to appeal the decision of DCH Vendor Management and SHBP to the Commissioner of DCH or his or her designee. Pending final determination of any dispute, the Contractor shall proceed diligently with performance of the contract and in accordance with the direction of DCH.

The venue for any formal legal proceeding shall lie in Fulton County, Georgia.

26. INDEMNIFICATION

Contractor hereby releases and agrees to indemnify and hold harmless the DCH, the State of Georgia and its departments, agencies and instrumentalities (including the State Tort Claims Trust Fund, the State Authority Liability Trust Fund, The State Employee Broad Form Liability Funds, the State Insurance and Hazard Reserve Fund, and other self-insured funds, all such funds hereinafter collectively referred to as the "Funds") from and against any and all claims, demands, liabilities, losses, costs or expenses, and attorneys'

fees, caused by, growing out of, or arising from this Contract, due to any act or omission on the part of Contractor, its agents, employees, customers, invitees, licensees or others working at the direction of Contractor or on its behalf, or due to any breach of this Contract by Contractor, or due to the application or violation of any pertinent federal, state or local law, rule or regulation. This indemnification extends to the successors and assigns of Contractor, and this indemnification survives the termination of the Contract and the dissolution or, to the extent allowed by the law, the bankruptcy of Contractor.

27. INSURANCE

Contractor shall, at a minimum, prior to the commencement of work, procure the insurance policies identified herein at Contractor’s own cost and expense and shall furnish DCH with proof of coverage at least in the amounts indicated. It shall be the responsibility of Contractor to require any subcontractor to secure the same insurance coverage as prescribed herein for Contractor, and to obtain a certificate evidencing that such insurance is in effect. In addition, Contractor shall indemnify and hold harmless DCH and the State from any liability arising out of Contractor’s or subcontractor’s untimely failure in securing adequate insurance coverage as prescribed herein:

- Professional Liability Insurance \$3,000,000.00 per occurrence

Workers’ Compensation Insurance, the policies to insure the statutory limits established by the General Assembly of the State of Georgia. The Workers’ Compensation Policy must include Coverage B – Employer’s Liability Limits of:

Bodily Injury by Accident	\$500,000 each accident
Bodily Injury by Disease	\$500,000 each employee \$1,000,000 policy limits

B. Contractor shall require all subcontractors performing work under this Contract to obtain an insurance certificate showing proof of Worker’s Compensation Coverage.

- Commercial General Liability Policy (ies) as follows:

Combined Single Limits:	\$ 1,000,000 per occurrence \$ 3,000,000 aggregate
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C. The Commercial General Liability Policy must be on an “occurrence” basis.

- Liability for property damage in the amount of \$3,000,000.00, including contents coverage for all records maintained pursuant to this Contract.

28. **IRREVOCABLE LETTER OF CREDIT**

- A. Contractor must obtain at Contractor's own expense, an Irrevocable Letter of Credit, issued by an FDIC insured financial institution authorized to do business in the State of Georgia in the amount of FIFTEEN MILLION DOLLARS (\$15,000,000.00). DCH reserves the right to adjust the Irrevocable Letter of Credit amount on an annual basis to reflect changes in membership and/or business requirements. The Contractor shall deliver such letter to DCH within forty-five (45) Calendar Days of Contract Award. The Letter of Credit shall list DCH as beneficiary and shall be subject to approval and acceptance by DCH. The Letter of Credit shall be in the form indicated in Exhibit 6.
- B. The Letter of Credit must cover the period beginning with the effective date of the Contract through the life of the Contract, including but not limited to any and all amendments, renewals and extensions. The amount of the Letter of Credit must be subject to adjustment every twelve (12) months to reflect any increase in the associated cost of work to be performed under this Contract.
- C. The irrevocable letter of credit shall be redeemed by DCH if DCH determines that Contractor is (1) unable to perform the terms and conditions of the Contract, or if (2) the Contractor is terminated by default or bankruptcy or material breach that is not cured within the time specified by DCH, or under both conditions described at one (1) and two (2).
- D. The Irrevocable Letter of Credit is set forth at Exhibit 6 to the Contract.

29. **COMPLIANCE WITH ALL LAWS**

A. Non-Discrimination

Contractor agrees to comply with applicable federal and state laws, rules and regulations, and the State's policy relative to nondiscrimination in employment practices because of political affiliation, religion, race, color, sex, physical handicap, age, or national origin. Nondiscrimination in employment practices is applicable to employees for employment, promotions, dismissal and other elements affecting employment.

B. Delivery of Service and Other Federal Laws

1. Contractor agrees that all work performed pursuant to this Contract shall comply fully with all applicable laws, statutes, case law, codes, rules, regulations, and procedures (whether administrative or otherwise) whether Federal or State. Specifically, the Contractor agrees to comply with laws and regulations and guidelines, including but not limited to §1902(a)(7) of the Social Security Act and

the DCH Policies and Procedures and the Contractor assumes responsibility for full compliance with all such applicable laws, regulations, and guidelines, and agrees to fully reimburse the DCH for any loss of funds or resources or overpayment resulting from non-compliance by Contractor, its staff, agents or subcontractors, as revealed in any audits.

2. The provisions of the Fair Labor Standards Act of 1938 (29 USC § 201 et seq.) and the rules and regulations as promulgated by the United States Department of Labor in Title XXIX of the Code of Federal Regulations are applicable to this Contract. Contractor shall agree to conform with such Federal laws as affect the delivery of services under this Contract including but not limited to the Titles VI, VII, XIX of the Social Security Act, the Federal Rehabilitation Act of 1973, the Davis Bacon Act (40 USC § 276a et seq.), the Copeland Anti-Kickback Act (40 USC § 276c), and the Americans with Disability Act of 1993 (including but not limited to 28 C.F.R. § 35.100 et seq.). Contractor will agree to conform to such requirements or regulations as the United States Department of Health and Human Services may issue from time to time.

C. Compliance of Applicable Laws

The Contractor agrees that it will bear any and all costs (including but not limited to attorneys' fees, accounting fees, research costs, or consultant costs) related to, arising from, or caused by compliance with any and all laws, such as but not limited to federal and state statutes, case law, precedent, regulations, policies, and procedures which exist at the time of the execution of this Contract as well as those which are enacted during the term of the Contract. In the event of a disagreement on this matter, the Department's determination on this matter shall be conclusive and not subject to appeal.

D. General Compliance

1. Additionally, the Contractor agrees to comply and abide by all laws, rules, regulations, statutes, policies, or procedures that may govern the Contract, the deliverables in the Contract, or either Party's responsibilities. To the extent that applicable laws, rules, regulations, statutes, policies, or procedures require the Contractor to take action or inaction, any costs, expenses, or fees associated with that action or inaction shall be borne and paid by the Contractor solely.
2. Contractor agrees to sign and comply with Attachment A, ***Drug-Free Workplace Certificate***.

30. CONFLICT RESOLUTION

Any dispute concerning a question of fact or obligation related to or arising from this Contract that is not disposed of by mutual Contract shall be decided by the Contract Administrator who shall reduce his or her decision to writing and mail or otherwise furnish a copy to the Contractor. The written decision of the Contract Administrator shall be final and conclusive, unless the Contractor mails or otherwise furnishes a written appeal to the Commissioner of the DCH within ten (10) Calendar Days from the date of receipt of such decision. The decision of the Commissioner or his duly authorized representative for the determination of such appeal shall be final and conclusive. Pending a final decision of a dispute hereunder, Contractor shall proceed diligently with the performance of the Contract. Exhaustion of the administrative remedies prescribed herein is required before resort to the courts.

31. CONFLICT OF INTEREST AND CONTRACTOR INDEPENDENCE

- A. No official or employee of the State of Georgia or the Federal government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in this Contract or proposed Contract.
- B. Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any material manner or degree with, or have a material adverse effect on the performance of its services hereunder. Contractor further covenants that in the performance of the Contract no person having any such interest shall be employed.
- C. All of the Parties hereby certify that the provisions of O.C.G.A. §45-10-20 through §45-10-28, which prohibit and regulate certain transactions between state officials and employees and the State of Georgia, have not been violated and will not be violated in any respect throughout the term.
- D. In addition, it shall be the responsibility of the Contractor to maintain independence and to establish necessary policies and procedures to assist the Contractor in determining if the Contractor's employees or subcontractors performing work under this Contract have any impairment to their independence. To that end, the Contractor shall submit a written plan to DCH within five (5) business days of the execution of this Contract in which it outlines the Contractor's policies and procedures relating to how it monitors and enforces Contractor impartiality and independence. The Contractor further agrees to take all necessary actions to eliminate threats to impartiality and independence, including but not limited to reassigning, removing or terminating employees or subcontractors.

32. NOTICE

- A. All notices under this Contract shall be deemed duly given upon delivery, if delivered by hand, or three (3) Calendar Days after posting, if sent by registered or certified mail, return receipt requested, to a Party hereto at the addresses set forth below or to such other address as a Party may designate by notice pursuant hereto.

For DCH:

Contract Administration:

Joanne Mitchell, Contract Manager
Georgia Department of Community Health
2 Peachtree Street, NW - 40th Floor
Atlanta, GA 30303-3159
(404) 651-6183 Phone
jmittell@dch.ga.gov

Project Leader:

Valerie D. Duncan
Georgia Department of Community Health
2 Peachtree Street, NW – 35th Floor
Atlanta, GA 30303-3159
(404) 651-6123- Phone
vduncan@dch.ga.gov

For Contractor:

XXXXXXXXX
Company Name
Company Address
City, State Zip Code
Phone
Fax

It shall be the responsibility of Contractor to inform the Contract Administrator of any change in address in writing no later than five (5) Business Days after the change.

- A. Within two (2) Business Days of receipt of notice, the Contractor shall inform the DCH of any legal action, whether the action is formal, informal, administrative, mediation, arbitration, actual litigation, or proposed litigation, which is instituted against the Contractor by a subcontractor, sub-subcontractor, vendor, supplier, or manufacturer or, in the alternative, by the Contractor if the action directly involves

this Contract or materially affects the Contractor's ability to perform under this Contract.

- B. The Contractor shall inform the DCH immediately of any proposed legal action, whether the action is formal, informal, administrative, mediation, arbitration, actual litigation, or proposed litigation, that it knows, knew, or should have known would be instituted or brought by or against the Contractor in which the opposing party is a subcontractor, sub-subcontractor, vendor, supplier, or manufacturer for work based on, arising from, or related to this Contract.

33. MISCELLANEOUS

A. Accreditation.

As of the Effective Date of this Contract, and at all times throughout the term of this Contract, Contractor warrants that (i) it possesses the necessary accreditation (National Committee for Quality Assurance (NCQA) and/or Utilization Review Accreditation Committee (URAC)) to fulfill the duties of this Contract and of the Plan, or in the alternative, shall receive the necessary accreditation within twelve (12) months of the Effective Date of this Contract, and (ii) it shall be and remain in compliance with all applicable federal, state and local laws, and the rules and regulations of the Plan governing this Contract and the provision of coverage for Covered Services to HRA, HMO, HDHP, PPO and MA Members.

B. Choice of Law or Venue

This Contract shall be governed in all respects by the laws of the State of Georgia. Any lawsuit or other action brought against the DCH or the State based upon or arising from this Contract shall be brought in a court or other forum of competent jurisdiction in Fulton County in the State of Georgia.

C. Attorney's Fees

In the event that either Party deems it necessary to take legal action to enforce any provision of the Contract, and in the event the DCH prevails, Contractor agrees to pay all expenses of such action including reasonable attorney's fees and costs at all stages of litigation as awarded by the court, a lawful tribunal, hearing officer or administrative law judge. If Contractor prevails in any such action, the court or hearing officer, at its discretion, may award costs and reasonable attorney's fees to the Contractor. Absent such an award, DCH shall not be liable for costs or attorney's fees. The term "legal action" shall be deemed to include administrative proceedings of all kinds, as well as all actions at law or equity.

D. Survivability

The terms, provisions, representations and warranties contained in this Contract shall survive the delivery or provision of all services or deliverables hereunder.

E. Drug-Free Workplace

Contractor must certify to the DCH that a drug-free workplace will be provided by Contractor's employees and subcontractors during the performance of the Contract as required by the "Drug-Free Workplace Act", O.C.G.A. § 50-24-1, et seq. and certify compliance with applicable federal law as set forth in Attachment A. Contractor agrees to sign and comply with Attachment A. Any false certification by Contractor or violation of such certification, or failure to carry out the requirements set forth in either State of Georgia or federal statutes, rules, regulations, policies, or guidelines relating to a drug free workplace may result in Contractor being suspended, terminated or debarred from the performance of this Contract.

F. Certification Regarding Debarment, Suspension, Proposed Debarment and Other Matters

Contractor certifies that it is not presently debarred, suspended, proposed for debarment or declared ineligible for award of contracts by any federal or State agency. Contractor agrees to sign and comply with Attachment B.

G. Waiver

No covenant, condition, duty, obligation, or undertaking contained in or made a part of this Contract shall be waived except by the written consent of the parties and approval of DCH. Forbearance or indulgence in any 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. Notwithstanding any such forbearance or indulgence, until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, the other party shall have the right to invoke any remedy available under the Contract.

H. Force Majeure

Neither party to this Contract shall be responsible for delays or failures in performance resulting from acts beyond the control of such party. Such acts shall include, but not be limited to, acts of God, strikes, riots, lockouts, acts of war, epidemics, fire, earthquakes, or other disasters.

I. Binding

This Contract and all of its terms, conditions, requirements, and amendments shall be binding on the DCH and Contractor and their respective successors and permitted assigns.

J. Time is of the Essence

Time is of the essence in this Contract. Any reference to “days” shall be deemed Calendar Days unless otherwise specifically stated.

K. Authority

The DCH has full power and authority to enter into this Contract, and the person acting on behalf of and signing for Contractor has full authority to enter into this Contract, and the person signing on behalf of Contractor has been properly authorized and empowered to enter into this Contract on behalf of Contractor and to bind Contractor to the terms of this Contract. Each Party further acknowledges that it: has had the opportunity to consult with and/or retain legal counsel of its choice; read this Contract; understands this Contract; and agrees to be bound by it.

L. Ethics in Public Contracting

Contractor understands, states, and certifies that it made its proposal to the Solicitation without collusion or fraud and that it did not offer or receive any kickbacks or other inducements from any other Contractor, Contractor, supplier, manufacturer, or subcontractor in connection with its proposal to the Solicitation.

M. Contract Language Interpretation

The Contractor and the DCH agree that in the event of a disagreement regarding, arising out of, or related to contract language interpretation, the Department’s interpretation of the contract language in dispute shall control and govern. The Department’s interpretation of the contract language in dispute shall not be subject to appeal under any circumstance.

N. Assessment of Fees

The Contractor and the Department agree that the Department may elect to deduct any assessed fees from payments due or owing to the Contractor or direct the Contractor to make payment directly to the Department for any and all assessed fees. The choice is solely and strictly the Department’s choice.

O. Cooperation with Other Contractors

1. In the event that the DCH has entered into or enters into Contracts with other Contractors for additional work related to the services rendered hereunder, the Contractor agrees to cooperate fully with such other Contractors. The Contractor shall not commit any act that will interfere with the performance of work by any other Contractor.
2. Additionally, if the DCH eventually awards this Contract to another Contractor, the Contractor agrees that it will not engage in any behavior or inaction that prevents or hinders the work related to the services contracted for in this contract. In fact, the Contractor agrees to submit a written turn-over plan and/or transition plan to the DCH within thirty (30) calendar days of receiving the DCH's intent to terminate letter. The Parties agree that the Contractor has not successfully met this obligation until the DCH accepts its turn-over plan and/or transition plan.
3. The Contractor's failure to cooperate and comply with this provision shall be sufficient grounds for the Department to halt all payments due or owing to the Contractor until it becomes compliant with this or any other contract provision. The Department's determination on the matter shall be conclusive and not subject to appeal.

P. Section Titles not Controlling

The section titles used in this Contract are for reference purposes only and shall not be deemed a part of this Contract.

Q. Limitation of Liability

Nothing in this Contract shall limit Contractor's indemnification liability or civil liability arising from, based on, or related to claims brought by the DCH or any third party or any claims brought against the DDH or the State by a third party or the Contractor.

R. Cooperation with Audits

1. Contractor shall ensure that Contractor and each Network Provider cooperate with any audit program implemented by the DCH, or their authorized agents or representatives for Covered Services rendered to SHBP Members. Contractor shall obtain an independent audit at its own expense, at least every two (2) years, to assess claims payment accuracy, hospital bill payment errors and recovery, and utilization review services for the appropriate application of benefits, medical necessity and cost effectiveness of services provided to SHBP Members.

2. The Contractor agrees to assist and cooperate with the DCH in any and all matters and activities related to or arising out of any audit or review, whether federal, private, or internal in nature, at no cost to the DCH.
3. The Parties also agree that the Contractor shall be solely responsible for any costs it incurs for any audit related inquiries or matters. Moreover, the Contractor may not charge or collect any fees or compensation from the DCH for any matter, activity, or inquiry related to, arising out of, or based on an audit or review.
4. Contractor shall conduct a SAS-70 audit annually at its own expense.

S. Homeland Security Considerations

1. Contractor shall perform the services to be provided under this Contract entirely within the boundaries of the United States. Also, Contractor will not hire any individual to perform any services under this Contract if that individual is required to have a work visa approved by the U.S. Department of Homeland Security and such individual has not met this requirement.
2. If Contractor performs services or uses services in violation of the foregoing paragraph, Contractor shall be in material breach of this Contract and shall be liable to the DCH for any costs, fees, damages, claims, or expenses it may incur. Additionally, the Contractor shall be required to hold harmless and indemnify the DCH pursuant to the indemnification provisions of this Contract.
3. The prohibitions in this Section shall also apply to any and all agents and subcontractors used by the Contractor to perform any services under this Contract.

T. Ownership and Financial Disclosures

1. The Contractor shall disclose financial statements for each person, corporation, or entity with an ownership or control interest of five percent (5%) or more in the Contractors' entity for the prior twelve (12) consecutive calendar month period. For the purposes of this Section, a person, corporation, or entity with an ownership or control interest shall mean a person, corporation, or entity that:

- a. owns directly or indirectly five percent (5%) or more of the Contractor's capital or stock or received five percent (5%) or more of its profits;
 - b. has an interest in any mortgage, deed of trust, note, or other obligation secured in whole or in part by the Contractor or by its property or assets, and that interest is equal to or exceeds five percent (5%) of the total property and assets of the Contractor; and,
 - c. is an officer or director of the Contractor (if its is organized as a corporation) or is a partner in the Contractor's organization (if it is organized as a partnership).
2. All ownership and financial disclosures shall occur when the Contractor's Proposal is submitted and updated or amended at least annually, unless otherwise requested by the DCH.

U. Corrective Action Plans

1. In the event of the Contractor's failure to perform timely or correctly a task, obligation, or responsibility required by the Contract, the DCH, in its sole discretion may allow the Contractor to submit a detailed written Corrective Action Plan. Any Corrective Action Plan must provide: (1) a detailed explanation of the reasons for the cited deficiency; (2) the Contractor's assessment or diagnosis of the deficiency's cause; and (3) a specified proposal to cure or resolve the deficiency.
2. The Contractor agrees that any Corrective Action Plan permitted by the DCH must be submitted within five (5) Calendar Days following the DCH's grant of permission for such plan, unless otherwise approved by the DCH.
3. The Contractor agrees that the DCH's acceptance of the Corrective Action Plan will not: (1) excuse the Contractor's prior substandard performance; (2) relieve the Contractor of its duty to comply with performance standards; or (3) prohibit the DCH from assessing additional tailored remedies or pursuing other appropriate remedies for continued substandard performance.
4. The Contractor agrees that its attempts to remedy the deficiency will not: (1) excuse the Contractor's prior substandard performance; (2) relieve the Contractor of its duty to comply with performance standards; or (3) prohibit the Department from assessing additional tailored remedies or pursuing other appropriate remedies for continued substandard performance including the assessment of actual or liquidated damages.

V. Unsatisfactory Performance

1. If the DCH, in its sole discretion, determines that the Contractor's services and/or performance under the terms, conditions, and requirements of this Contract are insufficient, unacceptable, or unsatisfactory, the Contractor, after notice from the DCH, agrees that it will make every attempt to remedy the deficiency within five (5) Business Days.
2. Contractor is solely responsible for all work contemplated and required by this Contract, whether Contractor performs the work directly or through a subcontractor. The DCH reserves the right to request the removal or replacement of any subcontractor. Unsatisfactory performance shall be subject to the Performance Guarantees specified in Exhibit 4.
3. The Contractor agrees that its attempts to remedy the deficiency will not: (1) excuse the Contractor's prior substandard performance; (2) relieve the Contractor of its duty to comply with performance standards; or (3) prohibit the Department from assessing additional tailored remedies or pursuing other appropriate remedies for continued substandard performance including the assessment of actual or liquidated damages.
4. The Contractor's attempts to remedy the deficiency shall include, but not be limited to, replacing its employees, agents, subcontractors, or suppliers performing work or duties under this Contract, if deemed necessary by the Department.

W. Enforceability

If, for any reason, a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the remainder of this Agreement shall continue in full force and effect.

X. Legal Considerations

The contractor agrees to be bound by the laws of the State of Georgia and that the solicitation and this Contract shall be constructed and interpreted in accordance with Georgia law, regardless of where services are performed, in the event a choice of law situation arises. The Contractor further acknowledges that nothing contained in the RFA, or in this Contract, shall be construed as a waiver of the immunity from liability, which would otherwise be available to the State of Georgia under the principles of sovereign immunity. In particular, the Contractor agrees that the sole and exclusive means for the presentation of any claim against

the State arising out of this Contract, shall be in accordance with all applicable Georgia statutes and the Contractor further covenants not to initiate legal proceedings in any State or Federal court in addition to, or in lieu of, any proceedings available under Georgia statutes.

Y. Contract Drafting

The parties agree that each Party had an opportunity to have the legal counsel of its choice review, revise, edit, negotiate, and modify this Contract as needed or desired.

34. AMENDMENT IN WRITING

- A. No amendment, waiver, termination or discharge of this Contract, or any of the terms or provisions hereof, shall be binding upon either Party unless confirmed in writing. Nothing may be modified or amended, except by writing executed by both Parties.
- B. If the Contractor desires an amendment or modification to any provision, condition, or obligation contained in this Contract, it must deliver a timely and written change order request to the DCH that includes a detailed explanation of the proposed change, justification, and any and all potential cost implications, if any, for the proposed change.
- C. Any agreement of the Parties to amend, modify, eliminate or otherwise change any part of this Contract shall not affect any other part of this Contract, and the remainder of this Contract shall continue to be of full force and effect as set out herein.

35. CONTRACT ASSIGNMENT

- A. All rights, privileges and obligations arising under this Contract shall be assigned to the Georgia Department of Community Health (DCH). The rights of the DCH under this Contract may be assigned to any other agency of the State of Georgia, with ten (10) calendar days prior notice to Contractor.
- B. Contractor shall not assign this Contract, in whole or in part, without the prior written consent of the DCH, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect. Any assignment or transfer of any interest under the Contract, by Contractor, shall be made explicitly subject to all rights, defenses, set-offs, or counterclaims, which would have been available to DCH against the Contractor in the absence of such assignment or transfer of interest. This provision includes reassignment of Contract due to change of ownership of Contractor's company.

36. SEVERABILITY

Any section, subsection, paragraph, term, condition, provision, or other part of this Contract that is judged, held, found or declared to be voidable, void, invalid, illegal or otherwise not fully enforceable shall not affect any other part of this Contract, and the remainder of this Contract shall continue to be of full force and effect as set out herein. The Contract shall not be interpreted for or against any party on the basis that such party or its legal representatives caused part or all of the Contract to be drafted.

37. PROHIBITION OF CERTAIN CONTRACT PROVISIONS

Contractor acknowledges that pursuant to Georgia Constitution Article 3, Section 6, Paragraph 6, the Department is prohibited from entering into any contract that grants any donation or gratuity or forgives any debt or obligation owing to the public.

38. COUNTERPARTS

This Contract may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto were upon the same instrument.

39. ENTIRE CONTRACT

This Contract constitutes the entire Contract between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, or contracts. No written or oral agreements, representatives, statements, negotiations, understandings, or discussions that are not set out, referenced, or specifically incorporated in this Contract shall in any way be binding or of effect between the Parties.

(Signatures on following page)

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties state and affirm that they are duly authorized to bind the respected entities designated below as of the day and year indicated.

GEORGIA DEPARTMENT OF COMMUNITY HEALTH

Rhonda Medows, M.D.
Commissioner

Date

<INSERT CONTRACTOR>

BY: _____
Signature

Date

Name

Title

AFFIX CORPORATE SEAL HERE
(Corporations without a seal should attach
a copy of the Certificate of Corporate Resolution)

ATTEST: _____
**SIGNATURE

Name

Title

* Must be President, Vice President, CEO or other authorized officer
**Must be Corporate Secretary

REQUEST FOR APPROACH

EXHIBIT 2
CONTRACTOR'S APPROACH

ADMINISTRATIVE FEES AND SERVICES

(Insert Fees from cost proposal)

The Administrative Fee includes the following services:

- General Plan Administration- including Member Services, Enrollment/Benefit Fair Support and ID Card production and distribution
- Health Reimbursement Arrangement (HRA) Administration
- Banking Arrangements and Reporting
- Claims Administration- including Coordination of Benefits (COB) Administration, Claims Recovery and Fraud and Abuse Management Services
- Summary Plan Description
- HIPAA Administration
- Benefit Determination
- Statewide and National Provider and Pharmacy Network
- Medical Management / Case Management Services
- Disease State Management Programs
- Demand Management Services
- Transplant Benefit Management Programs
- Pharmacy Benefit Management Services- including Customer Reporting and Drug Utilization Review Programs
- Behavioral Health Management Services
- Standard and Adhoc Reports
- Nurse Advice Line and Health Coach
- Cost Estimator Webtool

Monthly Statement

Contractor agrees to provide DCH with a monthly statement showing charges determined in accordance with agreed terms listed above. These charges shall be computed by the reference to the actual number of employees covered for such month, the actual number of service lines processed for such month, if applicable, the actual number of claim checks issued for such month, if applicable, HRA balances and/or the number of prescriptions processed for such month.

**DRUG FREE WORKPLACE CERTIFICATE
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS
GRANTEES OTHER THAN INDIVIDUALS**

By signing and/or submitting this application or grant Contract, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when HHS makes a determination regarding the award of the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government-wide suspension or debarment.

The grantee certifies that it will provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing a drug-free awareness program to inform employees about:
 - a) The dangers of drug abuse in the workplace;
 - b) The grantee's policy of maintaining a drug-free workplace;
 - c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee who will be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will:
 - a) Abide by the terms of the statement; and
 - b) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

5. Notifying the agency within ten days after receiving notice under subparagraph 4. b) from an employee or otherwise receiving actual notice of such conviction;
6. Taking one of the following actions, within 30 days of receiving notice under subparagraph 4. b), with respect to any employee who is so convicted;
 - a) Taking appropriate personnel action against such an employee, up to and including termination; or
 - b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5, and 6.

Name

Signature

Date

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS



Federal Acquisition Regulation 52.209-5, Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (March 1996)

- (a) (1) The Contractor certifies, to the best of its knowledge and belief, that—
 - (i) The Contractor and/or any of its Principals—
 - A. Are are not presently debarred, suspended, proposed for debarment, or declared ineligible for award of contracts by any Federal agency;
 - B. Have have not within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, evasion, or receiving stolen property; and
 - C. Are are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.
 - (ii) The Contractor has not within a three-year period preceding this offer, had one or more contracts terminated for default by any federal agency.

“Principals,” for purposes of this certification, means officers, directors, owners, partners, and, persons having primary management or supervisory responsibilities within a

- (2) business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment; and similar positions).

This certification concerns a matter within the jurisdiction of an Agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. § 1001.

- (a) The Contractor shall provide immediate written notice to the Contracting Officer if, at any time prior to NOA, the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (b) A certification that if any of the items in paragraph (a) of this provision exist will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Contractor's responsibility. Failure of the Contractor to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Contractor non-responsible.
- (c) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (d) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

Contractor: _____

Signature

Date

Name

Title

**GEORGIA DEPARTMENT OF COMMUNITY HEALTH
NON-PROFIT ORGANIZATION DISCLOSURE FORM**

Notice to all DCH Contractors: Pursuant to Georgia law, non-profit organizations that receive funds from a state organization must comply with audit requirements as specified in O.C.G.A. § 50-20-1 *et seq.* (hereinafter “the Act”) to ensure appropriate use of public funds. “Non-profit Organization” means any corporation, trust, association, cooperative, or other organization that is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; is not organized primarily for profit; and uses its net proceeds to maintain, improve or expand its operations. The term non-profit organization includes non-profit institutions of higher education and hospitals. For financial reporting purposes, guidelines issued by the American Institute of Certified Public Accountants should be followed in determining non-profit status.

The Department of Community Health (DCH) must report contracts with non-profit organizations to the Department of Audits and must ensure compliance with the other requirements of the Act. Prior to execution of any contract, the potential contractor must complete this form disclosing its corporate status to DCH. This form must be returned, along with proof of corporate status, to: Elvina Calland, Director, Contract and Procurement Administration, Georgia Department of Community Health, 35th Floor, 2 Peachtree Street, N.W., Atlanta, Georgia 30303-3159.

Acceptable proof of corporate or organizational status includes, but is not limited to, the following documentation:

- Financial statements for the previous year;
- Federal and State tax returns for the previous tax year;
- Articles of Incorporation;
- Corporate Charter;
- Board Minutes or Resolutions;
- Documents that confirm corporate or organizational status; or,
- Appropriate certification from the Georgia Secretary of State.

Entities that meet the definition of non-profit organization provided above and are subject the requirements of the Act will be contacted by DCH for further information.

COMPANY NAME: _____

ADDRESS: _____

PHONE: _____ FAX: _____

CORPORATE STATUS: (check one) For Profit _____ Non-Profit _____

I, the undersigned duly authorized representative of _____ do hereby attest that the above information is true and correct to the best of my knowledge.

Signature

Date

CONFIDENTIALITY STATEMENT

**STATE OF GEORGIA
THE GEORGIA DEPARTMENT OF COMMUNITY HEALTH
2 PEACHTREE STREET, N.W.
ATLANTA, GEORGIA 30303-3159**

FOR SAFEGUARDING INFORMATION

I, the undersigned, understand and, by my signature, agree to comply with Federal and State requirements regarding the safeguarding of the Department of Community Health/State Health Benefit Plan information in my possession, including but not limited to information that is obtained electronically from the Fiscal Agent, vendors, or any other entity or individual while performing contractual services with or for the Department of Community Health, its agents or contractors.

Individual's Name: (typed or printed): _____

Signature: _____ Date: _____

Telephone No.: _____

Company or Agency Name and Address: _____

BUSINESS ASSOCIATE CONTRACT

This Business Associate Contract (hereinafter referred to as “Contract”), effective this ____ day of _____, 200_ is made and entered into by and between the Georgia Department of Community Health (hereinafter referred to as “DCH”) and _____ (hereinafter referred to as “Contractor”) to Contract No. _____.

WHEREAS, DCH is required by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), to enter into a Business Associate Contract with certain entities that provide functions, activities, or services involving the use of Protected Health Information (“PHI”);

WHEREAS, Contractor, under Contract No. _____ (hereinafter referred to as “Contract”), may provide functions, activities, or services involving the use of PHI;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and Contracts contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DCH and Contractor (each individually a “Party” and collectively the “Parties”) hereby agree as follows:

1. Terms used but not otherwise defined in this Contract shall have the same meaning as those terms in the Privacy Rule and the Security Rule, published as the Standards for Privacy and Security of Individually Identifiable Health Information in 45 C.F.R. Parts 160 and 164 (“Privacy Rule” and “Security Rule”).
2. Except as limited in this Contract, Contractor may use or disclose PHI only to extent necessary to meet its responsibilities as set forth in the Contract provided that such use or disclosure would not violate the Privacy Rule or the Security Rule, if done by DCH.
3. **Unless otherwise Required by Law, Contractor agrees that it will:**
 - A. Not request, create, receive, use or disclose PHI other than as permitted or required by this Contract, the Contract, or as required by law.
 - B. Establish, maintain and use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Contract or the Contract.
 - C. Implement and use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of DCH.

- D.** Mitigate, to the extent practicable, any harmful effect that may be known to Contractor from a use or disclosure of PHI by Contractor in violation of the requirements of this Contract, the Contract or applicable regulations.
- E.** Ensure that its agents or subcontractors are subject to at least the same obligations that apply to Contractor under this Contract and ensure that its agents or subcontractors comply with the conditions, restrictions, prohibitions and other limitations regarding the request for, creation, receipt, use or disclosure of PHI, that are applicable to Contractor under this Contract and the Contract.
- F.** Ensure that its agents and subcontractors, to whom it provides protected health information, agree to implement reasonable and appropriate safeguards to protect the information.
- G.** Report to DCH any use or disclosure of PHI that is not provided for by this Contract or the Contract and to report to DCH any security incident of which it becomes aware. Contractor agrees to make such report to DCH in writing in such form as DCH may require within three (3) Business Days after Contractor becomes aware of the unauthorized use or disclosure or of the security incident.
- H.** Make any amendment(s) to PHI in a Designated Record Set that DCH directs or agrees to pursuant to 45 CFR 164.526 at the request of DCH or an Individual, within five (5) Business Days after request of DCH or of the Individual. Contractor also agrees to provide DCH with written confirmation of the amendment in such format and within such time as DCH may require.
- I.** Provide access to PHI in a Designated Record Set, to DCH upon request, within five (5) Business Days after such request, or, as directed by DCH, to an Individual. Contractor also agrees to provide DCH with written confirmation that access has been granted in such format and within such time as DCH may require.
- J.** Give the Secretary of the U.S. Department of Health and Human Services (the "Secretary") or the Secretary's designees access to Contractor's books and records and policies, practices or procedures relating to the use and disclosure of PHI for or on behalf of DCH within five (5) Business Days after the Secretary or the Secretary's designees request such access or otherwise as the Secretary or the Secretary's designees may require. Contractor also agrees to make such information available for review, inspection and copying by the Secretary or the Secretary's designees during normal business hours at the location or locations where such information is maintained or to otherwise provide such information to the Secretary or the Secretary's designees in such form, format or manner as the Secretary or the Secretary's designees may require.
- K.** Document all disclosures of PHI and information related to such disclosures as would be required for DCH to respond to a request by an Individual or by the

Secretary for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

- L. Provide to DCH or to an Individual, information collected in accordance with Section 3. I. of this Contract, above, to permit DCH to respond to a request by an Individual for an accounting of disclosures of PHI as provided in the Privacy Rule.

4. Unless otherwise Required by Law, DCH agrees that it will:

- A. Notify Contractor of any new limitation in DCH's Notice of Privacy Practices in accordance with the provisions of the Privacy Rule if, and to the extent that, DCH determines in the exercise of its sole discretion that such limitation will affect Contractor's use or disclosure of PHI.
- B. Notify Contractor of any change in, or revocation of, permission by an Individual for DCH to use or disclose PHI to the extent that DCH determines in the exercise of its sole discretion that such change or revocation will affect Contractor's use or disclosure of PHI.
- C. Notify Contractor of any restriction regarding its use or disclosure of PHI that DCH has agreed to in accordance with the Privacy Rule if, and to the extent that, DCH determines in the exercise of its sole discretion that such restriction will affect Contractor's use or disclosure of PHI.
- D. Prior to agreeing to any changes in or revocation of permission by an Individual, or any restriction, to use or disclose PHI as referenced in subsections b. and c. above, DCH agrees to contact Contractor to determine feasibility of compliance. DCH agrees to assume all costs incurred by Contractor in compliance with such special requests.

5. The **Term of this Contract** shall be effective as of _____, and shall terminate when all of the PHI provided by DCH to Contractor, or created or received by Contractor on behalf of DCH, is destroyed or returned to DCH, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

A. Termination for Cause. Upon DCH's knowledge of a material breach by Contractor, DCH shall either:

- (1) Provide an opportunity for Contractor to cure the breach within a reasonable period of time, which shall be within 30 days after receiving written notification of the breach by DCH;
- (2) If Contractor fails to cure the breach, terminate the contract upon 30 days notice; or

- (3) If neither termination nor cure is feasible, DCH shall report the violation to the Secretary of the Department of Health and Human Services.

B. Effect of Termination.

(1) Upon termination of this Contract, for any reason, DCH and Contractor shall determine whether return of PHI is feasible. If return of the PHI is not feasible, Contractor agrees to continue to extend the protections of Sections 3 (A) through (J) of this Contract and applicable law to such PHI and limit further use of such PHI, except as otherwise permitted or required by this Contract, for as long as Contractor maintains such PHI. If Contractor elects to destroy the PHI, Contractor shall notify DCH in writing that such PHI has been destroyed and provide proof, if any exists, of said destruction. This provision shall apply also to PHI that is in the possession of subcontractors or agents of Contractor. Neither Contractor nor its agents nor subcontractors shall retain copies of the PHI.

(2) Contractor agrees that it will limit its further use or disclosure of PHI only to those purposes DCH may, in the exercise of its sole discretion, deem to be in the public interest or necessary for the protection of such PHI, and will take such additional actions as DCH may require for the protection of patient privacy and the safeguarding, security and protection of such PHI.

(3) If neither termination nor cure is feasible, DCH shall report the violation to the Secretary. Particularly in the event of a pattern of activity or practice of Contractor that constitutes a material breach of Contractor's obligations under the Contract and this Contract, DCH shall invoke termination procedures or report to the Secretary.

(4) Section 5. B. of this Contract, regarding the effect of termination or expiration, shall survive the termination of this Contract.

6. **Interpretation.** Any ambiguity in this Contract shall be resolved to permit DCH to comply with applicable laws, rules and regulations, the HIPAA Privacy Rule, the HIPAA Security Rule and any rules, regulations, requirements, rulings, interpretations, procedures or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary; provided that applicable laws, rules and regulations and the laws of the State of Georgia shall supersede the Privacy Rule if, and to the extent that, they impose additional requirements, have requirements that are more stringent than or have been interpreted to provide greater protection of patient privacy or the security or safeguarding of PHI than those of the HIPAA Privacy Rule.
7. All other terms and conditions contained in the Contract and any amendment thereto, not amended by this Contract, shall remain in full force and effect.

Signatures on following page

SIGNATURE PAGE

Individual's Name: (typed or printed): _____

*Signature: _____ Date: _____

Title: _____

Telephone No.: _____ Fax No. _____

Company or Agency Name and Address: _____

**VENDOR LOBBYIST DISCLOSURE
AND REGISTRATION CERTIFICATION FORM**



Pursuant to Executive Order Number 10.01.03.01 (the “Order”), which was signed by Governor Sonny Perdue on October 1, 2003, Contractors with the state are required to complete this form. The Order requires “Vendor Lobbyists,” defined as those who lobby state officials on behalf of businesses that seek a contract to sell goods or services to the state or those who oppose such a contract, to certify that they have registered with the State Ethics Commission and filed the disclosures required by Article 4 of Chapter 5 of Title 21 of the Official Code of Georgia Annotated. Consequently, every vendor desiring to enter into a contract with the state must complete this certification form. False, incomplete, or untimely registration, disclosure, or certification shall be grounds for termination of the award and contract and may cause recoupment or refund actions against Contractor.

In order to be in compliance with Executive Order Number 10.01.03.01, please complete this Certification Form by designating only one of the following:

- Contractor *does not have any* lobbyist employed, retained, or affiliated with the Contractor who is seeking or opposing contracts for it or its clients. Consequently, Contractor has not registered anyone with the State Ethics Commission as required by Executive Order Number 10.01.03.01 and any of its related rules, regulations, policies, or laws.

- Contractor *does have* lobbyist(s) employed, retained, or affiliated with the Contractor who are seeking or opposing contracts for it or its clients. The lobbyists are: _____

Contractor states, represents, warrants, and certifies that it has registered the above named lobbyists with the State Ethics Commission as required by Executive Order Number 10.01.03.01 and any of its related rules, regulations, policies, or laws.

Signatures on the following page

SIGNATURE PAGE

< INSERT CONTRACTOR >

BY: _____
Signature

Date

Name

Title

STATEMENT OF ETHICS

Preamble

The Department of Community Health has embraced a mission to improve the health of all Georgians through health benefits, systems development, and education. In accomplishing this mission, DCH employees must work diligently and conscientiously to support the goals of improving health care delivery and health outcomes of the people we serve, empowering health care consumers to make the best decisions about their health and health care coverage, and ensuring the stability and continued availability of health care programs for the future. Ultimately, the mission and goals of the organization hinge on each employee's commitment to strong business and personal ethics. This Statement of Ethics requires that each employee:

- Promote fairness, equality, and impartiality in providing services to clients
- Safeguard and protect the privacy and confidentiality of clients' health information, in keeping with the public trust and mandates of law
- Treat clients and co-workers with respect, compassion, and dignity
- Demonstrate diligence, competence, and integrity in the performance of assigned duties
- Commit to the fulfillment of the organizational mission, goals, and objectives
- Be responsible for employee conduct and report ethics violations to the Ethics Officer
- Engage in carrying out DCH's mission in a professional manner
- Foster an environment that motivates DCH employees and vendors to comply with the Statement of Ethics
- Comply with the Code of Ethics set forth in O.C.G.A. Section 45-10-1 et seq.

Not only should DCH employees comply with this Statement of Ethics, but DCH expects that each vendor, contractor, and subcontractor will abide by the same requirements and guidelines delineated. Moreover, it is important that employees and members of any advisory committee or commission of DCH acknowledge the Statement of Ethics.

Ethical Guidelines

1. Code of Conduct

All employees of DCH are expected to maintain and exercise at all times the highest moral and ethical standards in carrying out their responsibilities and functions. Employees must conduct themselves in a manner that prevents all forms of impropriety, including placement of self-interest above public interest, partiality, prejudice, threats, favoritism and undue influence. There will be no reprisal or retaliation against any employee for questioning or reporting possible ethical issues.

2. Equal Employment

The Department is committed to maintaining a diverse workforce and embraces a personnel management program which affords equal opportunities for employment and advancement based on objective criteria. DCH will provide recruitment, hiring, training, promotion, and other conditions of employment without regard to race, color, age, sex, religion, disability, nationality, origin, pregnancy, or other protected bases. The Department expects employees to support its commitment to equal employment. The failure of any employee to comply with the equal employment requirements provided in DCH Policy #21 may result in disciplinary action, up to and including termination.

3. Harassment

DCH will foster a work environment free of harassment and will not tolerate harassment based on sex (with or without sexual conduct), race, color, religion, national origin, age, disability, protected activity (i.e., opposition to prohibited discrimination or participation in a complaint process) or other protected bases from anyone in the workplace: supervisors, co-workers, or vendors. The Department strongly urges employees to report to the Human Resources Section any incident in which he or she is subject to harassment. Additionally, any employee who witnesses another employee being subjected to harassment should report the incident to the Human Resources Section. If DCH determines that an employee has engaged in harassment, the employee shall be subject to disciplinary action, up to and including termination, depending on the severity of the offense.

4. Appropriate Use of DCH Property

Employees should only use DCH property and facilities for DCH business and not for any type of personal gain. The use of DCH property and facilities, other than that prescribed by departmental policy, is not allowed. Furthermore, the use of DCH property and facilities for any purpose which is unlawful under the laws of the United States, or any state thereof, is strictly prohibited.

Employees who divert state property or resources for personal gain will be required to reimburse the Department and will be subject to the appropriate disciplinary action, up to and including, termination.

5. Secure Workplace

DCH is committed to maintaining a safe, healthy work environment for its employees. Accordingly, it is DCH's expectation that employees refrain from being under the influence of alcohol or drugs in the workplace because such conduct poses a threat to the employee, as well as others present in the workplace. Additionally, DCH has a zero tolerance policy regarding violence in the workplace. Specifically, DCH will not condone the threat of, or actual assault or attack upon, a client, vendor, or other employee. If an employee engages in violent behavior which results in an assault of another person, he or she will be immediately terminated.

6. Political Activities

Although the DCH recognizes that employees may have an interest in participating in political activities and desires to preserve employees' rights in participating in the political process, employees must be aware of certain allowances and prohibitions associated with particular political activities. DCH encourages employees to familiarize themselves with DCH Policy #416 to gain understanding about those instances when a political activity is disallowed and/or approval of such activity is warranted.

7. Confidentiality

DCH has a dual mandate in terms of confidentiality and privacy. Foremost, as a state agency, DCH must comply with the Georgia Open Records Act and Open Meetings Act. The general rule that is captured by those laws is that all business of the agency is open to the public view upon request. The exceptions to the general rule are found in various federal and state laws. In order to protect the individuals' health information that is vital to the delivery of and payment for health care services, DCH sets high standards of staff conduct related to confidentiality and privacy. Those standards are reinforced through continuous workforce training, vendor contract provisions, policies and procedures, and web-based resources.

8. Conflicts of Interest

Employees should always strive to avoid situations which constitute a conflict of interest or lend to the perception that a conflict of interest exists. Specifically, employees must avoid engaging in any business with the DCH which results in personal financial gain. Similarly, employees must encourage family members to avoid similar transactions since they are subject to the same restrictions as employees. DCH encourages its employees to seek guidance from the Office of General Counsel regarding questions on conflicts of interest.

9. Gifts

Employees are strictly prohibited from individually accepting gifts from any person with whom the employee interacts on official state business. Gifts include, but are not limited to, money, services, loans, travel, meals, charitable donations, refreshments, hospitality, promises, discounts or forbearance that are not generally available to members of the public. Any such item received must be returned to the sender with an explanation of DCH's Ethics Policy.

10. Relationships with Vendors and Lobbyists

DCH values vendors who possess high business ethics and a strong commitment to quality and value. Business success can only be achieved when those involved behave honestly and responsibly. Therefore, it is critical that employees ensure that vendors contracting with DCH are fully informed of DCH policies concerning their relationships with DCH employees and that these policies be uniformly applied to all vendors. Among other requirements, DCH expects that each vendor will honor the terms and conditions of its contracts and Contracts. If DCH determines that a vendor has violated the terms and conditions of a contract or Contract, the vendor shall be held responsible for its actions.

Employees must ensure that fair and open competition exists in all procurement activities and contracting relationships in order to avoid the appearance of and prevent the opportunity for favoritism. DCH strives to inspire public confidence that contracts are awarded equitably and economically. DCH will apply the state procurement rules, guidelines, and policies. Open and competitive bidding and contracting will be the rule.

DCH recognizes that lobbyists, both regulatory and legislative, may from time to time seek to meet with DCH employees to advance a particular interest. DCH recognizes that employees may have personal opinions, even those that may be contrary to a position that DCH has adopted. DCH employees, however, must recognize that the public, including legislators and lobbyists, may have difficulty differentiating between the official DCH position and a personal opinion. Accordingly, employees should always work directly with the Director of Legislative Affairs in preparing any responses to requests or questions from elected officials and their staff or lobbyists.

ACKNOWLEDGEMENT

I, the undersigned, hereby acknowledge that:

- A. I have received, read, and understand the Georgia Department of Community Health’s *Statement of Ethics*;
- B. I agree to comply with each provision of the Georgia Department of Community Health’s *Statement of Ethics*;
- C. I am a (please check which applies):
 - Contractor
 - Subcontractor
 - Vendor

< INSERT CONTRACTOR >

BY: _____
Signature

Date

Name

Title

AFFIX CORPORATE SEAL HERE
(Corporations without a seal should attach
a copy of the Certificate of Corporate Resolution)

ATTEST: _____

**SIGNATURE

Name

Title

* Must be President, Vice President, CEO or other authorized officer
**Must be Corporate Secretary

Georgia Department of Community Health

DCH Ethics In Procurement Policy	Policy No. 402
Effective Date: April 10 , 2006 Release Date: April 5, 2006	Page 1 of 8

I. THE COMMITMENT

The Department is committed to a procurement process that fosters fair and open competition, is conducted under the highest ethical standards, is fully compliant with all instruments of governance and has the complete confidence and trust of the public it serves. To achieve these important public purposes, it is critical that potential and current vendors, as well as employees, have a clear understanding of, and an appreciation for, the DCH Ethics in Procurement Policy (the “Policy”).

II. SCOPE

This Policy is applicable to all Vendors and Employees, as those terms are defined below.

III. CONSIDERATIONS

Procurement ethics must include, but is not limited to, the following considerations:

A. Legitimate Business Needs

The procurement of goods and services will be limited to those necessary to accomplish the mission, goals, and objectives of the Department.

B. Conflicts of Interest

A “conflict of interest” exists when personal interest interferes in any way with the interests of the Department. A conflict situation can arise when an individual takes actions or has interests that may make it difficult to perform his or her work objectively and effectively. Conflicts of interest also arise when an individual, or a member of his or her Immediate Family, receives improper personal benefits as a result of his or her action, decision, or disclosure of Confidential Information in a Procurement.

C. Appearance of Impropriety

Employees must take care to avoid any appearance of impropriety and must disclose to their supervisors any material transaction or relationship that reasonably could be expected to give rise to a conflict of interest. Similarly, anyone engaged in a business relationship with the Department should avoid any appearances of impropriety.

D. Influence

An impartial, arms' length relationship will be maintained with anyone seeking to influence the outcome of a Procurement.

E. Gifts

DCH Employees are prohibited from soliciting, demanding, accepting, or agreeing to accept Gifts from a Vendor.

F. Misrepresentations

Employees and Vendors may not knowingly falsify, conceal or misrepresent material facts concerning a Procurement.

G. Insufficient Authorization

Employees may not obligate the Department without having received prior authorization from an approved official. Engaging in such activity is a misrepresentation of authority.

An Employee's failure to adhere to these considerations, as well as the guidelines set forth herein shall be grounds for disciplinary action, up to and including, termination. Similarly, a Vendor's failure to comply with this Policy will result in appropriate action as determined by governing state and/or federal law, rules and regulations, and other applicable Department policies and procedures.

IV. DEFINITIONS

For purposes of this policy:

“Affiliate Vendor Team” shall mean employees, directors, officers, contractors, and consultants of a Vendor that directly or indirectly assist the Vendor in the preparation of response to a Procurement.

“Confidential Information” shall mean all information not subject to disclosure pursuant to the Open Records Act, O.C.G.A. §50-18-70 *et seq.* that a current Vendor or potential Vendor might utilize for the purpose of responding to Procurement or that which is deemed disadvantageous or harmful to the Department and to the citizens of the State of Georgia in that such disclosure might lead to an unfair advantage of one Vendor over another in a Procurement.

“Contracting Officer” shall mean the Department Employee maintaining oversight of the Procurement process who may also be designated as the Point of Contact as described below.

“Department” shall mean the Georgia Department of Community Health.

“Employee” shall mean any person who is employed by the Department.

“Evaluation Team” shall mean a designated group of Department Employees who review, assess, and score documents submitted to the Department in response to a Procurement solicitation.

“Gifts” shall mean, for purposes of this Policy, money, advances, personal services, gratuities, loans, extensions of credit, forgiveness of debts, memberships, subscriptions, travel, meals, charitable donations, refreshments, hospitality, promises, discounts or forbearance that are not generally available to members of the public. A Gift need not be intended to influence or reward an Employee.

“Financial Interest” shall mean, for purposes of this Policy, an ownership interest in assets or stocks equaling or exceeding 0%.

“Immediate Family” shall mean a spouse, dependent children, parents, in-laws, or any person living in the household of the Employee.

“Kickback” shall mean compensation of any kind directly or indirectly accepted by an Employee from a Vendor competing for or doing business with the Department, for the purpose of influencing the award of a contract or the manner in which the Department conducts its business. Kickbacks include, but are not limited to, money, fees, commissions or credits.

“Procurement” shall mean buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. The term also includes all activities that pertain to obtaining any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, as well as the disposition of any Protest.

“Protest” shall mean a written objection by an interested party to an RFQ or RFA solicitation, or to a proposed award or award of a contract, with the intention of receiving a remedial result.

“Protestor” shall mean an actual bidder/offeror who is aggrieved in connection with a contract award and who files a Protest.

“Point of Contact” shall mean the individual designated to be a Vendor’s only contact with the DCH following the public advertisement of a solicitation or the issuance of a request for a bid, proposal, or quote, until the award of a resulting contract and resolution of a Protest, if applicable.

“Prohibited Contact” shall mean contact with any officer, member of the Board or other Employee of the DCH, other than the Point of Contact, whereby it could be reasonably inferred that such contact was intended to influence, or could reasonably be expected to influence, the outcome of a Procurement. This prohibition includes, without limitation, personal meetings, meals, entertainment functions, telephonic communications, letters, faxes and e-mails, as well as any other activity that exposes the Employee to direct contact with a Vendor. This prohibition does not include contacts with Employees solely for the purpose of discussing existing on-going Department work which is unrelated to the subject of the Procurement. Inquiries regarding the status of a Procurement should also be directed to the Point of Contact.

“Vendor” shall mean any individual or entity seeking to or doing business with the Department within the scope of this Policy, including, without limitation, contractors, consultants, suppliers, manufacturers seeking to act as the primary contracting party, officers and Employees of the foregoing, any subcontractors, sub consultants and sub suppliers at all lower tiers, as well as any person or entity engaged by the Department to provide a good or service.

“DOAS Vendor Manual” shall mean the Georgia of Department of Administrative Services’ vendor manual.

V. EMPLOYEE RESPONSIBILITIES

A. *Evaluation Team Members*

1. The Contracting Officer must ensure that employees participating in any Procurement activities have sufficient understanding of the Procurement and evaluation process and the applicable DCH and DOAS rules and regulations and policies associated with the processes.
2. Evaluation team members are tasked with conducting objective, impartial evaluations, and therefore, must place aside any personal and/or professional biases or prejudices that may exist. Additionally, Employees serving on an Evaluation Team must not allow personal relationships (i.e. friendships, dating) with Employees, principals, directors, officers, etc. of a Vendor or individuals on the Affiliate Vendor Team to interfere with the ability to render objective and fair determinations. Such interference may constitute the appearance of, and/or an actual conflict of interest and should be immediately disclosed to the Contracting Officer prior to the Employee’s participation on the evaluation team. The Contracting Officer shall consult with the Ethics Officer to make a determination as to whether the Employee should participate on the evaluation team.
3. In the event that the Department determines that a conflict of interest does exist and the Employee failed to make the appropriate disclosure, the Department will disqualify the Employee from further participation on the evaluation team. Furthermore, in the event that the Department determines that the conflict of interest did impact the outcome of a Procurement, such Employee may be subject to disciplinary action, up to and including termination.
4. In the event that the Department identifies that the employee maintains a relationship of any sort that lends to an appearance of a conflict of interest with respect to a Procurement, the Department may, in its discretion, take appropriate action to eliminate such an appearance, up to and including the disallowance of the Employee’s participation in any Procurement activities. In such instances, the employee most likely will not be subject to disciplinary action.
5. Prior to participating on an evaluation team, each DCH Employee must execute a statement attesting and acknowledging that:
 - a. The Employee shall not participate in a decision or investigation, or render an approval, disapproval, or recommendation with respect to any aspect of a Procurement, knowing that the Employee, or member of their immediate family has an actual or potential Financial Interest in the Procurement, including prospective employment;
 - b. The Employee shall not solicit or accept Gifts, regardless of whether the intent is to influence purchasing decisions;
 - c. The Employee shall not be employed by, or agree to work for, a Vendor or potential Vendor or Affiliate Vendor Team during any phase of a Procurement;

- d. The Employee shall not knowingly disclose Confidential Information;
- e. The Employee is precluded from engaging in Prohibited Contact upon the release of a Procurement solicitation, during the Evaluation Process, and throughout a Protest period, period of stay or court injunction related to procurement with which Employee was associated or at any time prior to the final adjudication of the Protest;
- f. The Employee is responsible for reporting any violations of this Policy in accordance with this Policy;
- g. The Employee will be responsible for complying with all DOAS rules and regulations, as well as Georgia law pertaining to procurements and conflicts of interest; and
- h. The Employee shall not assist a potential Vendor in the Procurement process in evaluating the solicitation, preparing a bid in response to the evaluation, or negotiating a contract with the Department. This prohibition shall not prohibit the Contracting Officer from carrying out his or her prescribed duties as allowed by DCH policy and procedures or the DOAS Vendor Manual.

B. *Responsibilities of Non-Evaluation Team Members*

All Employees should be mindful of the importance of confidentiality during any Procurement. Even if an Employee is not serving in the capacity of a member on the Evaluation Team, the Employee must refrain from engaging in conduct with a Vendor that could result in a conflict of interest or be considered a Prohibited Contact.

VI. **VENDOR RESPONSIBILITIES**

A. *Gifts and Kick-Backs*

Vendors may neither offer nor give any Gift or Kick-backs, directly or indirectly, to an Employee. Similarly, no Vendor may offer or give any Gift or Kick-backs, directly or indirectly, to any member of an Employee's Immediate Family. Such prohibited activity may result in the termination of the contract, in those cases where the Vendor has executed a contract with the Department. In the event that a potential Vendor who has submitted a response to a Procurement solicitation engages in such activity, the Department shall act in accordance with DOAS protocol.

B. *Family Relationships with Department Employees*

If a Vendor has a family or personal relationship with the Employee, a Gift that is unconnected with the Employee's duties at the DCH is not necessarily prohibited. In determining whether the giving of an item was motivated by personal rather than business concerns, the history of the relationship between the Vendor and Employee shall be considered. However, regardless of the family or personal relationship between a Vendor and an Employee, a Gift is strictly forbidden where it is being given under circumstances where it can reasonably be inferred that it was intended to influence the Employee in the performance of his or her official duties.

C. *Vendor Submittals*

The Department expects all potential Vendors and current Vendors to be forthcoming, always submitting true and accurate information in response to a Procurement or with regard to an existing business relationship. If the Department determines that the Vendor has intentionally omitted or failed to provide pertinent information and/or falsified or misrepresented material information submitted to the Department, the Department shall act in accordance with applicable state law and DOAS procurement policies and procedures.

Vendors must calculate the price(s) contained in any bid in accordance with Section 5.11 of the DOAS Vendor Manual.

D. *Business Relations*

A Vendor may not be allowed to conduct business with the Department for the following reasons:

1. Falsifying or misrepresenting any material information to the Department as set forth hereinabove;
2. Conferring or offering to confer upon an Employee participating in a Procurement (which the entity has bid or intends to submit a bid) any Gift, gratuity, favor, or advantage, present or future; and
3. Any other reasons not explicitly set forth herein that are contained in the DOAS Vendor Manual.

VII. USE OF CONFIDENTIAL INFORMATION

Employees will not use Confidential Information for their own advantage or profit, nor will they disclose Confidential Information during a Procurement to any potential Vendor or to any other unauthorized recipient outside DCH.

VIII. ADDRESSING VIOLATIONS

A. *The Process*

Adherence to this policy makes all DCH staff responsible for bringing violations to the attention of the Contracting Officer under Procurement protocols or to a supervisor/manager if the affected Employee is not a part of the Procurement. If for any reason it is not appropriate to report a violation to the Contracting Officer or the Employee's immediate supervisor, Employees will report such violations or concerns to the Ethics Officer. The Contracting Officer and managers are required to report suspected ethics violations to the Ethics Officer who has specific responsibility to investigate all reported violations.

Reporting suspected policy violations by others shall not jeopardize an Employee's tenure with the Department. Confirmed violations will result in appropriate disciplinary action, up to and including termination from employment. In some circumstances, criminal and civil penalties may be applicable.

The Ethics Officer will notify the employee making the report of the suspected violation of receipt of such report within five (5) business days. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.

B. *Good Faith Filings*

Anyone filing a complaint concerning a violation of this policy must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

C. *Confidentiality*

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation. Additionally, all Employees are expected to cooperate in the investigation of such violations. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination from employment.

Acknowledgement on Following Page

ACKNOWLEDGEMENT

I, the undersigned, hereby acknowledge that:

- (i) I have received, read, and understand the Georgia Department of Community Health's ***Ethics In Procurement Policy***;
- (ii) I agree to comply with each provision of the Georgia Department of Community Health's ***Ethics In Procurement Policy***;

Authorized Signature*

Date

Performance Guarantees

Performance Standard	Measurement	Guarantees ¹
<p>Submittal of Reports</p> <p>1. All reports (including those referenced in the Performance Guarantees) shall be created and generated by the Contractor as outlined in the RFA and must include data elements as specified by the DCH and be submitted to the DCH in the requested timeframes.</p>	<p>1. The Contractor shall submit reports to the DCH within the timeframes and formats approved by the DCH, unless otherwise requested by the DCH, as follows:</p> <ul style="list-style-type: none"> a. Weekly reports shall be submitted on Monday of each week for the previous week; b. Monthly reports shall be submitted by the 15th Business day following the end of the previous month; c. Quarterly reports shall be submitted by the 15th Business day following the end of the quarter; and d. Annual reports shall be submitted within 90 Calendar days following the end of the twelfth (12th) month. 	<p>See each performance standard for performance guarantees related to submittal of reports.</p>
<p>Account Management</p> <p>1. Account Management team will meet with the DCH on a quarterly basis to present reports and discuss issues.</p>	<p>1. Meeting to review management, utilization and performance results. Meetings will be held within 30 Calendar days after the end of the previous quarter unless otherwise agreed upon by the DCH. Failure to meet this standard will result in a financial assessment.</p>	<p>.2% of monthly administrative fee per occurrence paid quarterly.</p>
<p>2. Account Management team will return all calls to DCH staff within 24 hours and all written correspondence will be addressed within 48 hours. Overall satisfaction score must be not less than 3 (satisfied).</p>	<p>2. A scorecard will be developed by the Contractor which meets the approval of the DCH. The scorecard will have scores from 1 to 4 representing 1 (very dissatisfied), 2 (dissatisfied), 3 (satisfied), and 4 (very satisfied). The overall satisfaction score must be 3 or higher for each quarter to meet this standard</p> <p>The scorecard will be provided to and completed by the DCH within 2 weeks after each quarterly meeting and results will be provided to Contractor. Failure to meet an overall satisfaction score of 3 or more for any quarter will result in a financial assessment.</p>	<p>.2% of monthly administrative fee per occurrence paid quarterly.</p>
<p>Medical Claims Processing</p> <p>1. All claims processing reports, including those listed in the RFA and those outlined below must be</p>	<p>1. Claims processing reports shall be submitted to the DCH monthly, quarterly and annually. Failure to submit claims processing reports to the DCH as requested will result in a financial assessment.</p>	<p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>submitted within the timeframes as requested by the DCH.</p> <p>2. Turnaround Time – 90% of all clean claims will be paid or denied within 15 Business days. 99% of all claims shall be paid or denied within 90 days of receipt (excluding claims subject to appeal or medical review).</p> <p>3. Payment Accuracy – 98%</p> <p>4. Financial Accuracy – 99%</p>	<p>2. Turnaround time will be calculated using all claims received each month, including any that need review, and results will be based on aggregate statistics for the applicable period. Contractor shall submit Claims Time to Process and Claims Inventory reports monthly. A clean claim is defined as original submission with all requested information. This standard will be measured monthly.</p> <p>3. The payment accuracy rate is calculated by dividing the total number of claims reviewed and includes all transactions, including no-pays. Standard will be reported monthly, but measured quarterly.</p> <p>4. To determine the financial accuracy rate, the total payment amount reviewed minus the absolute value of overpayments and underpayments is divided by the total amount reviewed. This standard will be reported monthly, but measured quarterly.</p>	<p>.2% of monthly administrative fee per occurrence paid monthly.</p> <p>.2% of monthly administrative fee per occurrence paid quarterly.</p> <p>.2% of monthly administrative fee per occurrence paid quarterly.</p>
<p>5. Procedural Accuracy – 98%</p>	<p>5. To determine the procedural accuracy, the total number of claims reviewed minus the number of procedural errors is divided by the total number of claims reviewed. This standard will be reported monthly and measured quarterly.</p>	<p>.2% of monthly administrative fee per occurrence paid quarterly.</p>
<p>Coordination of Benefits (COB)</p> <p>1. The Contractor shall achieve targeted COB savings as agreed upon by the DCH.</p>	<p>1. Sixty (60) Calendar days prior to implementation, the Contractor will mutually establish agreed upon benchmarks for targeted COB savings. The Contractor shall provide monthly, quarterly, and annual COB savings reports in the format as agreed upon by the DCH. This standard will be measured quarterly based upon reported savings achieved.</p>	<p>.2% of monthly administrative fee per occurrence paid quarterly.</p>
<p>Subrogation</p> <p>1. The Contractor shall achieve targeted subrogation recoveries/ savings as agreed upon by the DCH.</p>	<p>1. Sixty (60) Calendar days prior to implementation, the Contractor will mutually establish agreed upon benchmarks for targeted subrogation recoveries/ savings. The Contractor shall provide monthly, quarterly, and annual subrogation recoveries/savings reports in the format as agreed upon by the DCH. This standard will be measured quarterly.</p>	<p>.2% of monthly administrative fee per occurrence paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>Implementation and ID Card Go Live Performance Guarantees</p> <p>1. Submit implementation plan 30 Calendar days after Contract Award and final readiness review plan to the DCH 60 Calendar days prior to “go-live” date of 01/01/09.</p> <p>2. Contractor and its subcontractors must complete all agreed upon implementation actions prior to “go-live” date and according to the implementation timeline provided by the Contractor to the DCH. The Contractor must receive DCH sign-off that each action has been completed successfully.</p> <p>3. All Members will have received ID cards that are postmarked within 10 Business days of</p>	<p>1. Contractor shall submit implementation plan in a format, agreed upon by the DCH, no later than 30 Calendar days after Contract Award and final readiness review plan 60 Calendar days prior to “go-live” date of 01/01/09.</p> <p>2. Implementation action steps include the following minimum items.</p> <ul style="list-style-type: none"> • Benefit plan designs loaded, operable and tested; • Eligibility feed formats loaded and tested (including eligibility testing from the point of origin to the Contractor); • Operable and tested toll-free numbers; • Designated core team Member training; • Designated staff operational; • Established and tested billing/banking requirements; • Communications and education to Members, participating providers, pharmacies and sub-contractors on key plan design information; and • Perform comprehensive systems testing (including interface testing with all third parties) and quality assurance audits, with results reported to the DCH prior to the “go-live” date at no additional cost. • All systems and applications, member data, and ancillary tools necessary for dedicated staff operations to perform all programs • Member ID Cards (refer to item 3 below for more detail). <p>Each component must be met by the “go-live” date of 01/01/09. Implementation action requirements shall include other items necessary to meet the “go-live” date as agreed upon by the parties during contract negotiations. The Contractor will be required to pay the entire \$250,000 if any one component is not complete or fully operational by 01/01/09.</p> <p>3. Internally developed reports will be provided to the DCH by Contractor.</p> <p>a. Reports will show number of cards keyed and released by the due date. The DCH will audit report results against actual eligibility tape</p>	<p>\$50,000 to be paid to the DCH, plus \$1000 per Calendar day the implementation plan is late thereafter.</p> <p>*Implementation Performance Guarantees are in addition to, and outside ongoing 2008 Performance guarantees.</p> <p>\$250,000 to be paid to the DCH if the SHBP HMO, PPO, HRA, HDHP, and Medicare Advantage Private Fee for Service (MA PFFS) health plans are not live by 8:00 A.M. Eastern Standard Time on January 1, 2009, as described in the measurement. An additional amount of \$50,000 per month or portion thereof will be assessed if these plans are not implemented by the first day of each subsequent Calendar month, to be paid within thirty (30) Calendar days of missed implementation “go-live” date.</p> <p>This guarantee is dependent upon Contractor receiving necessary information and approvals from the DCH in a timely manner.</p> <p>*Implementation Performance Guarantees are in addition to, and outside ongoing 2008 Performance guarantees.</p> <p>\$50,000 to be paid to the DCH if ID cards are not postmarked within 10 Business days after receipt of the DCH</p>

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Performance Standard	Measurement	Guarantees ¹
<p>Contractor's receipt of the eligibility extract from the DCH.</p>	<p>submitted to Contractor. b. Contractor shall submit a sample ID card to the DCH within 60 Calendar days of Contract Award.</p>	<p>eligibility data extract. *Implementation Performance Guarantees are in addition to, and outside ongoing 2008 Performance guarantees.</p>
<p>ID Cards-Fulfillment after Go-Live 1. Members will have received ID cards that are postmarked within 10 Business days of Contractor's receipt of the eligibility extract during peak season and 5 days during non-peak season (peak season is identified as the months of September and December)</p>	<p>1. Reports approved by the DCH shall be provided by Contractor to the DCH on a monthly and quarterly basis. Reports will show number of cards keyed and released by the due date. The DCH will audit report results against actual eligibility tape submitted to Contractor.</p>	<p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p>
<p>Network 1. To ensure that SHBP Members have sufficient access to a stable network of providers, Contractor will comply with the access standards stated in the RFA. 2. To ensure that SHBP Members have sufficient access to a stable network of providers, the voluntary turnover rate for primary care physicians will be less than 5%. 3. a. Significant changes to the Network must be communicated to the DCH at least 60 Calendar days in advance or within 10 Calendar days of notification by</p>	<p>1. Contractor shall submit monthly and quarterly Geo Access reports demonstrating compliance with Provider access standards. Standard will be measured monthly. 2. Reports approved by the DCH will be provided to the DCH on a monthly and quarterly basis. The content of these reports will be validated by the DCH's review of the Contractor's Provider website. Standard will be measured quarterly. Providers who are encouraged to leave for performance standard reasons will not be considered voluntary for this report. It will be the responsibility of the Contractor to provide data which distinguishes voluntary from involuntary removal from provider participation. 3. a. A significant change is a loss of (a) any provider in a specific specialty where another provider in-network of equal services is not available within 15 miles in an Urban market, 25 miles in a Suburban market and 45 miles in a Rural market; (b) loss of a hospital in an area where another provider of equal service is not available within 10 miles</p>	<p>.2% of monthly administrative fee per occurrence paid quarterly where access standard is not achieved. .3% of monthly administrative fee per occurrence paid quarterly. .3% of monthly administrative fee per occurrence paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>the provider to Contractor, whichever is less.</p> <p>b. Contractor will provide corrective action plan to fill access gaps of affected area(s) within ten (10) Calendar days of notification to the DCH.</p> <p>4. 90% of all network physicians will be credentialed prior to contracting, and re-credentialed, at least every 3 years or within NCQA/URAC/CMS guidelines.</p> <p>5. Contractor and the Network providers agree to administer and abide by applicable provisions of the Consumer Choice Option legislation.</p> <p>6. Contractor shall offer and maintain a Transplant Network of Centers of Excellence for bone marrow and other transplants as outlined in the RFA.</p>	<p>in an Urban market, 20 miles in a Suburban market and 45 miles in a Rural market; and (c) any other changes to the network that impair or deny adequate access. This standard will be reported monthly and measured quarterly.</p> <p>b. Corrective action plan (CAP) shall be reviewed and agreed upon by the DCH.</p> <p>4. Reports approved by the DCH will be provided by the Contractor to the DCH on a quarterly basis. Standard will be measured every 6 months. The DCH reserves the right to audit this standard.</p> <p>5. Contractor will maintain at all time during the term of this contract a nomination process for Members to nominate Providers. Contractor shall submit to the DCH a written copy of the nomination process and also the forms to be used by the Member for review and final approval by the DCH 60 Calendar days prior to implementation.</p> <p>6. Contractor shall provide a list of all Transplant Network Centers of Excellence to the DCH 60 Calendar days prior to implementation, and shall communicate any changes to the transplant network within 10 days of notification by the provider to the Contractor. Transplant Network list must include names of all transplant facilities, type of transplants performed at each and include the policy on coverage of transplants and expenses for lodging and travel. Transplant network activity must be reported to the DCH in a format agreed upon by the DCH monthly and measured quarterly. Failure to adhere to this standard will result in a financial assessment.</p>	<p>Failure to submit report by the 10th day results in a .3% of monthly administrative fee per occurrence to be paid quarterly. An additional .025% of monthly administrative fee per Calendar day will be paid if CAP is not received after the 10th Calendar day (11th day forward).</p> <p>.3% of monthly administrative fee per occurrence paid semi-annually.</p> <p>.025% of monthly administrative fee per Calendar day that any part of the standard is not met to be paid quarterly.</p> <p>.025% of monthly administrative fee per Calendar day that any part of the standard is not met to be paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>7. Contractor shall develop and maintain a provider data base of all physicians accepting patients in the Medicare Advantage Private Fee- for- Service (MA PFFS) plan.</p>	<p>7. Contractor shall provide quarterly reports to the DCH of the providers accepting MA PFFS Members. Reports shall include all adds, terminations, and changes. Standard shall be measured quarterly.</p>	<p>.2% of monthly administrative fee per occurrence to be paid quarterly.</p>
<p>8. Contractor shall demonstrate efforts toward development of strategies to encourage use of electronic health records, e-prescribing, personal health records (PHR), health information technology and other efforts regarding Health Information Exchange (HIE) activities.</p>	<p>8. Contractor shall provide internal developed reports presented to the DCH at quarterly meetings detailing strategies and development toward improving health care transparency and HIE activities. The DCH reserves the right to change this standard. Standard shall be reported and measured quarterly.</p>	<p>.3% of monthly administrative per occurrence to be paid quarterly.</p>
<p>Customer Service</p> <p>1. Contractor shall establish and maintain a dedicated customer service team for the DCH.</p> <p>2. 85% of all Member calls will be answered within 30 seconds or less on average.</p>	<p>1. Contractor must maintain a ratio of FTE to Member population of staff agreed upon by the DCH as outlined in the RFA or as otherwise required in the Contract at all times during the course of the Contract. This staff must be sufficiently trained to respond to questions and both the number of staff and sufficiency of training are required to meet this standard. This will be determined by the DCH contract monitoring practices, which include on-site monitoring and remote site monitoring. The DCH has the right to observe the unit as needed to verify this standard. Standard results will be reported monthly to the DCH and summarized quarterly in the quarterly reports. Standard measured quarterly.</p> <p>2. The response level must be maintained each month. The standard applies to the medical claims team and the customer service team. The average speed of answer will be measured by Contractor’s standard internal call reports produced by Contractor’s automated phone system for all DCH Member calls. These reports shall be submitted to the DCH weekly for monitoring purposes and standard will be measured monthly and summarized in quarterly reports. Standard measured quarterly.</p>	<p>.3% of monthly administrative fee to be paid quarterly.</p> <p>.3% of monthly administrative fee to be paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>3. 4% or less of all calls will be abandoned after 30 seconds. Abandoned call is a connection that is made but is terminated by the Member before it reaches the first Member Services Representative. The Member could have abandoned the connection at any time while ringing, queuing, or during the IVR.</p> <p>4. 85% or more calls will be resolved within 3 Business days or less.</p> <p>5. Prior written approval is required before correspondence or information is disseminated to a Member by Contractor (except for responses prepared for individual Member inquiries).</p> <p>6. Oral translation services shall be made available to Members at no charge to the Member or the DCH.</p>	<p>3. This standard applies to the claims and customer service teams. The abandonment rate will be measured by Contractor's standard internal call reports produced by Contractor's automated phone system for all Member calls.</p> <p>These reports shall be submitted to the DCH weekly for monitoring purposes and standard will be measured monthly and summarized in quarterly reports presented to the DCH by the account management team on a monthly basis. Standard measured quarterly.</p> <p>4. The Contractor's account management team will provide a monthly call resolution report with turnaround times on a quarterly basis. Standard measured quarterly.</p> <p>5. Correspondence and information (whether written, electronic, telephonic, or in any other medium or form) developed by the Contractor and intended for Members, (e.g., open enrollment materials, network changes) must be reviewed and approved by the DCH prior to dissemination. This standard will be measured quarterly.</p> <p>6. Contractor is required to provide oral translation services of information to any Member who speaks any non-English language. The DCH reserves the right to monitor remotely, on-site or listen to recorded calls for validation of results.</p>	<p>.3% of monthly administrative fee to be paid quarterly.</p> <p>.3% of monthly administrative fee to be paid quarterly.</p> <p>.025% of monthly administrative fee per occurrence paid quarterly.</p> <p>.025% of monthly administrative fee per occurrence paid quarterly.</p>
<p>7. Contractor shall record all calls and keep recordings for a period of 24 months.</p>	<p>7. Contactor shall provide to the DCH recordings within 24 hours (e.g., wav files) upon request.</p>	<p>.025% of monthly administrative fee per occurrence paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>8. A quarterly Member satisfaction survey will be conducted by Contractor and at least 85% of respondents will be “satisfied or very satisfied” or the equivalent of the same measure on any other scale used.</p> <p>9. An annual Member satisfaction survey will be conducted by Contractor and at least 85% of respondents will be “satisfied or very satisfied” or the equivalent of the same measure on any other scale used.</p>	<p>8. Contractor shall present tabulated results to the DCH. The standard shall be reported and measured quarterly.</p> <p>9. The survey instrument shall be agreed upon by both parties and conducted by an independent agency that is mutually acceptable by both parties and paid by Contractor. Tabulated raw results shall be presented directly from the independent agency to the DCH at the time they are completed. This standard shall be reported and measured annually.</p>	<p>.025% of monthly administrative fee per occurrence paid quarterly.</p> <p>.3% of monthly administrative fee per occurrence paid annually plus .025% of monthly administrative fee for each day survey is not received after 90 Calendar days following the 12th month of the previous year.</p>
<p>Complaints and/or Grievances</p> <p>1. Contractor shall respond to any and all written complaints/grievances from Members related to services under this contract within 7 Business days of receipt of the complaint. Contractor must provide written status of delay to Member if complaint is not responded to within 7 Business days.</p> <p>2. For MA PFFS plan, Contractor shall respond to any and all written or telephonic communications from Members reporting "provider not accepting MA PFFS plan" within 24 hours of notice to locate an accepting provider.</p>	<p>1. Contractor shall respond to all complaints/grievances which include but may not be limited to provider not accepting new patients, lengthy waits for appointments or lack of specialty care physician coverage. Contractor’s review and resolution of complaints/grievances are subject to discretionary review by the DCH. This standard shall be reported and measured monthly with a quarterly summary to the DCH. The report shall be sorted by type of complaint/grievance and include the volume, resolution, and response turnaround time for each complaint/grievance.</p> <p>2. This standard shall be reported and measured monthly with a quarterly summary to the DCH.</p>	<p>.025% of monthly administrative fee per occurrence paid quarterly.</p> <p>.025% of monthly administrative fee per occurrence paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>Internet Presence/Web Site</p> <p>1. Provide a Member web-site that complies with the requirements as outlined in the RFA.</p> <p>2. Contractor shall submit website screen shots to the DCH for review and approval 60 Calendar days prior to implementation.</p> <p>3. Monthly internet activity reports will be made available to the DCH.</p>	<p>1. This standard shall be measured upon review and approval by the DCH 60 Calendar days prior to implementation. Web-site shall be reviewed monthly by the DCH. Standard shall be maintained throughout life of the Contract.</p> <p>2. This standard shall be measured upon review and approval by the DCH.</p> <p>3. Contractor shall report monthly and quarterly activity in the format approved by the DCH. These reports shall be summarized and presented to the DCH by the account management team at each quarterly meeting.</p>	<p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p> <p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p> <p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p>
<p>Data Transmittals</p> <p>1. Contractor must provide transmittal of data to any third parties including the Decision Support System (DSS) contractor (s) or others as identified by the DCH. Contractor will provide monthly data feeds of medical and pharmacy claims as well as provider files within 10 Calendar days following the end of the month.</p>	<p>1. This standard shall be reported to the DCH monthly and measured monthly.</p>	<p>.2% of monthly administrative fee per occurrence paid quarterly.</p>
<p>Eligibility</p> <p>1. Eligibility updates will be loaded and in use within 24 hours of receipt. Initial and Open Enrollment eligibility files will be loaded within 5 Business days of receipt.</p> <p>The guarantee is waived for the file that cannot be loaded due to</p>	<p>1. A tape load will be considered to have met the standard if the elapse between the date the tape is received by the Contractor and then loaded into the eligibility system (s) is no greater than 24 hours. Internal reports will be provided to the DCH monthly. Audit results can be used for definitive measurement.</p>	<p>.2% of monthly administrative fee per occurrence paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>file errors caused by the DCH.</p> <p>Files must be received by 12:00 midnight EST.; otherwise, written notification of the file delivery (off schedule) must be provided and receipt confirmed by Contractor. If the file is received after 12:00 midnight EST the guarantee period commences the following Business day.</p>		
<p>Utilization Management Programs Cost Savings/Return on Investment (ROI)</p>	<p>1. The SHBP requires that their membership (as defined in sections 5.9 thru 5.18.1) receive the highest level of support and program services in the management and maintenance of their health through health risk management, e.g., wellness and prevention tools/communications, outreach/access by and to the Contractor's clinicians to provide support, referrals to other SHBP programs, and other Contractor program offerings enabling the membership to improve life quality and balance as it relates to good health. Additionally, the SHBP requires that their membership identified to be at risk, particularly high risk, and/or having a disease that falls into a program category managed by the Contractor through the DSM programs be provided with, at a minimum, the highest level of clinical oversight, outreach and management in order to assist these individuals with receiving treatment that meets industry standard clinical guidelines for overall health improvement and quality, that these individuals are provided with access to critical disease control monitors and that the Contractor engage with this population as necessary in order to provide this level of program services.</p> <p>The Contractor will place 10% of annual fees at risk to guarantee a 1:1 financial return (gross medical savings divided by program fees) that would reflect the cost reduction associated with maintaining good</p>	<p>10% of annual administrative fee to be paid annually.</p>

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Performance Standard	Measurement	Guarantees ¹
	<p>health and improving quality the quality of health status in the SHBP membership. Evidence of these improvements will be determined by the Contractors standard methodology for measurement of programs success, which is well-recognized in the industry and accepted as a standard. The DCH will review the methodology and baseline paid claims calculations used in the savings calculation and agree prior to launch of the program. For purposes of evaluating fees at risk, medical cost savings will be measured on an annual basis with appropriate time allowed for claims run-off and preparation of the reconciliation.</p> <p>Subsequent years: Year 2; 2:1, Year 3; 3:1, Years 4 and 5 to be agreed upon by DCH and the Contractor.</p>	
<p>UM Customer Service</p> <p>1. Establish and maintain a dedicated UM, DM, and MBH/SA phone line for the SHBP to ensure that 93% of Member calls will be answered within 30 seconds or less.</p> <p>2. 3% or less of all calls will be abandoned for UM, DM, and MBH/SA daily.</p>	<p>1. The DCH have the right to observe this unit as needed to verify this standard. The response level must be maintained each month. The standard applies to the UM, DM, MBH/SA phone team who takes the initial calls and requests for UM functions (e.g. pre-certification, prior notification, demand management/nurse line advice, etc.). The Contractor will provide standard internal call reports produced by Contractor’s automated phone system to report the average speed of answer. Monthly and quarterly reports will be provided to the DCH. Standard measured quarterly.</p> <p>2. The standard applies to the UM, DM, MBH/SA phone team who takes the initial calls and requests for UM functions such as pre-certification, prior notification, demand management/nurse line advice, etc. The Contractor will track standard internal call reports produced by Contractor’s automated phone system daily to report the abandonment rate. Monthly and quarterly reports will be provided to the DCH. Standard measured quarterly.</p>	<p>.3% of monthly administrative fee to be paid quarterly.</p> <p>.3% of monthly administrative fee to be paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>Contractor Clinical Review</p> <p>1. 95% of all requests for clinical coverage determination shall be completed within 3 Business days from receipt of complete clinical information.</p>	<p>1. Contractor shall provide monthly and quarterly reports detailing the turnaround time for completion of all requests for clinical coverage determinations to the DCH, but the DCH reserves the right to audit this standard. Standard will be measured quarterly.</p>	<p>.3% of monthly administrative fee to be paid quarterly.</p>
<p>UM Certification Errors</p> <p>1. The Contractor is financially responsible for authorization decisions made in error for any non-covered service. Contractor will only reimburse the DCH for overpayments administered as a result of Contractor's negligence.</p>	<p>1. Contractor shall provide reports detailing any UM certification errors for non-covered services to the DCH monthly, but the DCH reserves the right to audit this standard. In addition, Contractor shall notify Members of such errors. Standard will be measured and reported to the DCH monthly.</p>	<p>Contractor will pay all costs associated with an inappropriate authorization and claims payment errors. Paid monthly.</p>
<p>UM & Quality Management</p> <p>1. UM programs must be and remain in compliance with all applicable state and federal laws/regulations.</p>	<p>1. Proven or indisputable failure to comply with state and federal regulations as reported by the Contractor, vendors, state or federal governing bodies, Members, providers or the DCH will result in financial assessments until the matter is corrected as mutually agreed upon by the Contractor and the DCH.</p>	<p>.05% of monthly administrative fee per Calendar day that standard is not met to be paid monthly.</p>
<p>2. UM programs must maintain current accreditation certification and adhere to NCQA or URAC standards at all times during the term of the contract.</p>	<p>2. The Contractor shall provide a copy (ies) of their current NCQA or URAC Accreditation Certification for the UM programs within 30 Calendars of effective date of Contract and throughout the term of the contract upon renewal of certification. Failure to maintain current NCQA or URAC certification and/or failure to adhere to NCQA or URAC standards will result in financial assessments until the matter is corrected as mutually agreed upon by the Contractor and the DCH.</p>	<p>.05% of monthly administrative fee per Calendar day that standard is not met to be paid monthly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>3. The Contractor must submit and maintain an on-going quality management program that includes the components as set forth in the RFA. The Contractor must also submit to the DCH a copy of any changes to the quality management program.</p> <p>4. The Contractor shall conduct the Annual Plan Performance Review and Quality Management meeting within 90 Calendar days following the 12th month (unless otherwise agreed upon by the DCH).</p>	<p>3. Failure to submit the quality management program to the DCH for review 60 Calendar days prior to implementation; and/or failure to provide a copy of any changes to the quality management program within 15 Business days prior to the effective change date will result in a financial assessment. Standard shall be measured quarterly.</p> <p>4. Failure to conduct the Annual Plan Performance Review and Quality Management meeting within 90 Calendar days following the 12th month (unless otherwise agreed upon by the DCH) will result in a financial assessment.</p>	<p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p> <p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p>
<p>Utilization Management Reports</p> <p>1. Contractor shall, at a minimum, provide monthly, quarterly and annual UM reports on the following data and compare findings to current book of Business (public and private sectors), as well as, local and national benchmarks. Reporting data include, at a minimum: number of ER visits; admits/1000; bed days/1000; 30 and 60 day readmission rates; average length of stay; actual length of stay; net pay medical; and net pay pharmacy.</p>	<p>1. The Contractor shall submit monthly, quarterly and annual UM reports to the DCH. Failure to submit monthly, quarterly and annual UM reports within the required timeframes will result in a financial assessment. Standard measured monthly.</p>	<p>.05% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>2. The Contractor’s DSM program must meet or exceed benchmarks for performance measures as follows: Agreed upon reductions in ER visits and hospital admissions for DSM enrollees. In addition, the Contractor will adhere to mutually agreed upon benchmarks for the following performance measures, which include, at a minimum: DSM net costs savings; DSM enrollment and dis-enrollment rate by chronic condition; and DSM clinical outcomes by chronic condition.</p>	<p>2. Contractor must meet each DSM performance measure annually. Failure to meet any one performance measure during the Plan year will result in a financial assessment.</p>	<p>.3% of monthly administrative fee to be paid annually.</p>
<p>Appeals</p> <p>1. Contractor shall submit its Appeal Review policies and procedures for all applicable UM program areas (i.e. claims, medical, pharmacy, MBH/SA) in the timelines as required by NCQA and/or URAC, unless otherwise agreed upon by the DCH.</p>	<p>1. Contractor shall conduct all appeal reviews within the timeframes required by NCQA and/or URAC, unless otherwise agreed upon by the DCH. Contactor shall provide to the DCH copies of its Appeal Review policies and procedures for the following within 60 Calendar days prior to implementation:</p> <ul style="list-style-type: none"> a. benefit determination b. clinical review appeals c. pharmacy appeals d. MBH/SA appeals <p>Failure to adhere to the above measurements will result in a financial assessment.</p>	<p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p>
<p>Audits</p> <p>1. Contractor shall comply with requirements for conducting annual independent audits as outlined in the Contract and RFA.</p>	<p>1. Contractor shall provide the DCH with copies of audit results for all service areas within 60 Calendar days following completion of the audit. The DCH reserves the right to change this standard at any time. This standard shall be measured according to timelines outlined in the Contract.</p>	<p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>2. Contractor shall provide corrective action plan for any deficiencies identified as a result of any audits performed under this Contract</p> <p>3. The Contractor shall obtain independent audits to assess its Claims Payment and Financial Accuracy, and Errors and Recovery, and Utilization Review services, at least every two (2) years as outlined in the Contract.</p>	<p>2. Contractor shall provide any corrective action plan permitted by the DCH within 5 Calendar days following the DCH's grant of permission for such plan.</p> <p>3. Contractor shall provide the DCH with copies of audit results for these service areas within 60 Calendar days following completion of the audit. The DCH reserves the right to change this standard at any time. This standard shall be measured according to timelines outlined in the Contract.</p>	<p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p> <p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p>
<p>HIPAA Compliance</p> <p>1. Contractor shall treat all Member information and data obtained or reviewed as confidential and private and protect it from disclosure in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or its amendments, rules, procedures and regulations or any other law related to patient privacy, confidentiality, or healthcare.</p> <p>2. Contractor shall have and maintain a HIPAA compliancy policy and system, including its Information System that protects Member's privacy,</p>	<p>1. Failure to achieve or maintain compliance with HIPAA regulations as reported by the Contractor, vendors, state and federal governing bodies, Members, providers or the DCH will result in financial assessments until the matter is corrected to the DCH's satisfaction.</p> <p>2. Contractor must provide written documentation of its HIPAA compliant systems, protocols, policies and procedures upon request by DCH.</p>	<p>.1% of monthly administrative fee per occurrence in which Contractor fails to meet standard, as determined by the DCH. Additionally, Contractor shall pay any and all fines and damages that may be assessed against it or the DCH for Contractor's failure to comply with a law, regulation, or rule related to, based on, or arising from HIPAA or any other law, regulation, or rule related to, based on, or arising from patient privacy, confidentiality, or health care matters.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>confidentiality and health information.</p> <p>3. Assist the DCH in its efforts to comply with HIPAA and abide by any requirements mandated by HIPAA or any other applicable laws, including execution of and compliance with the Business Associate Agreement, as required by Section 23(B) of the Contract.</p>	<p>3. Implement and maintain strict compliance with any and all terms, conditions and provisions of the Business Associate Agreement that is attached to and incorporated into the Contract as Attachment E, as required by Section 23 of the Contract.</p> <p>If DCH incurs penalties and/or fines as a result of Contractor's non-compliance with HIPAA (including any amendments, rules, procedures or regulations) and Contractor indemnifies DCH with respect to such penalties and/or fines, any monies due and payable at the time will be set off by the amount that the Contractor paid to indemnify the DCH.</p>	
<p>Homeland Security Considerations</p> <p>1. Contractor shall perform the services to be provided under this Contract entirely within the boundaries of the United States. Also, Contractor will not hire an individual to perform any services under this Contract if that individual is required to have a work visa approved by the U.S. Department of Homeland Security and such individual has not met this requirement.</p>	<p>1. Proven or indisputable failure to comply with statues, laws and federal legislation related to Homeland Security as reported by the Contractor, subcontractors, state or federal governing bodies, or the DCH will result in financial assessments until the matter is corrected to the DCH's satisfaction.</p>	<p>.1% of monthly administrative fee per occurrence in which Contractor fails to meet standard as determined by the DCH.</p>
<p>Off-Shore Services</p> <p>1. Contractor shall not provide any services outside of the United States as stated in Section 15 (A4) of the Contract.</p>	<p>1. If applicable, Contractor must submit a CAP that has been reviewed and approved by the DCH. Failure to meet this standard will result in financial assessments until the matter is corrected as agreed upon by the DCH.</p>	<p>2% of monthly administrative fee per occurrence plus .025% of monthly administrative fee per day that standard is not met according to agreed upon CAP to be paid monthly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>Systems</p> <p>1. Contractor shall ensure it complies with all system requirements and security controls. Contractor shall maintain a comprehensive automated and integrated information system that is capable of meeting the requirements set forth in this Contract and the RFA to include but not limited to the exchange of data files with the DCH and its third party vendors, receiving, storing, analyzing and reporting on Member and provider specific data in order to meet program requirements for service delivery and reporting.</p> <p>2. Contractor shall be responsible for any system upgrades and maintain policies and procedures in response to changes in Business requirements, technology obsolescence, staff turnover and other relevant factors.</p> <p>Contractor shall advise the DCH prior to major system upgrades that materially affect the DCH and set forth how Contractor's control will be systematically assessed to determine the need to modify, upgrade and/or replace application software,</p>	<p>1. Internally developed reports approved by the DCH shall be provided to the DCH. Standard shall be measured and reported quarterly. The DCH reserves the right to change this standard.</p> <p>2. Material system changes are not complete until they are fully implemented and tested prior to the effective change date. The DCH shall make the final determination as to whether the changes are complete and satisfactory. Contractor shall submit the report on a quarterly basis.</p>	<p>.05% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p> <p>.2% of monthly administrative fee per occurrence that standard is not met paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>operating hardware and software, telecommunication capabilities, information management policies and procedures.</p> <p>Contractor shall provide the DCH with a written report documenting non-material system upgrades within thirty 30 Calendar days of the end of each Calendar quarter.</p>		
<p>Disaster Recovery Plan</p> <p>1. Contractor shall maintain a written disaster recovery plan designed to minimize any disruption of the Contractor’s services. Contractor shall periodically, but no less than annually, test its written disaster recovery plan with the aid of simulated disasters and lower level failures in order to demonstrate that the disaster recovery plan is sufficiently functional so as to meet the requirements outlined in this Contract and the RFA.</p> <p>Contractor shall provide a written copy of the disaster recovery plan to the DCH for review and approval 60 Calendar days prior to implementation. Contractor shall notify the DCH immediately of any failure that</p>	<p>1. Contractor shall develop and be continually ready to invoke their Business continuity and disaster recovery plan that is approved by the DCH. Failure to test the written disaster recovery plan at least annually and/or failure to provide to the DCH a copy of the disaster recovery plan for review and approval 60 Calendar days prior to implementation will result in a financial assessment.</p>	<p>.1% of monthly administrative fee per occurrence for failure to test the written disaster recovery plan at least annually.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>results in loss of primary processing or operational site in excess of 2 Business days unless otherwise approved by the DCH.</p> <p>2. Contractor shall conduct an annual recovery plan review exercise/drill at the Contractor's own expense. The review must test all components of the Contractor's operation, including services provided by any third party/ies.</p>	<p>2. The Contractor shall provide to the DCH a written report of findings and corrective action plan for any deficiencies noted in the test and must thoroughly re-test until satisfactory results are achieved and maintained. The Contractor shall provide the written report and corrective action plan to the DCH within 15 Business days of the date that the test was conducted.</p>	<p>.025% of monthly administrative fee per Calendar day for failure to provide a copy of the disaster recovery plan.</p>
<p>Fraud and Abuse Compliance Plan</p> <p>1. Contractor shall maintain a written program integrity policies and procedures, including a mandatory compliance plan designed to guard against fraud and abuse.</p> <p>2. Contractor shall submit to the DCH its program policies and procedures which include the compliance plan described in this Contract and RFA no later than 60 Calendar days prior to implementation.</p>	<p>1. Contractor's compliance plan shall be established and maintained in accordance with the requirements as outlined in this Contract and RFA. The proposed Fraud and Abuse reports must be provided to the DCH no later than 60 days prior to implementation. Standard shall be reported monthly and quarterly. Standard measured monthly.</p> <p>2. DCH shall review and approve policies and procedures including compliance plan. DCH reserves the right to audit this standard.</p>	<p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p> <p>.025% of monthly administrative fee per Calendar day that standard is not met to be paid quarterly.</p>
<p>Record Retention</p> <p>1. All on-site records shall be made available to the DCH within 2 Business days of the</p>	<p>1. The Contractor shall make available to the DCH all of its records pertaining to the performance under this Contract for a period of 7 years from date of last payment. If the Contract is completely or</p>	<p>.2% of monthly administrative fee per occurrence paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
request. All archived records shall be made available to the DCH no more than 14 Business days after the request.	partially terminated, the records relating to the work terminated shall be preserved and made available for period of 7 years from the date of termination or of any resulting final settlement.	
Summary Plan Description (SPD) 1. Contractor shall draft and produce the SPD within 90 Calendar days of Contract Award, as outlined in the RFA for the approval of the DCH. Additional SPDs for future Plan years will be submitted to the DCH for approval 90 Calendar days prior to publication and distribution each Plan year as outlined in Section 5.5 of the Contract.	1. Contractor shall submit SPDs to the DCH for review and approval in the requested timeframes. Contactor is not responsible for errors or delays attributable to incorrect or untimely information furnished by the DCH.	.025% of monthly administrative fee per Calendar day that standard is not met to be paid monthly.
Dedicated Staffing Plan 1. Contractor shall provide detailed staffing plan to the DCH within 45 Calendar days of Contract Award. 2. Contractor shall not change, increase or decrease the number of assigned key personnel working under this Contract, as outlined in the terms of the Contract without the prior written consent and approval of the DCH, which shall not be unreasonably withheld. In addition to its dedicated key staff, Contractor shall maintain other staff, in sufficient numbers to service the DCH account at	1. Contractor shall submit staffing plan to the DCH for review and approval, which shall not be unreasonably withheld. 2. DCH shall review Contractor's monthly staffing report. Contractor's failure to meet this standard will result in a financial assessment.	.025% of monthly administrative fee per Calendar day that standard is not met to be paid monthly. .1% of monthly administrative fee per occurrence that standard is not met to be paid quarterly.

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Performance Standard	Measurement	Guarantees ¹
<p>all times, replacing and training staff, or adding staff, with the DCH's approval, as population changes for the SHBP.</p>		
<p>Health and Wellness Programs</p> <p>1. Personal Health Assessment (PHA) Participation</p> <p>HRA performance targets will be reviewed as a regular part of each quarterly meeting.</p>	<p>1. Contractor shall provide SHBP Members with access to PHA tool via Contractor's website or other means provided by Contractor. Contractor shall summarize semi-annual activity in reports presented to the DCH at the annual meeting. DCH reserves the right to audit this standard. Standard shall be measured annually.</p> <p>Contractor agrees that a minimum performance standard of 20% of subscribers and their spouse will participate in a PHA. On an ongoing basis, Contractor and the SHBP will review strategies and the SHBP's activities (legislation, etc.) for encouraging employees to complete the PHA (e.g., greater member incentives, organizational leadership reinforcement, etc.) and jointly determine the appropriate increases to the Year 1 target of 20% for Years 2-5. At the end of each current plan year and for each remaining year under the Contract, Contractor and DCH shall develop targets for improving the (PHA) participation from the previous year. In addition, Contractor will provide the DCH with specific recommendations bi-annually on how to achieve these targets based on the SHBP historical patterns of Members completing the PHA.</p>	<p>1% of annual administrative fee to be paid annually.</p>
<p>2. Communications and Outreach</p>	<p>2. Contractor's approach to communications and outreach should be geared toward raising general awareness about the PHA and associated program offerings through an initial mailing to all members, quarterly newsletters, and targeted outreach initiative based on the data generated through predictive models utilized by the Contractor to reach subscribers and their spouses who can benefit from the programs and with highest "impactable" risk. Contractor agrees that all subscribers and their spouses will be contacted by mail with description and access information about the PHA and incentives to participate, the program offerings, etc., a minimum of four times within year 1 through the standard outreach materials utilized by the SHBP's Care Manager program. Communications and outreach activities necessary for years 2-5 will be jointly agreed to by the SHBP and the Contractor through the</p>	<p>1% of annual administrative fee to be paid annually.</p>

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Performance Standard	Measurement	Guarantees ¹
	regular planning meetings.	
<p>Pharmacy Payments</p> <p>1. Pass-through Payment Requirement.</p> <p>2. Turnaround time for SHBP Paper Claims Processed – monthly average turnaround time of ten (10) Business days for 99% of all prescription paper claims received.</p> <p>3. Contractor will demonstrate that 99% of paper claims reviewed per month were processed with no errors.</p>	<p>1. Contractor guarantees that the “pass-through” requirement as stated in the RFA will not be violated and agrees to notify the DCH immediately upon awareness of any violations to this standard. The DCH has the right to audit this standard.</p> <p>*Note: For purposes of this performance guarantee, spread is defined as the difference between the DCH payment to the Contractor for the service or product provided and the amount the Contractor paid to or received from the provider or vendor.</p> <p>2. For purposes of this performance guarantee, turnaround time is measured beginning the day the clean claim is received by Contractor to the day the claim disposition is determined. Contractor shall submit monthly report to the DCH. Standard measured monthly.</p> <p>3. Measured by a random sample of at least 450 paper claims processed per month. Contractor shall submit monthly report to the DCH. Standard measured and reported monthly.</p>	<p>If Contractor violates the pass-through payment requirement, the Contractor will pay to DCH .2% of monthly administrative fee as well as the “spread” * plus an interest rate of 12% per annum. Contractor will pay within thirty (30) Calendar days after DCH notification/discovery of such practice and written notification to Contractor.</p> <p>.1% of monthly administrative fee to be paid quarterly.</p> <p>.1% of monthly administrative fee to be paid quarterly.</p>
<p>4. Contractor shall reconcile all guaranteed financial contract terms on a quarterly basis including discounts and fees. This report is due to SHBP no later than 45 days after the end of the respective quarter.</p> <p>5. Contractor shall reconcile all guaranteed rebates on a quarterly basis. This report is</p>	<p>4. Discounts and dispensing fees are measured by evaluating 100% of network claims.</p> <p>5. Rebate reconciliation is based on actual NDC-11 utilization and not book-of-Business averages.</p>	<p>Dispensing Fee and Discount Penalty: The difference between the guaranteed dispensing fees and discounts and what the Contractor achieved in the network on behalf of the SHBP plus .1% of monthly administrative fee penalty per quarter.</p> <p>Rebates: The difference between the guaranteed rebates and what the Contractor achieved from</p>

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Performance Standard	Measurement	Guarantees ¹
<p>due to SHBP no later than 45 days after the end of the respective quarter.</p> <p>6. Rebates shall be credited/paid quarterly within 90 Calendar days of the end of the quarter.</p> <p>7. Electronic funds transfers (EFTs) will be made within the agreed upon seven (7) Calendar day check cycle 100% of the each week. In the event of a missed EFT payment Contractor will send a replacement EFT within seventy-two (72) hours of the missed payment.</p>	<p>6. Payments after 90 Calendar days will be considered late unless the Contractor provides documentation that payment from the pharmaceutical manufacturer(s) has not yet been received by the Contractor.</p> <p>7. Contractor will provide internally developed reports to be submitted to the DCH on a monthly basis. Standard will be measured monthly.</p>	<p>pharmaceutical manufacturers plus a .1% monthly administrative fee penalty per quarter.</p> <p>5% of the total rebate due to the SHBP per 30 Calendar days late.</p> <p>.1% of monthly administrative fee per Calendar day if standard is not met to be paid quarterly. Additionally, if the Contractor does not send a replacement EFT within 72 hours of the missed EFT, Contractor will pay an additional .2% of monthly administrative fee per occurrence paid quarterly.</p>
<p>Pharmacy Reporting</p> <p>1. Ad hoc pharmacy reports</p> <p>2. Standard utilization, cost and trend reports inclusive of, but not limited to, total utilization, therapeutic class, specialty drug utilization, high cost claimants, high narcotic and controlled substance utilization and utilization management programs such as step therapy, quantity limits, prior authorization, specialty drug program, co-payment waiver program, and other custom clinical programs at least quarterly.</p>	<p>1. Contractor will provide ad hoc pharmacy reports no later than 10 Business days from the date of the request.</p> <p>2. Contractor will provide pharmacy reports no later than 10 Business days after the end of the month.</p>	<p>.025% of monthly administrative fee per Calendar day to be paid quarterly.</p> <p>.1% of monthly administrative fee per report paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>Generic Substitution</p> <p>1. The Contractor will provide the DCH with a generic potential fill rate guaranteed level.</p> <p>FORMULA: The number of generic Rx's divided by ALL Rx's [generic + Multiple Source Brand (MSB) + Single Source Brand (SSB)]*</p> <p>*This guarantee excludes compounds</p>	<p>1. Annually the Contractor will provide the DCH with a proposed method to achieve a generic fill rate improvement target of at least 2% over the prior Plan year.</p> <p>Upon DCH's acceptance of the Contractor's proposed Generic Fill Rate, the Contractor will achieve the generic fill rate target. Contractor will provide annual report. Standard measured annually.</p>	<p>5% of monthly administrative fees to be paid annually.</p>
<p>Pharmacy Network</p> <p>1. To ensure that SHBP Members have sufficient access to a stable pharmacy network of providers, 90% of available retail pharmacies in the Primary Service Areas* are part of the Contractor's Retail Pharmacy Network.</p>	<p>1. On a semi-annual basis (on or before January 1st and July 1st of each year) and upon request from the DCH, Contractor will assure 90% of available retail pharmacies in the Primary Service Areas* are part of the Contractor's Retail Pharmacy Network. Contractor shall provide semi-annual report to the DCH. Standard measured semi-annually utilizing the Geo-Access analysis.</p> <p>*Primary Service Areas are defined as the zip codes within which the SHBP Members reside.</p>	<p>For each percentage point or portion thereof that network access falls below the access standard the Contractor will pay to DCH the amount of 2% of the first month of the semi-annual administrative fees. Paid semi-annually on or by January 1st and July 1st of each year.</p>
<p>Pharmacy Audits</p> <p>1. Contractor will perform on-site audits of at least 4% of the network pharmacy providers.</p>	<p>1. Contractor will perform on-site audits of pharmacy providers that adjudicated more than 500 SHBP claims annually. Contractor shall provide report of compliance. Standard to be measured quarterly and reported annually.</p>	<p>5% of the monthly administrative fees to be paid annually.</p>
<p>Pharmacy Customer Service</p> <p>1. Maintain staff and operate designated core customer service team and customer service toll-free telephone numbers/Telecommunication Device for the Deaf (TDD)</p>	<p>1. This staff must be sufficiently trained to respond to Member questions. This will be determined by the DCH contract monitoring practices, which include on-site monitoring and remote site monitoring. The DCH has the right to observe this unit as needed to verify this standard. The response level must be maintained each month measured by a sample size of at least 8 random calls per month per representative designated to SHBP. Standard results will be reported monthly to the DCH and</p>	<p>.1% of monthly administrative fee to be paid quarterly.</p>

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Performance Standard	Measurement	Guarantees ¹
<p>numbers. Calls will be accurate 95% of the time each month.</p> <p>2. 85% of all calls will be answered in 30 seconds or less.</p> <p>3. 3% or less of all calls per month will be abandoned. Abandoned calls are defined as calls that have been connected for a minimum of 30 seconds and not answered by a live person before the call is disconnected.</p> <p>4. Contractor guarantees a monthly blockage rate of 0%. A blocked call is defined as any call made by the caller but not allowed into the Contractor's phone system.</p> <p>5. Contractor will respond to 100% of Members written inquiries within five (5) Business days. This excludes written prior authorization requests or appeals.</p>	<p>summarized quarterly in the quarterly reports. Standard measured quarterly.</p> <p>2. The response level must be maintained each month. The average speed of answer will be measured by Contractor's standard internal call reports produced by Contractor's automated phone system for all DCH Member calls. These reports shall be submitted to the DCH weekly for monitoring purposes and standard will be measured monthly and summarized in quarterly reports.</p> <p>3. The abandonment rate will be measured by Contractor's standard internal call reports produced by Contractor's automated phone system for all Member calls. These reports shall be submitted to the DCH weekly for monitoring purposes and standard will be measured monthly and summarized in quarterly reports.</p> <p>4. Standard confirmed by the submission of a monthly report, from Contractor's automated phone system for all DCH Member calls. Standard internal reports shall be submitted to the DCH by the 10th Business day of the month following the month of activity. Each such report is subject to independent verification by the DCH. Standard measured monthly and summarized in quarterly reports.</p> <p>5. Contractor will develop internal reports and submit reports to the DCH each month following the month of activity. Each such report is subject to independent verification by the DCH. Standard will be measured monthly and summarized in quarterly reports.</p>	<p>.1% of monthly administrative fee to be paid quarterly</p> <p>.1% of monthly administrative fee to be paid quarterly.</p> <p>.1% of monthly administrative fee to be paid quarterly.</p> <p>.1% of monthly administrative fee to be paid quarterly.</p>
<p>General Client Satisfaction with Services.</p> <p>1. If Contractor fails to meet term, condition, or requirement for the Contract that is not specifically addressed in one of the above</p>	<p>1. The DCH will give notice to Contractor's Account Manager of any such failure and a reasonable time within which to cure the failure. In the event Contractor fails to cure such failure within the specified period of time, the DCH may assess liquidated damages.</p>	<p>.025% of monthly administrative fees per day until failure is addressed to the satisfaction of the DCH.</p>

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Performance Standard	Measurement	Guarantees ¹
performance measurements and financial guarantees are difficult or impossible to ascertain exactly, Contractor agrees that the DCH may assess additional damages in those cases.		

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DISASTER RECOVERY PLAN

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IRREVOCABLE LETTER OF CREDIT

LETTER OF CREDIT DRAFT IN LIEU OF RETENTION SAMPLE

ISSUING BANK: [BANK'S NAME]
[BANK'S ADDRESS]

BENEFICIARY: THE GEORGIA DEPARTMENT OF COMMUNITY HEALTH
2 PEACHTREE STREET, NW-40th Floor
ATLANTA, GA 30303-3159
ATTN: CONTACT NAME

AT THE REQUEST AND FOR THE ACCOUNT OF [CONTRACTOR'S NAME], WE HEREBY ISSUE THIS IRREVOCABLE STANDBY LETTER OF CREDIT IN THE AMOUNT OF (\$_____), WHICH IS AVAILABLE AGAINST SIGHT DRAFT(S) OF THE BENEFICIARY BEARING THE CLAUSE "DRAWN UNDER IRREVOCABLE STAND-BY LETTER OF CREDIT NUMBER _____" AND ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

- 1. A CERTIFICATE DATED AND SIGNED BY A PURPORTED AUTHORIZED OFFICER OF THE BENEFICIARY STATING: "WE CERTIFY THAT THE AMOUNT OF OUR DRAWING UNDER LETTER OF CREDIT NUMBER IS DUE US AS [CONTRACTOR'S NAME] IS IN DEFAULT OF ITS OBLIGATIONS WITH US UNDER CONTRACT NO. _____ DATED _____."
2. A CERTIFICATE DATED AND SIGNED BY A PURPORTED AUTHORIZED OFFICER OF THE BENEFICIARY STATING: "WE CERTIFY THAT THE AMOUNT OF THE DRAFT PRESENTED DOES NOT EXCEED THE GREATER OF THE AMOUNT ALLOWED PURSUANT TO EXHIBIT 1 OF SAID CONTRACT OR THE AMOUNT IN DISPUTE LESS ANY AMOUNTS PREVIOUSLY DRAWN UNDER THIS LETTER OF CREDIT.
3. A COPY OF THE LETTER DATED AT LEAST SEVENTY-TWO (72) HOURS PRIOR TO THE DRAWING UNDER THIS LETTER OF CREDIT ADDRESSED TO [CONTRACTOR'S NAME] READING AS FOLLOWS: "WE HEREBY INDICATE OUR INTENTION TO DRAW UNDER _____ BANK LETTER OF CREDIT NO. _____."

WE ENGAGE WITH YOU THAT ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED UPON DELIVERY OF DOCUMENTS AS SPECIFIED IF PRESENTED AT THIS OFFICE ON

1Guarantees are assessed against the monthly, quarterly, and/or annual period in which the performance guarantee was not met. The monthly administrative fee for a period is defined as the average monthly administrative fee for all months included in the measurement period unless specifically stated otherwise.

OR BEFORE _____, 200__.

PARTIAL DRAWINGS ARE PERMITTED.

ALL AMOUNTS DRAWN IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT WILL BE TRANSFERRED BY WIRE TRANSFER INTO THE BENEFICIARY'S ACCOUNT NUMBER _____ IN

_____(BANK). ABA
NO. _____(CITY), _____
_____(STATE).

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICES FOR DOCUMENTARY CREDITS (1983 REVISION). INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION 500.

¹Guarantees are assessed against the monthly, quarterly, and/or annual period in which the performance guarantee was not met. The monthly administrative fee for a period is defined as the average monthly administrative fee for all months included in the measurement period unless specifically stated otherwise.