

STATE OF NEW MEXICO  
HUMAN SERVICES DEPARTMENT  
INFORMATION TECHNOLOGY PROFESSIONAL SERVICES CONTRACT

Contract No. PSC 19-630-4000-0003

THIS INFORMATION TECHNOLOGY AGREEMENT (“Agreement” or “Contract”) is made by and between the State of New Mexico, **Human Services Department**, hereinafter referred to as the “HSD,” and **International Business Machines Corporation**, hereinafter referred to as the “Contractor”, and collectively referred to as the “Parties.”

WHEREAS, pursuant to the New Mexico Procurement Code, NMSA 1978, 13-1-28 et seq., and the Procurement Code Regulations, NMAC 1.4.1 et seq., the Contractor has held itself out as an expert in implementing the Scope of Work as contained herein and the HSD has selected the Contractor as the entity most advantageous to the State of New Mexico; and

WHEREAS, all terms and conditions of the **RFP #17-630-4000-0003 HHS 2020 MEDICAID ENTERPRISE DATA SERVICES** and the Contractor’s response to such document(s) are incorporated herein by reference; and

WHEREAS, all Parties agree that, pursuant to the Procurement Code, 1.4.1.52 *et. seq.* the total amount of this Agreement is \$60,000.00 or more, excluding taxes;

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

**ARTICLE 1 – DEFINITIONS**

- A. “Acceptance” or “Accepted” shall mean the approval, after Quality Assurance, of all Deliverables by an Executive Level Representative of the HSD.
- B. “Application Deployment Package” shall mean the centralized delivery of business critical applications including the source code (for custom software), documentation, executable code and deployment tools required to successfully install application software fixes including additions, modifications, or deletions produced by the Contractor.
- C. “Business Days” shall mean Monday through Friday, 7:30 a.m. (MST or MDT) to 5:30 p.m. except for federal or state holidays.
- D. “Change Request” shall mean the document utilized to request changes or revisions in the Scope of Work – Exhibit A, attached hereto and incorporated herein.
- E. “Chief Information Officer (“CIO”)” shall mean the Cabinet Secretary/CIO of the Department of Information Technology for the State of New Mexico or Designated Representative.

- F. **“Confidential Information”** means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) that consists of: (1) confidential client information as such term is defined in State or Federal statutes and/or regulations; (2) all non-public State budget, expense, payment and other financial information; (3) all attorney-client privileged work product; (4) all information designated by the HSD or any other State agency as confidential, including all information designated as confidential under federal or state law or regulations; (5) unless publicly disclosed by the HSD or the State of New Mexico, the pricing, payments, and terms and conditions of this Agreement, and (6) State information that is utilized, received, or maintained by the HSD, the Contractor, or other participating State agencies for the purpose of fulfilling a duty or obligation under this Agreement and that has not been publicly disclosed.
- G. **“CMS”** shall mean the Federal Centers for Medicare and Medicaid Services.
- H. **“Contract Manager”** shall mean a qualified person from the HSD responsible for all aspects of the administration of this Agreement. Under the terms of this Agreement, the Contract Manager shall be **Eric Candelaria, IT Project Manager II** or his/her Designated Representative.
- I. **“Default”** or **“Breach”** shall mean a violation of this Agreement by either failing to perform one’s own contractual obligations or by interfering with another Party’s performance of its obligations.
- J. **“Deliverable”** shall mean any verifiable outcome, result, service or product that must be delivered, developed, performed or produced by the Contractor as defined by the Scope of Work.
- K. **“Designated Representative”** shall mean a substitute(s) for a title or role, e.g. Contract Manager, when the primary is not available.
- L. **“DoIT”** shall mean the Department of Information Technology.
- M. **“DFA”** shall mean the Department of Finance and Administration; **“DFA/CRB”** shall mean the Department of Finance and Administration, Contracts Review Bureau.
- N. **“Escrow”** shall mean a legal document (such as the software source code) delivered by the Contractor into the hands of a third party, and to be held by that party until the performance of a condition is Accepted; in the event Contractor fails to perform, the HSD receives the legal document, in this case, Source Code.
- O. **“Enhancement”** means any modification including addition(s), modification(s), or deletion(s) that, when made or added to the program, materially changes its or their utility, efficiency, functional capability, or application, but does not constitute solely an error correction.

- P. "Executive Level Representative" shall mean the individual empowered with the authority to represent and make decisions on behalf of the HSD's executives or his/her Designated Representative.
- Q. "GRT" shall mean New Mexico gross receipts tax.
- R. "HSD" shall mean the New Mexico Human Services Department.
- S. "Intellectual Property" shall mean any and all proprietary information developed pursuant to the terms of this Agreement.
- T. "Independent Verification and Validation ("IV&V")" shall mean the process of evaluating a Project and the Project's product to determine compliance with specified requirements and the process of determining whether the products of a given development phase fulfill the requirements established during the previous stage, both of which are performed by an entity independent of the HSD.
- U. "IRS" shall mean the federal Internal Revenue Service.
- V. "ISO" shall mean the HSD ITD Information Security Officer.
- W. "ITD" shall mean the HSD Information Technology Division.
- X. "Know How" shall mean all technical information and knowledge including, but not limited to, all documents, computer storage devices, drawings, flow charts, plans, proposals, records, notes, memoranda, manuals and other tangible items containing, relating or causing the enablement of any Intellectual Property developed under this Agreement.
- Y. "Payment Invoice" shall mean a detailed, certified and written request for payment of Services by and rendered from the Contractor to the HSD. Payment Invoice(s) must contain the fixed price Deliverable cost and identify the Deliverable for which the Payment Invoice is submitted.
- Z. "Performance Bond" shall mean a surety bond which guarantees that the Contractor will fully perform the Contract and guarantees against breach of contract.
- AA. "Project" shall mean a temporary endeavor undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The Project terminates once the Project scope is achieved and the Project approval is given by the Executive Level Representative and verified by the HSD CIO to the DoIT. If applicable, under the terms of this Agreement the Project is **Medicaid Management Information System Replacement (MMISR) Project**.
- BB. "Project Manager" shall mean a Qualified person from the HSD responsible for the application of knowledge, skills, tools, and techniques to the Project activities to meet the

Project requirements from initiation to close. Under the terms of this Agreement, the Project Manager shall be **Gary Rees, Project Manager IV, MMISR Project Manager Lead** or his/her Designated Representative.

- CC. "Qualified" means demonstrated experience performing activities and tasks with Projects.
- DD. "Quality Assurance" shall mean a planned and systematic pattern of all actions necessary to provide adequate confidence that a Deliverable conforms to established requirements, customer needs, and user expectations.
- EE. "Services" shall mean the tasks, functions, and responsibilities assigned and delegated to the Contractor under this Agreement.
- FF. "State Purchasing Agent (SPA)" shall mean the State Purchasing Agent for the State of New Mexico or his/her Designated Representative.
- GG. "State Purchasing Division (SPD)" shall mean the State Purchasing Division of the General Services Department for the State of New Mexico.
- HH. "Software" shall mean all operating system and application software used by the Contractor to provide the Services under this Agreement.
- II. "Software Maintenance" shall mean the set of activities which result in changes to the originally Accepted (baseline) product set. These changes consist of corrections, insertions, deletions, extensions, and Enhancements to the baseline system.
- JJ. "Source Code" shall mean the human-readable programming instructions organized into sets of files which represent the business logic for the application which might be easily read as text and subsequently edited, requiring compilation or interpretation into binary or machine-readable form before being directly useable by a computer.
- KK. "Turnover Plan" means the written plan developed by the Contractor and approved by the HSD in the event that the work described in this Agreement transfers to another vendor or the HSD.

## ARTICLE 2 SCOPE OF WORK

Scope of Work. The Contractor shall perform the work as outlined in Exhibit A, attached hereto and incorporated herein by reference.

- A. Performance Measures. The Contractor shall perform the Services in compliance with the Performance Measures as set forth in **Exhibit A and Exhibit B**. In the event the Contractor fails to meet the Performance Measures and results described in **Exhibit A and Exhibit B**, the HSD may provide written notice to the Contractor of the Default and specify a reasonable period of time in which the Contractor shall advise the HSD of specific steps it will take to achieve these Performance Measures and results and the proposed timetable for implementation. Nothing in this Section shall be construed to

prevent the HSD from exercising its rights pursuant to Article 6 or Article 16 or Liquidated Damages provisions contained in Exhibit B.

- B. Schedule. The Contractor shall meet the due dates, as set forth in Exhibit A, which shall not be altered or waived by the HSD without prior written approval, through the Amendment process, as defined in Article 25.
- C. License. The Contractor hereby grants HSD a non-exclusive, irrevocable, perpetual license to use, modify, and copy the following system configuration data the Contractor creates in the course of configuring the Data Services Platform for production use.
- D. Source Code. Not Applicable. The Parties agree there is no Source Code.
- E. The HSD's Rights.
  - 1. Rights to Software. The HSD will own all right, title, and interest in and to the HSD's Confidential Information, and the Deliverables, provided by the Contractor, including without limitation the specifications, the work plan, and the Custom Software, except that the Deliverables will not include third party software and the associated documentation for purposes of this Section. The Contractor will take all actions necessary and transfer ownership of the Deliverables to the HSD, without limitation, the Custom Software and associated Documentation on Final Acceptance or as otherwise provided in this Agreement.
  - 2. Proprietary Rights. The Contractor will reproduce and include the State of New Mexico's copyright and other proprietary notices and product identifications provided by the Contractor on such copies, in whole or in part, or on any form of the Deliverables.
  - 3. Rights to Data. Any and all data stored on the Contractor's servers or within the Contractor's custody that is required to be gathered or stored to execute this Agreement, is the sole property of the HSD. The Contractor, subcontractor(s), officers, agents and assigns shall not make use of, disclose, sell, copy or reproduce the HSD's data in any manner, or provide to any entity or person outside of the HSD without the express written authorization of the HSD.

### ARTICLE 3 – COMPENSATION

- A. Compensation Schedule. The HSD shall pay to the Contractor based upon fixed prices for each Deliverable, per the schedule outlined in Exhibit A, less retainage, if any, as identified in Paragraph D.
- B. Payment. The total compensation under this Agreement shall not exceed seventeen million four hundred sixty five thousand dollars (\$17,465,000) including New Mexico gross receipts tax. This amount is a maximum and not a guarantee that the work assigned

to be performed by Contractor under this Agreement shall equal the amount stated herein. The Parties do not intend for the Contractor to continue to provide Services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the HSD when the Services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for Services provided in excess of the total compensation amount without this Agreement being amended in writing prior to performance of any services in excess of the total compensation amount listed herein.

Payment shall be made upon Acceptance of each Deliverable according to Article 4 and upon the receipt and Acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the HSD no later than ten (10) days after the end of the fiscal year in which services were delivered. Payment Invoices received after such date WILL NOT BE PAID.

- C. Taxes. The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal and State tax identification number(s).

Contractor and any and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the HSD harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

- D. Retainage. The HSD shall retain ten percent (10%) of the fixed-price Deliverable cost for each applicable Deliverable as explained in Exhibit A, SOW, that is the subject of this Agreement as security for full performance of this Agreement. All amounts retained may be released to the Contractor as described in Exhibit A, SOW, upon Acceptance of the Deliverable.

- E. Performance Bond. Contractor shall execute and at contractor's expense deliver to HSD, contemporaneously with the execution of this Agreement, a Performance Bond in the amount of two million dollars (\$2,000,000) in the name of the HSD. The Performance Bond shall be in effect for the duration of this Agreement and any renewals thereof. The required Performance Bond shall be conditioned upon and for the full performance, Acceptance and actual fulfillment of each Deliverable, term, condition, provision, and obligation of the Contractor arising under this Agreement. The HSD's right to recover from the Performance Bond shall include all costs and damages associated with the transfer of Services provided under this Agreement to another Contractor or to the State of New Mexico as a result of Contractor's failure to perform.

## ARTICLE 4 – ACCEPTANCE

- A. Submission. Contractor will submit the final Deliverable(s) on the due date for the Deliverable(s) as required in Exhibit A, Statement of Work. Additionally, if required by the HSD, the Contractor will submit any draft versions of the Deliverable(s), or portions thereof, on a date or schedule approved by the HSD.

Upon written acceptance by the HSD of the final Deliverable(s) submitted by the Contractor, as set forth in Article 2 and Exhibit A, Contractor shall submit to HSD a Payment Invoice with a description of the Deliverable(s). Each Payment Invoice shall be for an amount up to the not-to-exceed fixed Deliverable(s) price as set forth in Article 2 and Exhibit A, less retainage as set forth in Article 3(D).

- B. Acceptance. In accord with Section 13-1-158 NMSA 1978, the Executive Level Representative, shall determine if the final Deliverable(s) provided meets specifications. No payment shall be made for any final Deliverable until the individual final Deliverable that is the subject of the Payment Invoice has been Accepted, in writing, by the Executive Level Representative. To Accept the Deliverable(s), the Executive Level Representative, in conjunction with the Project Manager, will assess the Quality Assurance level of the Deliverable(s) and determine, at a minimum, that the Deliverable(s):

1. Complies with the Deliverable(s) requirements as defined in Article 2 and Exhibit A;
2. Complies with the terms and conditions of procurement **RFP NUMBER 17-630-4000-0003**;
3. Meets the performance measures for the Deliverable(s) and this Agreement;
4. Meets or exceeds the generally accepted industry standards and procedures for the Deliverable(s); and
5. Complies with all the requirements of this Agreement.

If the Deliverable(s) is deemed Acceptable under Quality Assurance by the Executive Level Representative or their Designated Representative, the Executive Level Representative will notify the Contractor of Acceptance, in writing, within **ten (10) Business Days** from the date the Executive Level Representative receives the Deliverable(s), or such other period as approved by the HSD due to complexity of deliverable product.

- C. Rejection. Unless the Executive Level Representative gives notice of rejection within the Acceptance period, the final Deliverable(s) will be deemed to have been Accepted. If the final Deliverable(s) is deemed unacceptable under Quality Assurance, then within **ten (10) Business Days** from the date the Executive Level Representative receives the Deliverable(s), or such other period as approved by the HSD due to complexity of deliverable product, the Executive Level Representative will send a consolidated set of comments indicating issues, unacceptable items, and/or requested revisions accompanying the rejection.

Upon rejection and receipt of comments, the Contractor shall have **ten (10) Business Days** to resubmit the final Deliverable(s) to the Executive Level Representative with all appropriate corrections or modifications made and/or addressed or such other period as approved by the HSD due to complexity of deliverable product.

The Executive Level Representative will again determine whether the final Deliverable(s) is Acceptable under Quality Assurance and will provide a written determination within **ten (10) Business Days** of receipt of the revised or amended Deliverable(s) or such other period as approved by the HSD due to complexity of deliverable product.

If the final Deliverable(s) is once again deemed unacceptable under Quality Assurance and thus rejected, the Contractor shall provide a remediation plan that shall include a timeline for corrective action acceptable to the Executive Level Representative. The Contractor shall also be subject to all damages and remedies attributable to the late delivery of the final Deliverable(s) under the terms of this Agreement and available at law or equity.

In the event that a final Deliverable must be resubmitted more than twice for Acceptance, the Contractor shall be deemed in breach of this Agreement. The HSD may seek any and all damages and remedies available under the terms of this Agreement and available at law or equity. Additionally, the HSD may terminate this Agreement.

#### **ARTICLE 5 TERM**

THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT and DFA/CRB.

This Agreement shall terminate on September 30, 2022, unless terminated pursuant to Article 6. This Agreement falls within the exception to the four-year limitation, established by NMSA 1978, § 13-1-150(B)(1) for services required to support or operate federally certified Medicaid, financial assistance and child support enforcement management information or payment systems.

#### **ARTICLE 6 TERMINATION**

- A. **Grounds.** The HSD may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the HSD's uncured, material breach of this Agreement.
- B. **Change in Law/Appropriations.** By the HSD, if required by changes in State or federal law, or because of court order, or because of insufficient appropriations made available by the United States Congress and/or the New Mexico State Legislature for the performance of this Agreement or at the direction of CMS. The HSD's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.



C. Notice: HSD Opportunity to Cure

1. Except as otherwise provided in Paragraph (C)(3), the HSD shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.
2. Contractor shall give HSD written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the HSD's material breaches of this Agreement upon which the termination is based and (ii) state what the HSD must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the HSD does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the HSD does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.
3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the HSD; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Subsection B, above, "Change in Law/Appropriations", of this Agreement.

- D. Liability. Except as otherwise expressly allowed or provided under this Agreement, or by a Turnover Plan approved by HSD, the HSD's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination, or within any time so specified by an approved Turnover Plan. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE HSD'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.**

## ARTICLE 7 TERMINATION MANAGEMENT

- A. Contractor. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Contractor shall:
1. Transfer, deliver, and/or make readily available to the HSD property, in any form, in which the HSD has an interest pursuant to the terms of Article 9 of this Agreement, and any and all data, Know How, Intellectual Property, inventions or property of the HSD.
  2. Incur no further financial obligations for materials, Services, or facilities under the Agreement without prior written approval of the HSD;
  3. Continue all work required by the Agreement, in accordance with the terms of the

Agreement, between the date of receipt or transmission of any notice of termination and the effective date of termination, unless and until specifically directed to immediately cease such work, in writing, by HSD. Contractor shall terminate all purchase orders or procurements and any subcontractors unless otherwise so directed by HSD, or unless necessary to complete work that HSD has not directed the Contractor to cease prior to the effective date of termination. In the event that the timeline for, or the amount of, compensation needs to be adjusted in light of a termination, the same shall be addressed in a Turnover Plan;

4. Take such action as the HSD may direct for the protection and preservation of all property and all records, which in the sole discretion of HSD, are related to or required by this Agreement. All such items shall be immediately provided to HSD, upon request, at no cost to HSD, unless otherwise agreed to by HSD;
5. Unless otherwise agreed to in writing by HSD, agree that HSD is not liable for any costs arising out of termination;
6. Acknowledge that continuity in administration of government functions is the essence of this Agreement, and that in order to ensure such continuity Contractor shall cooperate fully in the closeout or transition of any activities arising pursuant to this Agreement;
7. In the event that this Agreement is terminated due to the Contractor's course of performance, negligence or willful misconduct and that course of performance, negligence, or willful misconduct results in reductions in the HSD's receipt of program funds from any governmental agency, the Contractor shall remit to the HSD the full amount of the reduction within thirty (30) days of receipt of written request by HSD. This obligation shall survive the term of this Agreement;
8. Should this Agreement terminate due to the Contractor's Default; the Contractor shall reimburse the HSD for all reasonable costs arising from hiring new Contractor/ subcontractors in good faith at current market prices if it is reasonably necessary for HSD to hire other Contractors/subcontractors to ensure continuation of the government project that is the subject of this Agreement. Such costs shall include, but not be limited to, the difference between any rates the Contractor was to receive pursuant to this Agreement and the rates charged by any replacement Contractor. Contractor shall make such payment within thirty (30) days of receipt of written request by HSD. This obligation shall survive the term of this Agreement;
9. In the event that this Agreement is terminated for any reason, or upon its expiration, the Contractor shall develop a Turnover Plan, if so requested by HSD. If terminated by HSD, HSD shall make such a request in the notice of termination provided to the Contractor. The Contractor shall provide the Turnover Plan in the format and in accordance with the timeline specified by HSD. The Turnover Plan provided by the Contractor to HSD shall address all issues specified by HSD. The Turnover Plan shall not be effective until and unless approved in writing by HSD.

B. HSD. In the event this Agreement is terminated for any reason, or upon expiration, and in

addition to all other rights to property set forth in this Agreement, the HSD shall:

1. Retain ownership of all final deliverables customized or created solely for the HSD pursuant to this Agreement;
2. Pay the Contractor all amounts due for Services Accepted prior to the effective date of such termination or expiration.

### **ARTICLE 8 INDEMNIFICATION**

- A. **General.** The Contractor shall defend, indemnify and hold harmless the HSD, the State of New Mexico and its employees from all third party actions, proceedings, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source for (1) injury to persons or damage to real or tangible personal property which is/are caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, during the time when the Contractor, its officer, agent, employee, servant or subcontractor thereof has or is performing Services pursuant to this Agreement; or (2) Contractor's misuse, unauthorized disclosure or other misappropriation of HSD data in breach of its obligations in Article 43 or a data security breach involving access by a third party to HSD data which results from Contractor's failure to perform its security obligations under this Agreement by defending the HSD against that claim and paying amounts finally awarded by a court against HSD or included in a settlement approved by Contractor and HSD provided that HSD promptly (i) notifies Contractor in writing of the claim, (ii) supplies information requested by Contractor, and (iii) allows Contractor to control, and reasonably cooperate in the defense and settlement, including mitigation efforts. In the event that any action, suit or proceeding related to the Services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable, but no later than fifteen (15) Business Days after it receives notice thereof, notify, by certified mail, the legal counsel of the HSD, the Risk Management Division of the New Mexico General Services Department, and the DoIT.
- B. The indemnification obligation under this Agreement shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Agreement. Money due or to become due to the Contractor under this Agreement may be retained by the HSD, as necessary, to satisfy any outstanding claim that the HSD may have against the Contractor.

## ARTICLE 9 – INTELLECTUAL PROPERTY

- A. Ownership. It is acknowledged and agreed that each Party will retain all of its ownership in any and all pre-existing intellectual property that each Party possessed before the Effective Date, and any modification or enhancements of such pre-existing intellectual property, to the extent such modifications or enhancements are independently developed by a Party, including but not limited to all artwork, images, reports, documentation, databases, software, software tools, materials, charts, notes, outlines, inventions and/or other copyrightable works (collectively, each Party’s respective Pre-Existing IP”). It is acknowledged and agreed that each Party will retain all of its ownership in any and all intellectual property that each Party and such entity independently develops after the Effective Date, including but not limited to all artwork, images, reports, documentation, databases, software, software tools, materials, charts, notes, outlines, inventions and/or other copyrightable works (collectively, each Party’s respective “Independently Developed IP”). It is acknowledged and agreed that the Deliverables specifically listed in an applicable Scope of Work and/or specifically identified as “Deliverables” under this Agreement, not including the Services or any of Contractor’s Pre-existing IP, are works-made-for-hire owned by HSD. Contractor retains an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, sublicense, distribute, and prepare derivative works of Deliverables.
- B. Limited License to Certain Pre-existing Works. To the extent that any preexisting copyrightable works (including without limitation, computer programs, system designs, work notes, program plans, specifications, data models, data, studies, and related documentation), developed or owned by Contractor, but not subject to a separate license agreement, (collectively, “the Preexisting Works of Contractor”) are incorporated or imbedded into the Deliverables provided under this Agreement, Contractor agrees to grant and hereby grants HSD a nonexclusive, worldwide, perpetual (subject to HSD meeting its payment obligations hereunder), royalty-free and irrevocable copyright license to access, use, copy, distribute internally, modify (including the right to create derivative works and other improvements to) all such Preexisting Works of Contractor only to the extent necessary to make use of the Deliverables as contemplated under this Agreement or a related Scope of Work. Nothing in this section is intended to transfer ownership of any Preexisting Works of Contractor to HSD.

## ARTICLE 10 INTELLECTUAL PROPERTY INDEMNIFICATION

- A. Intellectual Property Indemnification. The Contractor shall defend, at its own expense, the HSD, the State of New Mexico and/or any other State of New Mexico body against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorney’s fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against the HSD based upon the Contractor’s trade secret infringement relating to any product or Services provided under this Agreement, the Contractor agrees to reimburse the HSD for all costs, attorneys’ fees and the amount of the judgment. To qualify for such defense and/or payment, the HSD shall:

1. Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
  2. Work with the Contractor to control the defense and settlement of the claim; and
  3. Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.
- B. **HSD Rights.** If any product or service becomes, or in the Contractor's opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:
1. Provide the HSD the right to continue using the product or service and fully indemnify the HSD against all claims that may arise out of the HSD's use of the product or service;
  2. Replace or modify the product or service so that it becomes non-infringing; or
  3. Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the HSD to the extent such modification is the cause of the claim.

#### **ARTICLE 11 WARRANTIES**

- A. **General.** The Contractor hereby expressly warrants the Deliverable(s) as being correct and compliant with the terms of this Agreement, the Contractor's official published specification and technical specifications of this Agreement and all generally accepted industry standards. This warranty encompasses correction of defective Deliverable(s) and revision(s) of the same, as necessary, including deficiencies found during testing, implementation, or post-implementation phases.
- B. **Software.** The Contractor warrants that any software or other products delivered under this Agreement shall comply with the terms of this Agreement, Contractor's official published specification(s) and technical specifications of this Agreement and all generally accepted industry standards. The Contractor further warrants that the software provided under this Agreement will meet the applicable specifications for **six (6) months** after Acceptance by the Executive Level Representative and implementation by the HSD. If the software fails to meet the applicable specifications during the warranty period, the Contractor will correct the deficiencies, at no additional cost to the HSD, so that the software meets the applicable specifications.

**ARTICLE 12 CONTRACTOR PERSONNEL****A. Key Personnel.**

1. Contractor's key personnel shall not be diverted from this Agreement without the prior written approval of the HSD. Key personnel are those individuals considered by the HSD to be mandatory to the work to be performed under this Agreement. Key personnel shall be as designated and described on Exhibit A-1 attached and incorporated hereto.
2. Process in the Event of Replacement or Diversion:
  - a. The Contractor agrees that no Key Personnel shall be diverted or replaced within the first six months of the performance of this Agreement, except for a catastrophic event such as illness, accident or death.
  - b. If thereafter, one or more of the Key Personnel, for any reason, becomes or is expected to become unavailable for work under this Agreement for a continuous period exceeding twenty (20) business days, the Contractor shall immediately notify HSD and shall submit a written replacement request to HSD. Such request shall provide a detailed explanation of the circumstances necessitating the proposed substitution. The replacement request shall contain a complete resume for the proposed substitute, as well as any other information requested by HSD that HSD deems necessary to evaluate the appropriateness of the proposed substitution and the impact of any such substitution on the performance of the Agreement. Additionally, HSD shall, upon request, be provided with a timely opportunity to interview the proposed substitute before the substitute joins the project.
  - c. If, in the sole discretion of HSD, it is determined that one or more Key Personnel who have not been replaced or diverted are devoting substantially less effort to the work than originally anticipated, or if any one or more of the Key Personnel are not, in the sole opinion of HSD, meeting HSD's performance requirements, HSD shall so notify the Contractor. Upon receipt of a notification of request for replacement from HSD, the Contractor shall follow the replacement request process appearing above.
  - d. Under no circumstances shall Contractor divert or otherwise replace Key Personnel without the prior written consent of HSD. In the event that any substitution of Key Personnel becomes necessary for any reason discussed above, or for any other reason, Contractor must complete the above replacement request process and must obtain the written approval of HSD, in such a manner as to ensure that prior approved substitute Key Personnel will be in place within ten (10) business days of the receipt of the

replacement request notification by either the Contractor or HSD, unless otherwise agreed to in writing by HSD. Changes of Key Personnel pursuant to this Article shall not be subject to the amendment process of Article 25 herein.

- B. Non-Key Personnel Changes. Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification; personnel may be replaced only with prior approval by HSD's Executive-Level Representative. For all personnel, the HSD reserves the right to require submission of their resumes prior to approval. If the number of Contractor's personnel assigned to the Project is reduced for any reason, Contractor shall, within ten (10) Business Days of the reduction, replace with the same or greater number of personnel with equal ability, experience, and qualifications, subject to HSD approval. The HSD, in its sole discretion, may approve additional time beyond the ten (10) Business Days for replacement of personnel. The Contractor shall take all necessary steps to find an acceptable and appropriate replacement person, and shall include in its status reports information on its efforts and progress in finding replacement(s) and the effect of the absence of the personnel on the progress of the Project. The Contractor shall also make interim arrangements to assure that the Project progress is not affected by the loss of personnel.
- C. The HSD reserves the right to require a change in Contractor's personnel if the assigned personnel are not, in the sole opinion of the HSD, meeting the HSD's expectations. Such personnel changes shall not be subject to the amendment process of Article 25 herein.

### ARTICLE 13 STATUS OF CONTRACTOR

- A. Independent Contractor. The Contractor and its agents and employees are independent contractors performing professional Services for the HSD and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.
- B. Subject of Proceedings. Contractor warrants that neither the Contractor nor any officer, stockholder, director or employee of the Contractor, is presently subject to any litigation or administrative proceeding before any court or administrative body which would have an adverse effect on the Contractor's ability to perform under this Agreement; nor, to the best knowledge of the Contractor, is any such litigation or proceeding presently threatened against it or any of its officers, stockholders, directors or employees. If any such proceeding is initiated or threatened during the term of this Agreement, the Contractor shall immediately disclose such fact to the HSD.

## ARTICLE 14 CHANGE MANAGEMENT

- A. Changes. Contractor may not make changes within the Scope of Work as defined by Article 2 and Exhibit A, unless Contractor has received written approval for such changes from the Executive Level Representative, pursuant to the “Change Request Process” below.

Such changes may include, but not be limited to, deletion of deliverables or tasks as deemed appropriate by the HSD. Additionally, such changes, pursuant to this provision, may only be made to Tasks or Sub-Tasks as defined in Exhibit A and may not be made to the following, which shall only be made by amendment to the Agreement, pursuant to Article 25:

1. Deliverable requirements as outlined in Exhibit A;
2. Due date of any Deliverable as outlined in Exhibit A;
3. Compensation of any Deliverable, as outlined in Exhibit A;
4. Agreement compensation, as outlined in Article 3; or
5. Agreement termination, as outlined in Article 5.

- B. Change Request Process. A Change Request may be initiated by either the Contractor or the HSD. In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria:

1. The Project Manager, after consultation with the Contractor, shall draft a written Change Request for review and approval by the Executive Level Representative to include:
  - a. Name of the person requesting the change;
  - b. Summary of the required change;
  - c. Start date for the change;
  - d. Reason and necessity for change;
  - e. Elements to be altered; and
  - f. Impact of the change.
3. The Executive Level Representative shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Executive Level Representative are final. Change Requests, once approved, become a part of the Agreement and become binding as a part of the original Agreement.



**ARTICLE 15 INDEPENDENT VERIFICATION AND VALIDATION**

- A. If Independent Verification and Validation (IV&V) Professional Services are used or required to be used for the Project associated with this Agreement, the Contractor hereby agrees to cooperate with the IV&V vendor. Such cooperation shall include, but is not limited to:
1. Providing the Project documentation;
  2. Allowing the IV&V vendor to attend the Project meetings; and
  3. Supplying the IV&V vendor with any other material as directed by the Project Manager.
- B. If this Agreement is for IV&V professional Services then the Contractor agrees to:
1. Submit all reports directly to the Department of Information Technology, Project Oversight and Compliance Division ([ivandv.reports@state.nm.us](mailto:ivandv.reports@state.nm.us)) according to the DoIT IV&V Reporting Template and Guidelines found on the DoIT website, [http://www.doit.state.nm.us/project\\_templates.html](http://www.doit.state.nm.us/project_templates.html), and copy the HSD.
  2. Use a report format consistent with the current DoIT IV&V Reporting Template and Guidelines found on the DoIT website, [http://www.doit.state.nm.us/project\\_templates.html](http://www.doit.state.nm.us/project_templates.html).

**ARTICLE 16 DEFAULT/BREACH**

In case of Default and/or Breach by the Contractor, for any reason whatsoever, the HSD and the State of New Mexico may procure the goods or Services from another source in good faith at then market prices and hold the Contractor responsible for any resulting reasonable excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and the HSD and the State of New Mexico may also seek all other remedies under the terms of this Agreement and under law or equity. This remedy shall be in addition to, and not in lieu of, any remedy exercised by the HSD pursuant to Article 7, Termination Management.

**ARTICLE 17 EQUITABLE REMEDIES**

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the HSD irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the HSD, and the Contractor consents to the HSD's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. HSD's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that HSD may have under applicable law, including, but not limited to, monetary damages.

## ARTICLE 18 LIABILITY

- A. **Exceptions to Liability Cap:** The liability caps set forth in Article 18(B) below do not apply to:
- a. Contractor's misuse, unauthorized disclosure or other misappropriation of Confidential Information or content in breach of obligations under this Agreement;
  - b. Contractor's infringement or misappropriation of Client's intellectual property;
  - c. damages payable for bodily injury or death, or damage to real or tangible personal property caused by Contractor;
  - d. Contractor's tortious intentional misconduct;
  - e. any liability that cannot be excluded or limited by law.
- B. **Liability Cap:** Except as specified in sections 18(A) and 18(C), Contractor's entire liability for all claims in the aggregate related to the Agreement, regardless of the basis of the claim, will not exceed the amount of any damages incurred by the other Party up to \$20,000,000.
- C. **Data Security Cap:** With respect to a claim that arises due to Contractor's failure to comply with the applicable data security requirements that results in unauthorized access to unencrypted personally identifiable information by a third party, Contractor's entire liability for all such claims shall be limited to the following damages, in an aggregate amount not to exceed \$30,000,000:
- a. government fines and penalties;
  - b. costs of providing legally required notifications to affected individuals;
  - c. costs of providing notice to government agencies, credit bureaus, and/or other required entities;
  - d. credit monitoring and identity theft protection costs for affected individuals;
  - e. call center support for such affected individuals;
  - f. third party claims raised by affected data subjects; and
  - g. other benefits provided to affected data subjects to the extent such benefits are reasonable and customary for a public company in responding to a data security breach.

## ARTICLE 19 ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of this Agreement's approval authorities. Notwithstanding the foregoing, Contractor may, upon written notice to HSD, assign or transfer this Agreement to IBM in connection with the transfer of all or substantially all of the business to which this Agreement relates (whether via merger, sale of stock or assets, or otherwise), without the prior consent of HSD. Subject to the foregoing restrictions, this Agreement will bind and benefit the parties and their respective successors and assigns.

**ARTICLE 20 SUBCONTRACTING**

- A. **General Provision.** The Contractor shall not subcontract any portion of this Agreement without the prior written approval of the HSD. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Agreement, nor shall any subcontracting obligate payment from the HSD.
- B. **Responsibility for subcontractors.** The Contractor must not disclose Confidential Information of the HSD or of the State of New Mexico to a subcontractor unless and until such subcontractor has agreed in writing to protect the confidentiality of such Confidential Information in the manner required of the Contractor under this Agreement, which may include execution of a Business Associate Agreement in substantial similarity to Exhibit C, attached, where appropriate.

**ARTICLE 21 RELEASE**

The Contractor's Acceptance of final payment of the amount due under this Agreement shall operate as a release of the HSD, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**ARTICLE 22 CONFIDENTIALITY**

Any Confidential Information provided to the Contractor by the HSD or, developed by the Contractor based on information provided by the HSD in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the HSD. Upon termination of this Agreement, Contractor shall deliver all Confidential Information in its possession to the HSD within thirty (30) Business Days of such termination. Contractor acknowledges that failure to deliver such Confidential Information to the HSD will result in direct, special and incidental damages.

**ARTICLE 23 CONFLICT OF INTEREST**

- A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.
- B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:
  - 1. In accordance with NMSA 1978, § 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Agency employee while such employee was or is employed by the Agency and participating directly or indirectly in the Agency's contracting process;

2. This Agreement complies with NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;
  3. In accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;
  4. This Agreement complies with NMSA 1978, § 10-16-9(A) because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;
  5. In accordance with NMSA 1978, § 10-16-13, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and
  6. In accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the Agency.
- C. Contractor's representations and warranties in Paragraphs A and B of this Article 23 are material representations of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 23 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 23 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding

anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

- D. The Contractor represents and warrants by signing this Agreement to comply with this Article to the best of their knowledge and belief.

#### **ARTICLE 24 RECORDS AND AUDIT**

The Contractor shall maintain detailed records that indicate the nature and price of Services rendered during this Agreement's term and effect and retain them for a period of five (5) years from the date of final payment under this Agreement.

#### **ARTICLE 25 AMENDMENT**

This Agreement, including any exhibit or appendix thereto, shall not be altered, changed, or amended except by an instrument in writing executed by the Parties hereto and CMS. Where required by state authorities, no amendment shall be effective or binding unless approved by all of the approval authorities. Amendments specifically subject to approval of state authorities in addition to the HSD, include but are not limited to the following:

1. Deliverable requirements, as outlined in Exhibit A;
2. Due Date of any Deliverable, as outlined in Exhibit A;
3. Compensation of any Deliverable, as outlined in Exhibit A;
4. Agreement Compensation, as outlined in Article 3; or
5. Agreement termination, as outlined in Article 5.

#### **ARTICLE 26 NEW MEXICO EMPLOYEES HEALTH COVERAGE**

- A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenewmexico.state.nm.us/>.
- D. For Indefinite Quantity, Indefinite Delivery contracts (state price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees these requirements shall apply the first day of the second month after the Contractor reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

- E. As Contractor is a multi-state employer, the foregoing paragraphs A. through D. shall not apply, however Contractor agrees that with respect to all Contractor employees who perform services covered by this Agreement, who are "full-time employees", as defined in the Patient Protection and Affordable Care Act of 2010 and the regulations thereunder, Contractor shall timely offer (or cause to be timely offered) "minimum essential coverage providing minimum value and that is affordable", all as specified in Internal Revenue Code §4980H and the regulations thereunder.

#### **ARTICLE 27 NEW MEXICO EMPLOYEES PAY EQUITY REPORTING**

- A. The Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this Agreement, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for Agreements up to one (1) year in duration. If Contractor has (250) or more employees Contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for Agreements up to one (1) year in duration. For Agreements that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, Contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual Agreements anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the Agreements, whichever comes first. Should Contractor not meet the size requirement for reporting as of the effective date of this Agreement but subsequently grows such that they meet or exceed the size requirement for reporting, Contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.
- B. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than ten percent (10%) of the dollar value of this Agreement if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of this Agreement. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting as of the effective date of this Agreement but subsequently grows such that they meet or exceed the size requirement for reporting, Contractor will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though Contractor itself may not meet the size requirement for reporting and be required to report itself.
- C. Notwithstanding the foregoing, if this Agreement was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

**ARTICLE 28 – SEVERABILITY, MERGER, SCOPE, ORDER OF PRECEDENCE**

- A. **Severable.** The provisions of this Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Agreement is determined to be invalid by a court or agency or commission having jurisdiction over the subject matter hereof, such invalidity shall not affect other provisions of this Agreement, which can be given effect without the invalid provision.
- B. **Merger/Scope/Order.** This Agreement, inclusive of any attached exhibits, schedules, or appendices, including but not limited to those specifically listed below, constitutes the entire Agreement among the parties. All agreements, covenants and understanding between the Parties have been merged into this Agreement. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents or assignees shall be valid or enforceable unless embodied in this Agreement. The terms and conditions as stated in the main agreement have precedence over any potentially conflicting terms and conditions in any exhibits, schedules, or appendices attached hereto, except where the Federal Supremacy clause requires otherwise.

In the event of any conflict among the documents and materials, the following order of precedence shall apply:

1. The terms and conditions of this Agreement and its Exhibits;
2. The requirements and expectations as described in the *Request for Proposal 17-630-4000-0003 HHS 2020 Medicaid Enterprise Data Services - and any RFP amendments issued;*
3. The services offered in the proposal submitted by the Contractor in Response to *RFP 17-630-4000-0003 HHS 2020 Medicaid Enterprise Data Services RFP;*

**ARTICLE 29 NOTICES**

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail (return receipt requested), when sent by overnight carrier, or upon telephone confirmation by Contractor to the sender of receipt of a facsimile communication that is followed by a mailed hard copy from the sender. Notices shall be addressed as follows:

**For HSD**  
**Eric Candelaria, Project Manager II**  
Human Services Department  
Information Technology Division  
1301 Siler Road, Building B/C  
Santa Fe, NM 87505

**For CONTRACTOR**  
Legal Department  
International Business Machines Corporation,  
100 Phoenix Drive  
Ann Arbor, Michigan 48108

Any change to the Notice individual or the address, shall be effective only in writing.

**ARTICLE 30 GENERAL PROVISIONS**

- A. The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, including but not limited to:
1. **Civil and Criminal Penalties.** The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.
  2. **Equal Opportunity Compliance.** The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.
  3. **Workers Compensation.** The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the HSD.
- B. **Applicable Law.** The laws of the State of New Mexico shall govern this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all such lawsuits arising under or out of any term of this Agreement.
- C. **Waiver.** A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights



under this Agreement shall be effective unless expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

- D. Headings. Any and all headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement. Numbered or lettered provisions, sections and subsections contained herein, refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.

### ARTICLE 31 SURVIVAL

The Articles entitled Intellectual Property, Intellectual Property Ownership, Confidentiality, and Warranties shall survive the expiration or termination of this Agreement. Software License and Software Escrow agreements entered into in conjunction with this Agreement shall survive the expiration or termination of this Agreement.

### ARTICLE 32 TIME

Calculation of Time. Any time period herein calculated by reference to "days" means calendar days, unless Business Days are used; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State of New Mexico, the day for such act shall be the first day following that is not a Saturday, Sunday, or such observed holiday.

### ARTICLE 33 FORCE MAJEURE

Neither party shall be liable in damages or have any right to terminate this Agreement for any delay or Default in performing hereunder if such delay or Default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

### ARTICLE 34 DEBARMENT AND SUSPENSION

- A. Consistent with all applicable federal and/or state laws and regulations, as applicable, and as a separate and independent requirement of this Agreement the Contractor certifies by signing this Agreement, that it and its principals, to the best of its knowledge and belief: (1) are not debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency; (2) have not, within a three-year period preceding the effective date of this Agreement, been convicted of or had a civil judgment rendered against them for: commission of fraud or a 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, tax evasion, or receiving stolen property; (3) have not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with, commission of any of the offenses

enumerated above in this Paragraph A; (4) have not, within a three-year period preceding the effective date of this Agreement, had one or more public agreements or transactions (Federal, State or local) terminated for cause or default; and (5) have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a-7.

B. The Contractor's certification in Paragraph A, above, is a material representation of fact upon which the HSD relied when this Agreement was entered into by the parties. The Contractor's certification in Paragraph A, above, shall be a continuing term or condition of this Agreement. As such at all times during the performance of this Agreement, the Contractor must be capable of making the certification required in Paragraph A, above, as if on the date of making such new certification the Contractor was then executing this Agreement for the first time. Accordingly, the following requirements shall be read so as to apply to the original certification of the Contractor in Paragraph A, above, or to any new certification the Contractor is required to be capable of making as stated in the preceding sentence:

1. The Contractor shall provide immediate written notice to the HSD's Contract Manager if, at any time during the term of this Agreement, the Contractor learns that its certification in Paragraph A, above, was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances.
2. If it is later determined that the Contractor's certification in Paragraph A, above, was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to the HSD, the HSD may terminate the Agreement.

C. As required by statute, regulation or requirement of this Agreement, and as contained in Paragraph A, above, the Contractor shall require each proposed first-tier subcontractor whose subcontract will equal or exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by any Federal department or agency. The Contractor shall make such disclosures available to the HSD when it requests subcontractor approval from the HSD. If the subcontractor, or its principals, is debarred, suspended, or proposed for debarment by any Federal, state or local department or agency, the HSD may refuse to approve the use of the subcontractor.

**ARTICLE 35 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS  
TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS**

- A. The applicable definitions and exceptions to prohibited conduct and disclosures contained in 31 U.S.C. § 1352 and 45 C.F.R. Part 93, as applicable, are hereby incorporated by reference in subparagraph (B) of this certification.
- B. The Contractor, by executing this PSC, certifies to the best of its knowledge and belief that:
  - 1. No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement; and
  - 2. If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer.
- C. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance is placed when this Agreement is made and entered into. Submission of this certification is a prerequisite for making and entering into this Agreement imposed under 31 U.S.C. § 1352. It shall be a material obligation of the Contractor to keep this certification current as to any and all individuals or activities of anyone associated with the Contractor during the pendency of this Agreement. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to: (1) a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure; and/or (2) at the discretion of the HSD, termination of the Agreement.

#### **ARTICLE 36 NON-DISCRIMINATION**

- A. The Contractor agrees to comply fully with Title VI of the Civil Rights Act of 1964, as amended; the Rehabilitation Act of 1973, Public Law 93-112, as amended; and the Americans With Disabilities Act of 1990, Public Law 101-336; in that there shall be no discrimination against any employee who is employed in the performance of this

Agreement, or against any applicant for such employment, because of age, color, national origin, ancestry, race, religion, creed, disability, sex, or marital status.

- B. This provision shall include, but not be limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.
- C. The Contractor agrees that no qualified handicapped person shall, on the basis of handicap, be excluded from participation or be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of the Contractor. The Contractor further agrees to insert similar provisions in all subcontracts for services allowed under this Agreement under any program or activity.
- D. The Contractor agrees to provide meaningful access to services for individuals with Limited English Proficiency (LEP) in accordance with Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency."

**ARTICLE 37 – DRUG FREE WORKPLACE**

- A. Definitions. As used in this paragraph—
  - 1. "Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act, 21 U.S.C § 812, and as further defined in regulation at 21 CFR §§ 1308.11 - 1308.15.
  - 2. "Conviction" means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
  - 3. "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.
  - 4. "Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.
  - 5. "Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.
  - 6. "Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.
- B. The Contractor, if other than an individual, shall:

1. Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
  2. Establish an ongoing drug-free awareness program to inform such employees about:
    - a. The dangers of drug abuse in the workplace;
    - b. The Contractor'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. Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph B.(1);
  4. Notify such employees in writing in the statement required by subparagraph (B)(1) of this clause that, as a condition of continued employment on this Agreement, the employee will:
    - a. Abide by the terms of the statement; and
    - b. Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
  5. Notify HSD in writing within 10 days after receiving notice under (B) (4) (b) of this paragraph, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
  6. Within 30 days after receiving notice under B.(4)(b) of this paragraph of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
    - a. Taking appropriate personnel action against such employee, up to and including termination; or
    - b. Require such employee to satisfactorily participate 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; and
  7. Make a good faith effort to maintain a drug-free workplace through implementation of B. (1) through B. (6) of this paragraph.
- C. The Contractor, if an individual, agrees by entering into this Agreement not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

- D. In addition to other remedies available to the Procuring Agency, the Contractor's failure to comply with the requirements of subparagraph B or C of this paragraph will render the Contractor in default of this Agreement and subject the Contractor to suspension of payments under the Agreement and/or termination of the Agreement in accordance with paragraph 4, above.

### **ARTICLE 38 FINDINGS AND SANCTIONS**

- A. The Contractor agrees to be subject to the findings, sanctions and disallowances assessed or required as a result of audits pursuant to this agreement.
- B. The Contractor will make repayment of any funds expended by the HSD, subject to which an auditor acting pursuant to this Agreement finds were expended, or to which appropriate federal funding agencies take exception and request reimbursement through a disallowance or deferral based upon the acts or omissions of the Contractor that violate applicable federal statues and/or regulations.
- C. If the HSD becomes aware of circumstances that might jeopardize continued federal funding, the situation shall be reviewed and reconciled by a mutually agreed upon panel of Contractor and the HSD officials. If reconciliation is not possible, both parties shall present their view to the Director of the Administrative Services Division who shall determine whether continued payment shall be made.

### **ARTICLE 39 – PERFORMANCE**

In performance of this Agreement, the Contractor agrees to comply with and assume responsibility for compliance by its employees, its subcontractors, and/or Business Associates (BA), as applicable, with the following requirements:

- A. All work will be performed under the supervision of the Contractor, the Contractor's employees, and the Contractor's subcontracted staff.
- B. Contractor agrees that, if Federal Tax Information (FTI) is introduced into Contractor's information systems, work documents, and/or other media by written agreement, any FTI as described in 26 U.S.C. § 6103, limited to FTI received from, or created on behalf of HSD by Contractor; Protected Health Information (PHI) as defined in 45 C.F.R. § 160.103, limited to PHI received from or created on behalf of HSD by Contractor; or Personally Identifiable Information (PII) as defined by the National Institute of Standards of Technology, limited to PII received from or created on behalf of HSD by Contractor pursuant to the Services; all together referred to hereafter in Article 39 as Confidential Information, made available to Contractor shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and will not be divulged or made known in any manner to any person or entity except as may be necessary in the performance of this contract. Inspection by, or disclosure to, any person or entity other than an officer, employee, or subcontractor of the Contractor is prohibited.

- C. Contractor agrees that it will account for all Confidential Information upon receipt and store such Confidential Information in a secure manner before, during, and after processing. In addition, all related output will be given the same level of protection by the Contractor as required for the source material.
- D. The Contractor certifies that the Confidential Information processed during the performance of this Agreement will be deleted from, or otherwise wiped, removed, or rendered unreadable or incapable of reconstitution by known means on all electronic data storage components in Contractor's facilities, including paper files, recordings, video, written records, printers, copiers, scanners and all magnetic and flash memory components of all systems and portable media, and no output will be retained by the Contractor at the time the work is completed or when this Contract is terminated. If immediate purging of all electronic data storage components is not possible, the Contractor certifies that any Confidential Information remaining in any storage component will be safeguarded, using IRS Pub 1075 information storage safeguarding controls for FTI to prevent unauthorized disclosures beyond the term of this Agreement as long as Contractor is in possession of such Confidential Information.
- E. Any spoilage or any intermediate hard copy printout that may result during the processing of Confidential Information will be given to the HSD or his or her designee. When this is not possible, the Contractor will be responsible for the destruction (in a manner approved by the HSD) of the spoilage or any intermediate hard copy printouts, and will provide the HSD or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- F. All of Contractor's computer systems, office equipment, written records, and portable media receiving, processing, storing, or transmitting Confidential Information must meet the requirements defined in relevant federal regulations such as IRS Publication 1075, HIPAA Privacy Rule (45 CFR Part 160 and Subparts A and E of Part 164), HIPAA Security Rule (45 CFR Part 160 and Subparts A and C of Part 164), and/or any other Federal requirements that may apply to this contract. To meet functional and assurance requirements, the security features of the Contractor's environment must provide for security across relevant managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Confidential Information.
- G. No work involving Confidential Information furnished under this Agreement will be subcontracted without prior written approval of the HSD.
- H. The Contractor will maintain a list of its personnel, subcontractors, and/or business related entities with authorized access (electronic or physical) to HSD Confidential Information. Such list will be provided to the HSD and, upon request, to the federal agencies as required.
- I. The Contractor will provide copies of signed acknowledgments for its staff and its subcontractors and/or Business Associates, to provide certification that relevant

information security awareness and training was completed. These certifications will be provided to the HSD upon contract start and, at a minimum, annually thereafter during the term of this Agreement.

- J. Upon request, the Contractor will provide the HSD copies of current policies and/or summaries of its current plans that document Contractor's privacy and security controls as they relate to HSD Confidential Information. This includes, at a minimum, any System Security Plans which describe the administrative, physical, technical, and system controls to be implemented for the security of the Department's Confidential Information. The plan shall include the requirement for a Contractor notification to the Department Security Officer or Privacy Officer of breaches or potential breaches of information within 24 hours of their discovery. The Parties acknowledge potential breach does not include the ongoing existence and occurrence or attempts of unsuccessful security incidents for which no additional notice to Department Security Officer or Privacy Officer shall be required. "Unsuccessful security incidents" means, without limitation, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful logon attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.
- K. All incidents affecting the compliance, operation, or security of the HSD's Confidential Information must be reported to the HSD. The Contractor shall notify the HSD of any instances of security or privacy breach issues or non-compliance promptly upon their discovery, but no later than a period of 24 hours (as stated above). Notification shall include a description of the privacy and security non-compliance issue and corrective action planned and/or taken.
- L. The Contractor must provide the HSD with a summary of a corrective action plan (if any) to provide any necessary safeguards to protect PII from security breaches or non-compliance discoveries. The corrective action plan must contain a long term solution to possible future privacy and security threats to PII. In addition to the corrective action, the Contractor must provide updates at agreeable intervals to the HSD as to the progress of all corrective measures taken until the issue is resolved. The Contractor shall be responsible for all costs of implementing the corrective action plan.
- M. All client files and patient records created or used to provide services under this Agreement, as between the parties, are at all times property of HSD. Upon HSD's request, all such client files and patient records shall be returned to HSD upon HSD's request or no later than the final agreed upon termination date of this contract.

#### **ARTICLE 40 CRIMINAL/CIVIL SANCTIONS**

- A. Each officer, employee, and/or subcontractor of the Contractor to whom tax returns or tax return information is or may be disclosed shall be notified in writing by the Contractor that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes



- a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Contractor shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by Internal Revenue Code (IRC) Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- B. Each officer, employee, and/or subcontractor to whom tax returns or tax return information is or may be disclosed shall be notified in writing by Contractor that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need to know may constitute a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Contractor shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.
- C. Additionally, it is incumbent upon Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C.552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to HSD records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. Furthermore, the Contractor will inform its officers and employees of the penalties imposed by the HIPAA Privacy Rule (45 CFR Part 160 and Subparts A and E of Part 164), and HIPAA Security Rule (45 CFR Part 160 and Subparts A and C of Part 164), which provide that any officer or employee of a contractor, who willfully discloses Protected Health Information in any manner to any person not entitled to receive it, may be subject to civil and criminal penalties of up to \$50,000 and up to one year imprisonment.
- D. Contractor agrees that granting access to Confidential Information to any individual must be preceded by certifying that each individual understands the HSD's applicable security

policy and procedures for safeguarding the Confidential Information. Contractors must maintain authorizations issued to such individuals to access Confidential Information through annual recertification. The initial certification and recertification must be documented and placed in a file for the HSD's review. As part of the certification and at least annually afterwards, Contractor will be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and Exhibit 5, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches per Section 10 of IRS Publication 1075.)

#### **ARTICLE 41 INSPECTION**

The HSD and/or its regulating federal partners (such as IRS, CMS, FNS, etc.) shall have the right to send its officers and/or employees into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work related to Confidential Information under this contract. HSD visits must be scheduled in advance to provide access authorization for the reviewing party. On the basis of such inspection, the HSD and/or regulating federal partners may communicate specific measures to be performed or met by the Contractor as may be required in cases where the Contractor is found to be noncompliant with contract safeguard.

#### **ARTICLE 42 CONTRACTOR'S RESPONSIBILITY FOR COMPLIANCE WITH LAWS AND REGULATIONS**

- A. The Contractor is responsible for compliance with applicable laws, regulations, and administrative rules that govern the Contractor's performance of the Scope of Work of this Agreement and Exhibit A, including but not limited to, applicable State and Federal tax laws, State and Federal employment laws, State and Federal regulatory requirements and licensing provisions.
- B. The Contractor is responsible for causing each of its employees, agents or subcontractors who provide services under this Agreement to be properly licensed, certified, and/or have proper permits to perform any activity related to the Scope of Work of this Agreement and Exhibit A.
- C. If the Contractor's performance of its obligations under the terms of this agreement qualifies it as a Business Associate of the HSD as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated thereunder, the Contractor agrees to execute the HSD Business Associate Agreement (BAA), attached hereto as Exhibit C, and incorporated herein by this reference.

**ARTICLE 43 CONTRACTOR'S RESPONSIBILITY FOR COMPLIANCE WITH LAWS AND REGULATIONS RELATING TO INFORMATION SECURITY**

- A. The Contractor agrees to monitor and control all its employees, subcontractors, consultants, or agents performing the Services under this PSC in order to assure compliance with the following regulations and standards insofar as they apply to Contractor's processing or storage of HSD's Confidential Information or other data:
- A. The Federal Information Security Management Act of 2002 (FISMA);
  - B. The Health Insurance Portability and Accountability Act of 1996 (HIPAA);
  - C. The Health Information Technology for Economic and Clinical Health Act (HITECH Act);
  - D. IRS Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies to include any Service Level Agreement requirements;
  - E. Electronic Information Exchange Security Requirements, Guidelines, And Procedures for State and Local Agencies Exchanging Electronic Information With The Social Security Administration; and
  - F. NMAC 1.12.20, *et seq.* "INFORMATION SECURITY OPERATION MANAGEMENT".

**ARTICLE 44 ENFORCEMENT**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**ARTICLE 45 AUTHORITY**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

**ARTICLE 46 MEDIA**

Contractor shall not release or distribute, via news media, social media, or any other consumable media source, any Agreement-related information, including but not limited to, information regarding Contractor's work under the terms of the Agreement, or the status of the work under the Agreement, without the prior express consent of HSD. The Contractor's request to release any Agreement information shall contain a copy of the specific information the Contractor is seeking approval to release and a description of the intended form of release. This provision shall survive the term of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below:

By: [Signature]  
Brent Earnest, Cabinet Secretary Human Services Department

Date: 10/5/13

By: [Signature]  
Jon Newport, Vice President & General Manager,  
North America Government Health & Human Services

Date: 9-20-18

By: [Signature]  
Danny Sandoval, Human Services Department  
Chief Financial Officer

Date: 9/24/18

By: [Signature]  
Sean Pearson, Human Services Department Chief Information Officer

Date: 9/24/18

Approved for legal sufficiency:

By: [Signature]  
Christopher P. Collins, Human Services Department General Counsel

Date: 9/27/18

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the NM Taxation and Revenue Department to pay gross receipts and compensating taxes:

CRS ID Number: ~~02-928241-00-4~~  
~~03-991736-00-4~~  
01-603168-00-7

Taxation and Revenue is only verifying the registration and will not confirm or deny taxability statements contained in this contract.

By: [Signature]  
Tax and Revenue Department Representative

Date: 10/12/18

Approved as to information technology contractual specifications and compliance with the Department of Information Technology Act, Chapter 9, Article 27 NMSA 1978 and Executive Orders relating to Information Technology issued by the Governor of the State of New Mexico.

By: [Signature]  
Maria R. Sanchez, State Chief Information Officer, Cabinet Secretary Department of Information Technology

Date: Oct 10 2011

This Agreement has been approved by the Department of Finance & Administration Contracts Review Bureau:

By: [Signature]  
Department of Finance & Administration Contracts Review Bureau

Date: 10/23/2018

**EXHIBIT A – SCOPE OF WORK****I. Purpose of this Agreement:**

The purpose of this Agreement is to procure a solution from Contractor to design, implement, maintain and operate the Data Services (DS) module of the New Mexico (NM) Medicaid Management Information System Replacement (MMISR) Solution.

The Contractor will be responsible for planning, managing, designing, implementing, maintaining, operating and continually improving the deployment methodology, platform and tools required to support the Enterprise and Health and Human Services (HHS) 2020's current and future Business Intelligence (BI), Business Analytics (BA) and Shared Reporting needs. The Contractor's Solution(s) must secure, consolidate and manage data provided through the infrastructure and integration tools of the System Integrator (SI) module Contractor. The Contractor shall deliver a comprehensive enterprise-scale reporting and analytics platform for the State. The Contractor must meet all requirements for Center for Medicare and Medicaid Services (CMS) certification, Human Services Department (HSD) requirements, and standards established by the SI Contractor for all Enterprise data types within its purview.

Certified Project Name: Medicaid Management Information System Replacement Project

**II. Performance Measures:**

Under the Accountability in Government Act, the NM Legislative Finance Committee (LFC) evaluates agency performance based on consistency with the agency strategic plan. The products and services procured under this Agreement must support those goals and the Contractor is accountable to the agency to meet the purpose described above and the performance standards that follow.

**A. Human Services Department Performance Measures**

The Contractor work processes and delivered products and services will be aligned to support and enhance the HSD's major goals and objectives:

**Goal 1: Promote Self-Sufficiency of our Recipients**

- The automation and accuracy of the MMISR solution will aid in the provision of appropriate enabling services to the recipients of HSD's programs.

**Goal 2: Slow the Growth Rate of Health Care Costs and Improve Health Outcomes**

- The MMISR solution will create efficiencies of processes supporting the delivery of services and the accuracy of retrospective review of related outcomes.

**Goal 3: Implement Person-Centric Service Models**

- The accuracy and comprehensiveness of person-specific data attributes will enhance client identification, eligibility determination and service accessibility.

**Goal 4: Improve Administrative Effectiveness and Simplicity**

- The MMISR solution will increase accountability of processes for clients, providers and HSD staff through simplification of processes and more in-depth review of programs.

## B. Contractor Performance Measures

The Contractor will provide professional design, development, implementation, maintenance, operation, integration and project/program management services for its module, coordinate with the same services in the other project modules and demonstrate experience, knowledge and the capacity necessary to perform the services described in this agreement.

The Contractor will perform all services in a manner of excellence acceptable to HSD, in accordance with agreed to performance standards, and subject to Liquidated Damages, as defined in Exhibit B.

The MMISR Solution must be:

### 1. Modular:

Use a modular approach that is design-independent and has modules that can be changed without extensive impact. The modular approach is intended to create a framework aligned with Medicaid Information Technology Architecture (MITA) Version 3.0, which supports New Mexico's goal of operating Medicaid functions at a MITA maturity level 4 in all business and technical areas, as outlined in the 2015 MITA State Self-Assessment.

### 2. Compliant with Federal Standards:

Comply with the CMS Conditions and Standards; promote the use of industry standards for information exchange and interoperability and provide a seamless business services environment for users. The Medicaid Management Information System (MMIS) must comply with CMS MITA 3.0 requirements as well as with all other applicable Federal requirements and standards.

### 3. Eligible for Maximum Federal Financial Participation (FFP):

The system must be designed and implemented to qualify for and secure enhanced FFP for development, implementation and operation of the MMISR. Development and implementation of the modular MMISR Solution must be done in a way to ensure CMS certification. Contractor must support the State in maintaining eligibility for FFP for the design, development, installation and enhancement of mechanized claims and encounter processing and information retrieval, as specified under 42 CFR 433.112, by implementing a modernized system that meets the certification conditions specified by Federal regulation.

### 4. Tools Driven:

Provide information management and business intelligence tools to assist the State

in effectively managing Medicaid and related health and human service programs.

5. Adaptable:

The MMISR Solution is intended to encompass technology-enabled elements and services as well as Business Process Outsource (BPO) modules. The State's goal in adopting this approach is to provide an extensible, flexible and soundly designed framework that can adapt over time to changing programmatic needs, solution approaches and technologies. The MMISR Solution must be standards based to facilitate interoperability and maintainability. The State seeks to implement a flexible, rules based, modular, configurable Solution to enhance decision-making and increase management efficiencies. The State seeks to use Service Oriented Architecture (SOA) principles to deliver interoperability to support modernization and enable continual Enterprise evolution to meet evolving business needs. In addition, the State seeks a highly configurable and flexible system that can enable the expansion of technological capabilities to other State and Federal agencies and incorporates the capability to take timely advantage of changing technology.

6. Sustainable:

Working hand-in-hand with the adaptability objective, the State seeks a MMISR Solution that can be efficiently sustained and affordably maintained throughout its life, while offering enhanced program support and customer experience. It is imperative that a balance is achieved to deliver a modular and extensible networked system while sustaining quality data, integrity of Medicaid program operations (and those of other HHS Enterprise participants) and offering adaptability to meet changing needs.

7. Analytics Friendly:

The new MMIS will include an Enterprise Data Services (EDS) component encompassing business intelligence, analytics and use of a Master Data Management (MDM) tool. The goal of this component is for the State to have ready and flexible access to accurate, timely information needed to support reporting, to support insightful management of the Medicaid Enterprise, to evaluate performance, to enable cost savings, to inform policy and process decisions and to enable population health management and outcomes focused approach to benefit delivery and management.

8. Service Focused:

Technology based modules should be modifiable by user configuration, rather than through constant custom coding that would result in yet another one-off MMIS. Modules should offer adaptable services that can take advantage of evolving technology and/or expanded capacity and that allow Commercial-Off-The-Shelf (COTS) products to be installed, integrated and upgraded through scheduled releases when such installations are appropriate and to the State's advantage.

### III. Activities.

The DS Contractor will play a critical role in MMISR Project success. The DS Module encompasses, but is not limited to, planning, design, implementation, operation and maintenance of data and optimizing data for reporting, ad hoc queries and analytics for the MMISR Solution and for HHS 2020.

The DS Module will access the Enterprise Service Bus (ESB) provided by the SI Contractor. While the DS Contractor will identify the specific tools, techniques and approaches used to deliver its required services, HSD expects the core infrastructure supporting DS to be compatible with the MMISR infrastructure provided through the SI contract. The DS Contractor is required to work with the SI Contractor and HSD to assure a successful implementation of the DS Module within the MMISR. In the event an Extract, Transform and Load (ETL) tool is required, the DS Contractor will provide the tool required to communicate with the ESB provided by the SI Contractor.

The DS Contractor will be responsible for ensuring that the DS Module can achieve CMS Certification. To the extent that the MMIS Solution relies upon the DS Module, the DS Contractor must ensure that the MMIS solution can achieve CMS certification. The Contractor will perform a range of services essential to successful implementation, integration, certification, management and operation of the MMISR Solution as a whole, to the extent that such certification requires accurate and timely provision of data.

At a high level, the DS Contractor will:

- Design the DS architecture, procure all required components, implement the DS Module, and maintain and operate the DS Module in a the Contractor-hosted infrastructure through the contract life;
- Perform project management and contract management activities necessary to manage the Contractor's work;
- Support the State-led HHS 2020 Project Management Office (PMO) to ensure effective DS Module project management and effective integration with other MMISR modules;
- Assist the SI Contractor, as appropriate, and with the consent of the State, with data migration from the legacy systems to the new MMISR Solution;
- Assist with successful data integration across all of the MMISR modules, including consideration of SOA-compliant technology integration; however, the DS Contractor will not be responsible for production or operation of the other modules;
- Prepare for and participate in reviews and presentations necessary for the DS Module and for the MMISR Solution as a whole to pass NM Department of Information Technology (DoIT) Project certification requirements and reviews;



- Collaborate with Stakeholders from HSD, other State agencies and organizations, other MMISR module Contractors, Federal partners, the Independent Verification and Validation (IV&V) Contractor and others as required to make the MMISR Project a success;
- Engage Stakeholders in business process changes while establishing Continuous Process Improvement (CPI) activities that can continue into the future; and
- Work in conjunction with State staff to manage the CMS Certification process for the DS Module, and support the certification efforts for the MMISR Solution as a whole, including:
  - Creating or gathering from other MMISR Contractors the certification-related artifacts that relate to the DS Module;
  - Organizing the relevant information;
  - Tracking and managing completion of materials;
  - Validating readiness for certification (working with the MMISR IV&V Contractor); and
  - Assisting with the presentation of all materials required for CMS Certification.

#### Contractor Will Develop and Execute Project Management Plans and Deliverables

- Use Established HSD Plans - The DS Contractor will use and implement into its own management processes the suite of project management plans suggested or required by the CMS, the NM DoIT, and the Project Management Institute (PMI), which has been created internally and jointly with the SI Contractor. The Contractor will review and provide updates to each of these plans that address how the Contractor's standard processes, technical staff, PMO and other resources will be integrated with those of the State MMISR project team.
- Addendums – The DS Contractor will create addendums to specified HSD standard plans to contribute detail specific to the DS Module scope of work. These required addenda are specified in the deliverables table that follows.
- Program and Project Management Services – The DS Contractor will execute processes and provide resources necessary to efficiently and effectively conduct the management services described in each of the management plans. The Contractor will report progress and accomplishments of these services in a monthly status report. Contractor accountability will be accomplished via determination of whether to pay for the monthly deliverable in full, based on the effectiveness of their project and program management activities.
- Standards and Templates - Most of the management plans have a corresponding, prescribed template or content description from CMS, the HSD or other state agencies. The DS Contractor is required to use and comply with these templates and guidance. The HSD deliverables review teams will monitor all deliverables for compliance.

#### Contractor Will Utilize an Agile Release Methodology

- The DS Contractor will use an agile methodology involving nine Design, Development and Implementation (DDI) releases in preparation for final production implementation.
- The DS Contractor will develop and gain approval of many foundational deliverables, such as Requirements Specifications and Implementation Plans prior to the first DDI agile release.
- Within each release, the Contractor will address a subset of overall requirements incrementally until all requirements are satisfied no later than the last of the DDI releases.
- Following each release, the Contractor will update the following deliverables:
  - Requirements Specification Document (Deliverable 1)
  - Requirements Traceability Matrix Addendum (Deliverable 2)
  - Business Architecture Design Document (Deliverable 19)
  - System Design Document (Deliverable 18)
  - Metadata Catalog within the Data Dictionary (Deliverable 10)
  - Data Models (Conceptual, Logical, Physical) (Deliverable 11)
  - ICD (Integration Catalog) (Deliverable 20)
  - Capacity Planning (Deliverable 13)
- Following each release, the Contractor will create the following release artifacts:
  - Test Cycles and Test Scenarios
  - Test Cases, Including Expected Results and Pass/Fail Criteria
  - Test Scripts
  - Regression Test Beds
  - Automated Testing Scripts/Harness
  - Summary of Testing Results
  - Defects Found and Severity Level of Failures
  - Proposed or Enacted Resolution for Identified Defects
  - Acceptance Test Scenarios
  - Acceptance Test Cases Including Expected Results and Pass/Fail Criteria
  - Acceptance Test Scripts
  - Acceptance Test Reports.

#### IV. Deliverables

The following sections describe the required tasks and subtasks to be performed by the Contractor for each Deliverable under the terms of this Agreement. The Contractor must perform each task and/or subtask but is not limited to performing only the identified task or subtasks in a given project area. The Parties hereby agree that the Deliverable(s) are the controlling factor and that the Contractor's obligation is to perform and deliver the Deliverable as described in the following sections.

The Parties hereby agree that the release of retainage dollars as per Article 3 Paragraph D shall follow the schedule below:

- a. Retainage for all non-DDI Release deliverables shall be paid 60-days after HSD acceptance;

- b. Retainage for each DDI Release 1 through 8 deliverable shall be paid upon HSD acceptance of the subsequent release deliverable;
- c. Retainage for DDI Release 9 deliverable shall be paid 90-days after HSD acceptance.

**A. Deliverable 1: Requirements Specification Document**

<b>Deliverable Name</b>		<b>Due Date</b>	<b>Compensation</b>
<b>Requirements Specification Document</b>		<b>02/11/2019</b>	<b>Total Compensation Not to Exceed: \$50,000, Including NM GRT, Less: \$5,000 Retainage Total Net Payable on Acceptance: \$45,000, Including NM GRT</b>
<b>Task Item</b>	<b>Sub Tasks</b>	<b>Description</b>	
<b>Requirements Specification Document</b>	<b>Requirements Specification Document</b>	The Contractor shall coordinate with HHS stakeholders to document requirements for the DS Module, including State and Federal reporting, business analytics, business intelligence, survey tools, all end user tools, system administration, and infrastructure components.	
	<b>Elicitation</b>	The Contractor shall lead requirements elicitation sessions.	
	<b>Validation</b>	The Contractor shall lead requirements validation sessions.	
	<b>Acceptance</b>	Obtain Acceptance	
	<b>Documentation</b>	The Contractor shall document all validated and accepted DS Module requirements in this document and record them in the DS Requirements Traceability Matrix (RTM) addendum to the master, all-inclusive MMISR RTM .	

**B. Deliverable 2: Requirements Traceability Matrix Addendum**

Deliverable Name	Due Date	Compensation
<p align="center"><b>Requirements Traceability Matrix Addendum</b></p>	<p align="center"><b>02/11/2019</b></p>	<p align="center"><b>Total Compensation Not to Exceed: \$50,000, Including NMGRT Less: \$5,000 Retainage Total Net Payable on Acceptance: \$45,000</b></p>

Task Item	Sub Tasks	Description
<p><b>Requirements Traceability Matrix Addendum</b></p>	<p><b>Requirements Traceability Matrix Addendum</b></p>	<p>The Contractor shall create an addendum to the master, all-inclusive MMISR RTM and record all DS Module requirements therein. This RTM enables the Procuring Agency to track all DS Module requirements through the full system life cycle.</p> <p>The Contractor shall use HSD JAMA application to create the DS Module RTM addendum and to complete the full life cycle tracking.</p>

**C. Deliverable 3: Transition Plan**

Deliverable Name	Due Date	Compensation
Transition Plan	12/10/2018	<p><b>Total Compensation Not to Exceed: \$40,000, Including NMGR T</b></p> <p><b>Less: \$4,000 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$36,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Transition Plan	Transition Plan	<p>The Contractor shall coordinate with HSD stakeholders to develop a Transition Plan that describes the approach, roles and responsibilities, tools and schedule to occur at the termination of the contract to address the orderly transition of responsibilities. and operations of the DS Module to new responsible organization.</p> <p>The Transition Plan shall include following details, at a minimum:</p> <ul style="list-style-type: none"> <li>a. Transfer of HSD property, including data, know how, intellectual property, inventions, and systems hardware from the Contractor to the new responsible organization;</li> <li>b. Tasks and phases for turnover;</li> <li>c. Obligations in case of premature termination, including: <ul style="list-style-type: none"> <li>i. Preservation and protection of all property and records;</li> <li>ii. Continuation of all work required by the Agreement until effective date of termination;</li> <li>iii. Cessation of incurrence of additional financial obligation without prior written approval of HSD;</li> <li>iv. Termination of purchase orders and subcontracting agreements except as directed by HSD or as necessary to complete required work; and</li> <li>v. Modification of Transition Plan with approval of HSD to account for specifics of premature termination.</li> </ul> </li> </ul>

**D. Deliverable 4: Release Strategy**

Deliverable Name	Due Date	Compensation
Release Strategy	12/10/2018	<p><b>Total Compensation Not to Exceed: \$65,000, Including NM GRT</b></p> <p><b>Less: \$6,500 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$58,500, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Release Strategy	Release Strategy	<p>The Contractor shall coordinate with HSD stakeholders to develop a Release Strategy that describes the approach, roles and responsibilities, tools and processes to occur during an iterative Implementation of the DS module into the DDI environment.</p> <p>The Release Strategy contains the following information:</p> <ul style="list-style-type: none"> <li>• Release Approach and Methodology Overview – This section shall describe the general approach, definition, major processes and their interaction for successful project implementation.</li> <li>• Release Roles and Responsibilities - This section shall include role definition and responsibilities of all critical release resources and their roles in each release process.</li> <li>• Release Communication– This section includes how the Release schedule will be tracked and communicated to key stakeholders and the project team.</li> </ul> <p>The Release Strategy shall describe the following release processes</p> <ul style="list-style-type: none"> <li>• <u>Release Scope Initial Determination Process</u> –how the Contractor will iterate through the known requirements, estimate work effort, and pre-schedule scope items into releases. The output of this process shall be an initial baseline release schedule for all implementations. This baseline will be used for future release grooming. The baseline schedule shall include all releases and iterations required to deliver the complete set of</li> </ul>

Deliverable Name	Due Date	Compensation
Release Strategy	12/10/2018	<p><b>Total Compensation Not to Exceed: \$65,000, Including NM GRT</b></p> <p><b>Less: \$6,500 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$58,500, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
		<p>requirements.</p> <ul style="list-style-type: none"> <li>• <u>Release Grooming Process</u>- how priority changes and external dependency schedule changes will be reviewed and dispositioned with the HSD stakeholders.</li> <li>• <u>Release Control and Monitoring Process</u> –how releases will be monitored and reported. It will include risk and issues identification and coordination with the SI risk and issues process</li> <li>• <u>Release Retrospective Review and Lessons Learned process</u> –how releases will be reviewed at completion and how lessons learned will be collected and applied to future releases.</li> </ul>



**E. Deliverable 5: Master Test Plan**

Deliverable Name	Due Date	Compensation
Master Test Plan	01/14/2019	<p><b>Total Compensation Not to Exceed: \$65,000, Including NM GRT</b></p> <p><b>Less: \$6,500 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$58,500, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Master Test Plan	Master Test Plan	<p>The Contractor shall coordinate with HSD stakeholders to develop a Master Test Plan for DS that describes the overall scope, technical and management approach, resources, and process for all test activities for functionality within the DS module and interactions with the SI ESB and Shared Services.</p> <p>The Master Test Plan shall address the following topics, at a minimum:</p> <ol style="list-style-type: none"> <li>a. A description of the overall approach that will be used to test all functions, features, and requirements of the DS module including content, methodology, prioritization, and progression of development, validation, implementation and operational testing activities to be performed during the corresponding lifecycle phases;</li> <li>b. A description of the measures to be taken to ensure all aspects of the DS module are successfully tested and can be implemented;</li> <li>c. A description of the method used to trace test cases and results back to stakeholder requirements;</li> <li>d. The description of types of testing including unit, system integration, user acceptance, field, regression, smoke, parallel, performance, quality assurance and security testing;</li> <li>e. The mechanism for tracking test performance and completion;</li> <li>f. The procedures for preparing, maintaining and managing the test environment(s), including change control within the DS environments;</li> </ol>

		<ul style="list-style-type: none"> <li>g. The procedures for assigning severity to problems encountered;</li> <li>h. The use of automated test scripts and other testing tools.</li> <li>i. The test Management Processes and Procedures</li> <li>j. The process to document and make test results available.</li> </ul>
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**F. Deliverable 6: Risk Management Log Addendum**

<b>Deliverable Name</b>	<b>Due Date</b>	<b>Compensation</b>
<b>Risk Management Log Addendum</b>	<b>12/10/2018</b>	<b>Total Compensation Not to Exceed: \$25,000, Including NM GRT</b> <b>Less \$2,500 Retainage</b> <b>Total Net Payable on Acceptance: \$22,500, Including NM GRT</b>

<b>Task Item</b>	<b>Sub Tasks</b>	<b>Description</b>
<b>Risk Management Log Addendum</b>	<b>Risk Management Log Addendum</b>	<p>The Contractor shall create an addendum to the master, all-inclusive Risk Management Log that enables NM HSD to be aware of and manage all DS module risks in the same methodology as all other project risks.</p> <p>The addendum shall add all DS project risks into the MMISR master all-inclusive Risk Management Log, populating and validating all attributes in that log for each DS risk.</p>

**G. Deliverable 7: Implementation Plan**

Deliverable Name	Due Date	Compensation
Implementation Plan	01/28/2019	<p><b>Total Compensation Not to Exceed: \$65,000 Less: \$6,500 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$58,500, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Implementation Plan	Implementation Plan	<p>The Contractor shall coordinate with HSD stakeholders to develop an Implementation Plan for the DS Module. This document shall detail how the contractor will implement the scope planned for each release as planned and articulated in the Release Strategy document.</p> <p>The Implementation Plan will describe how the Contractor will plan, control, and monitor each iteration within a release implementation.</p> <p>The plan will describe how each release utilizes and complies with the Master Test Plan.</p> <p>The plan describes the software promotion process that moves the release through various environments and into the highest level DDI environment.</p> <p>The Iteration Management section of this deliverable shall describe the following processes for iterations within each implementation release:</p> <ul style="list-style-type: none"> <li>• <u>Iteration Planning Process:</u> This section shall describe the process for dividing the release scope into individual manageable iterations based on internal and external dependencies and estimated work size.</li> <li>• <u>Iteration Task Refinement Process:</u> This section shall describe the process to develop and assign individual tasks to resources to complete the work assigned to individual iterations based on dependency and resource skillset. These tasks will align to the Development Life Cycle phases and reviews for each deliverable</li> <li>• <u>Iteration Progress Monitoring and Reporting</u></li> </ul>

		<p><u>Process:</u> This section shall describe how progress of each iteration will be monitored and reported daily by the execution team. Also, the section shall articulate how road blocks will be identified, tracked, worked, and resolved during each iteration.</p> <ul style="list-style-type: none"> <li>• <u>Iteration Qualification Process</u> – This section shall describe the process for determining that the iteration was successfully completed and qualifies for inclusion within the release implementation.</li> <li>• <u>Iteration Retrospective Review and Lessons Learned Process:</u> This section shall describe how iteration level retrospective reviews will be conducted and lessons learned will be tracked and implemented in future iterations.</li> </ul>
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**H. Deliverable 8: Resource Management Plan and Staffing Model Addendum**

Deliverable Name	Due Date	Compensation
<b>Resource Management Plan and Staffing Model Addendum</b>	<b>02/11/2019</b>	<b>Total Compensation Not to Exceed: \$25,000, Including NM GRT Less \$2,500 Retainage Total Net Payable on Acceptance: \$22,500, Including NM GRT</b>

Task Item	Sub Tasks	Description
<b>Resource Management Plan and Staffing Model Addendum</b>	<b>Resource Management Plan and Staffing Model Addendum</b>	<p>The Contractor shall create an addendum to the SI deliverable Resource Management Plan and Staffing Model.</p> <p>The Contractor addendum shall include the following information, at a minimum:</p> <ol style="list-style-type: none"> <li>Approach to acquiring and applying sufficient number of appropriately qualified staff need to meet the requirements of the DS project;</li> <li>Identification of key personnel, titles, roles, responsibilities and corresponding work site;</li> <li>How the Contractor’s resources will be integrated into the appropriate activities of the project;</li> <li>Approach to managing staff, roles and responsibilities; and</li> <li>Approach to on-boarding/off-boarding staff.</li> </ol>

**I. Deliverable 9: DDI Release 1**

<b>Deliverable Name</b>		<b>Due Date</b>	<b>Compensation</b>
<b>DDI Release 1</b>		<b>05/03/2019</b>	<b>Total Compensation Not to Exceed: \$675,000, Including NM GRT Less: \$67,500 Retainage Total Net Payable on Acceptance: \$607,500, Including NM GRT</b>
<b>Task Item</b>	<b>Sub Tasks</b>	<b>Description</b>	
Release	Release Schedule	In coordination and compliance with the Release Strategy date set for this release, the Contractor shall coordinate with HSD stakeholders to develop a detailed release schedule for all activities, document updates and deliverables within this release.	

	<p>Release Refinement and Iteration Planning</p>	<p>Prior to each release, the Contractor and HSD stakeholders will review the release schedules, iterations definitions and work planned then make updates based on Change Request, backlog grooming, and defects. As a part of this refinement, the Contractor shall complete the following:</p> <ul style="list-style-type: none"> <li>a. Review and update prioritized items, including Change Requests and Defects and update RTM as needed.</li> <li>b. Review and potential update of feature estimates</li> <li>c. Review and update of vendor dependency</li> <li>d. Review and update of team velocity compared to prior release execution, compared to average velocity of prior iterations and based on team availability for this release</li> <li>e. Refinement and finalization of individual resource tasks</li> <li>f. Review and update of any scheduled work based on work refinement and team's velocity</li> <li>g. Review and update of future releases based on review of past releases</li> <li>h. Implementation of any agreed upon process improvement based on previous release reviews</li> </ul>
	<p>Release and iteration monitoring</p>	<p>The Contractor shall monitor each iteration within this release to control scope and ensure quality.</p>
	<p>Release Requirements</p>	<p>For each DDI release, the Contractor and HSD stakeholders shall complete requirements selection and inclusion iteratively to accommodate prioritization and scoping refinements that emerge over the course of the project.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. Requirements Specification Document</li> <li>b. RTM</li> <li>c. Business Architecture Design Document</li> </ul>
	<p>Release Design</p>	<p>For each DDI release, the Contractor and HSD stakeholders shall complete design iteratively.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p>

		<ul style="list-style-type: none"> <li>a. System Design Document</li> <li>b. Metadata Catalog</li> <li>c. Data Dictionary within the Metadata catalog</li> <li>d. Data models (Conceptual, Logical, Physical)</li> <li>e. ICD (Integration Catalog)</li> <li>f. Capacity Planning</li> <li>g. Security Approach</li> </ul>
	<p>Release System Test Plan and Reports</p>	<p>For each DDI release, the Contractor shall coordinate with HSD stakeholders to develop a Release System Test Plan in compliance with the Master Test Plan.</p> <p>In accordance with the accepted Release System Test Plan, the Contractor shall produce System Test Reports for items tested in this release and associated iterations, including:</p> <ul style="list-style-type: none"> <li>a. Summary of test results;</li> <li>b. Pass/failure rate;</li> <li>c. Defects found and severity level of failures; and</li> <li>d. Proposed or enacted resolution for identified defects.</li> </ul>
	<p>Release Acceptance Test Plan and Reports</p>	<p>For each DDI release, the Contractor and HSD stakeholders shall partner to complete UAT testing iteratively.</p> <p>The Contractor shall produce the following UAT test artifacts based on the release scope:</p> <ul style="list-style-type: none"> <li>a. Acceptance Test Scenarios</li> <li>b. Acceptance test cases including expected results and pass/fail criteria</li> <li>c. Acceptance test scripts</li> </ul> <p>The Contractor and HSD stakeholders shall partner to produce UAT reports, address any issues discovered and complete retesting where needed.</p>
	<p>Release Readiness</p>	<p>The Contractor shall prepare and execute a Release Readiness process that documents and ensures readiness for all functionality within the release.</p> <p>The contractor shall coordinate with the HSD management team to use a set of guidelines and templates that will ensure the readiness of each release.</p> <p>The contractor shall assess key attributes of the release against standards, policies, quality metrics, and release criteria to evaluate the readiness of the release, target environment, supporting release package, rollout and</p>

		<p>rollback plans, training plans, support plans and the risk management plan.</p> <p>The Release Readiness review results in a go/no-go decision about whether to deploy the release.</p>
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**J. Deliverable 10: Metadata Catalog**

Deliverable Name	Due Date	Compensation
Metadata Catalog	03/04/2019	<p><b>Total Compensation Not to Exceed: \$50,000, Including NM GRT</b>  <b>Less: \$5,000 Retainage</b>  <b>Total Net Payable on Acceptance: \$45,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Metadata Catalog	Metadata Catalog	<p>The Contractor shall coordinate with HSD stakeholders to develop a Catalog that documents the metadata that the DS Module must access, secure or provide, in order to support the required business intelligence, analytics and reporting functions.</p> <p>The Metadata Catalog includes business, technical and operational metadata.</p> <p>The Metadata Catalog shall address, at a minimum:</p> <ul style="list-style-type: none"> <li>• Business – data ownership information, business definition, business description of how fields are derived or calculated;</li> <li>• Technical – database system names, schemas, partitions, table and column names and sizes, data types, data entities and attributes, valid values, metadata definitions (e.g., calculated fields, aggregations, derivations, algorithms), references to enhanced metadata (e.g., data sources in a transaction), privacy classifications and structural information such as primary and foreign key attributes and indices;</li> </ul> <p>Operational – currency of data and data lineage (when it was loaded/updated, source systems, source transactions), run-times, extraction timestamps, performance statistics, up-time statistics, system resource utilization statistics, and issue resolution flags to identify data anomalies. The Contractor shall develop the Metadata Catalog in compliance with the HSD data standards. The DS Metadata Catalog shall be consistent with the MMISR metadata repository provided by the SI contractor in the System Migration Repository.</p>

**K. Deliverable 11: Data Models**

Deliverable Name	Due Date	Compensation
DS Data Models	07/01/2019	<p><b>Total Compensation Not to Exceed: \$50,000, Including NM GRT</b></p> <p><b>Less: \$5,000 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$45,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
DS Data Models	DS Conceptual Data Model	<p>The Contractor shall create the DS Conceptual Data Model which identifies the highest-level data constructs and relationships between different business entities and is developed consistent with the nature of associated business processes.</p> <p>The DS Data Model - Conceptual will be developed in compliance with Enterprise Data Architecture (EDA) standards.</p> <p>The Conceptual Data Model will include the following:</p> <ol style="list-style-type: none"> <li>a. Definition of the major entities of interest in terms that are meaningful to the way the HHS programs conducts MITA business processes.</li> <li>b. Definition of a high-level relational map of the subject areas and cross-subject area dependencies for the data warehouse.</li> <li>c. Capturing of these subject area relationships.</li> </ol>
	DS Logical Data Model	<p>The Contractor shall create the DS Logical Data Model which is a representation of business concepts laid out in visual form that clearly shows these concepts and their various relationships. The Conceptual Data Model will provide the foundation for the Logical Data Model.</p> <p>The Logical Data Model will be developed in compliance with EDA standards.</p> <p>The Contractor shall deliver the Logical Data Model in XML Interchange (XMI) format.</p> <p>The Contractor shall use CA ERwin to build the Logical Data Model for the Data Services Module.</p>

		<p>The DS Logical Data Model shall include entities (tables), attributes (columns/fields) and relationships (keys). It will use business names for entities and attributes. It will be a data model of a specific domain whose expression is independent of a particular database management product or storage technology (platform/RDBMS) but is expressed in terms of data structures such as relational tables and columns.</p> <p>The Logical Data Model shall be independent of the underlying physical implementation.</p> <p>The Logical Data Model will include the following features:</p> <ol style="list-style-type: none"> <li>a. Each entity in the logical data model will be assigned a primary key—the attribute or set of attributes that distinguish one instance of the entity from another.</li> <li>b. All the attributes for each entity will be included. Relationships between entities will be represented through foreign keys associated with the primary keys of the referring entity.</li> <li>c. Normalization decisions will be finalized in the logical data model, which will result in the final normalized representation of entity-to-entity relationships.</li> </ol>
	<p>DS Physical Data Model</p>	<p>The Contractor shall develop the DS Physical Data Model such that it represents how the model will be built in the database. A physical database model shall show all table structures, including column name, column data type, column constraints (i.e., validation rules), primary key, foreign key, database triggers, stored procedures, domains, access constraints, indices for performance, and relationships between tables.</p> <p>The physical data model shall maximize the features of the RDBMS.</p> <p>The Physical Data Model shall be developed in compliance with EDA standards and shall be delivered in XML Interchange (XMI) format.</p> <p>The Physical Data Model shall include the following:</p> <ol style="list-style-type: none"> <li>a. Specifications for all tables and columns</li> </ol>

		<ul style="list-style-type: none"> <li>b. Foreign keys used to identify relationships between tables</li> <li>c. De-normalization based on user requirements and performance considerations</li> <li>d. Physical considerations causing the physical data model to be different from the logical data model</li> </ul>
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**L. Deliverable 12: Business Continuity/Disaster Recovery Plan**

<b>Deliverable Name</b>	<b>Due Date</b>	<b>Compensation</b>
<b>Business Continuity/Disaster Recovery Plan</b>	<b>02/25/2019</b>	<b>Total Compensation Not to Exceed: \$40,000, Including NM GRT Less: \$4,000 Retainage Total Net Payable on Acceptance: \$36,000, Including NM GRT</b>

<b>Task Item</b>	<b>Sub Tasks</b>	<b>Description</b>
Business Continuity/Disaster Recovery Plan	Business Continuity/Disaster Recovery Plan	<p>The Contractor shall coordinate with HSD stakeholders to develop a DS Business Continuity/ Disaster Recovery Plan that describes the approach to disaster recovery (DR) and business continuity for the DS module.</p> <p>The Contractor shall use a DR and business continuity approach that aligns with SI Disaster Recovery Plan.</p> <p>The DS Business Continuity/Disaster Recovery Plan shall address the following topics, at a minimum:</p> <ul style="list-style-type: none"> <li>a. The recovery and restoration of the information systems and infrastructure required to support DS applications and products, addressing each application and system component.</li> <li>b. Detailed descriptions of the immediate response and subsequent recovery from any unplanned business interruption.</li> </ul>

		<ul style="list-style-type: none"> <li>c. Strategies, resources, and procedures required to restore services to all users.</li> <li>d. Procedures for annual test.</li> <li>e. Procedures for communications specific to Business Continuity and Disaster Recovery.</li> <li>f. Roles and responsibilities specific to Business Continuity and Disaster Recovery.</li> <li>g. Compliance with performance standards of Exhibit B for allowable downtime, Recovery Point Objective and Recovery Time Objective.</li> </ul>
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**M. Deliverable 13: Capacity Planning**

Deliverable Name	Due Date	Compensation
Capacity Planning	02/11/2019	<p><b>Total Compensation Not to Exceed: \$45,000, Including NM GRT</b></p> <p><b>Less: \$4,500 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$40,500, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Capacity Planning	Capacity Planning	<p>The Contractor shall coordinate with HSD stakeholders to develop a Capacity Planning document that describes system sizing and plans for expansion.</p> <p>The Capacity Planning document shall address the following topics, at a minimum:</p> <ul style="list-style-type: none"> <li>a. Process for determining the capacity needed to meet changing future demands (to include 10-year storage footprint and concurrent user loading projections), including: <ul style="list-style-type: none"> <li>i. Storage assumptions and constraints</li> <li>ii. Storage calculations and parameters including current allocations, raw storage, usable storage, and projected storage needs (fill rates);</li> </ul> </li> <li>b. Recommended hardware configurations (baseline and modifications);</li> <li>c. Description of utilization monitoring process and approach;</li> </ul>

		<ul style="list-style-type: none"> <li>d. Description of the method of measurement and modeling for accurate projection of space utilization, workload, and resource utilization (including resource limitations);</li> <li>e. Description of the capacity-planning activities performed to ensure the solution is properly sized as changes are introduced to the DS module;</li> <li>f. Estimated average number of web service data exchanges (transactions per second) during normal and peak loadings to determine the impact to ESB loading and database performance; and</li> <li>g. Data retention guidelines, including purging and archiving procedures.</li> </ul>
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**N. Deliverable 14: Data Conversion Plan**

Deliverable Name	Due Date	Compensation
<b>Data Conversion Plan</b>	<b>04/08/2019</b>	<b>Total Compensation Not to Exceed: \$80,000, Including NM GRT</b> <b>Less: \$8,000 Retainage</b> <b>Total Net Payable on Acceptance: \$72,000, Including NM GRT</b>

Task Item	Sub Tasks	Description
Data Conversion Plan	Data Conversion Plan	<p>The Contractor shall coordinate with HSD stakeholders to develop a Data Conversion Plan that describes the movement and transformation of data, both historical and on-going, into the DS module.</p> <p>The Contractor's Data Conversion Plan shall be compatible with the HSD strategy that the SI vendor will do data extraction, standardization and cleansing prior to the module vendor receiving the data from the SI System Migration Repository and converting it into the DS system.</p> <p>The Data Conversion Plan shall address the following topics, at a minimum:</p>

		<ul style="list-style-type: none"> <li>a. Source-to-target data mapping/lineage to describe the data transformation for all DS module data movement;</li> <li>b. Data mapping descriptions of landing data from inbound sources (staging), integrating data from multiple sources, and modeling/aggregating data for analytic and reporting consumption (optimization);</li> <li>c. Identification of any internal or confidential data, with details on how it will be protected at rest, in transit, and in process;</li> <li>d. Description of the semantic layer that details application access to data (e.g., via Cognos, Tableau);</li> <li>e. Description of the data management parameters and associated activities, including:             <ul style="list-style-type: none"> <li>1. Data evaluation process for source system data;</li> <li>2. Scope constraints (if any);</li> <li>3. Technical approach for ETL, Change Data Capture (CDC), historical data load and on-going updates, connection information; transformations made to data, schemas, and/or data types, including changes to related metadata and definitions; target repositories, load constraints, technologies and tools for data management; and procedures;</li> <li>4. Phased implementation approach (if any);</li> <li>5. Requirements for HSD participation (if any);</li> <li>6. Requirements for other contractor participation (if any);</li> <li>7. Key assumptions and dependencies;</li> <li>8. Migration requirements, including the validation of the functionality of third-party tools and/or systems , including identifying interface and integration components between source and target applications/systems that must be present and consistent for a successful migration;</li> <li>9. Metrics for success of the conversion;</li> <li>10. Description of any post-data-migration clean-up;</li> <li>11. Procedure for final validation and acceptance;</li> </ul> </li> </ul>
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		<p>12. Emergency rollback contingency procedures;</p> <p>13. Description of how solution provides end-to-end data lineage;</p> <p>14. Participation in the HSD/SI data governance processes related to DS data conversion;</p> <p>15. Data migration validation criteria and plans;</p> <p>16. Identification of quality assurance stage gates;</p> <p>17. Compliance with data standards developed by the SI and creation of additional standards specific to DS data conversion (if needed);</p> <p>18. Identification of reference data;</p> <p>19. Grouping of data into data domains;</p>
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**O. Deliverable 15: Security Approach**

<u>Deliverable Name</u>	<u>Due Date</u>	<u>Compensation</u>
<b>Security Approach</b>	<b>02/11/2019</b>	<p><b>Total Compensation Not to Exceed: \$50,000, Including NM GRT</b></p> <p><b>Less: \$5,000 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$45,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
<b>Security Approach</b>	<b>Security Approach</b>	<p>The Contractor shall create a Security Approach specific to the DS module that is compliant with the security standards defined by HSD and those defined by the SI vendor.</p> <p>The Security Approach shall satisfy, at a minimum, the MARS-E 2.0 PL-1 control set including establishing the related policies, procedures and standards.</p> <p>The Security Approach shall document the DS-related scope, roles, responsibilities, management commitment, coordination among organizational entities, and compliance (such as CMS, IRS, SSA, Fedramp) requirements.</p> <p>The Security Approach shall address all required security controls detailed by applicable compliance entities including, but not limited to, physical, administrative, and, technical</p>



		controls.
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**P. Deliverable 16: System Security Plan**

<u>Deliverable Name</u>	<u>Due Date</u>	<u>Compensation</u>
<b>System Security Plan</b>	<b>03/11/2019</b>	<b>Total Compensation Not to Exceed: \$50,000, Including NM GRT</b> <b>Less: \$5,000 Retainage</b> <b>Total Net Payable on Acceptance: \$45,000, Including NM GRT</b>

<b>Task Item</b>	<b>Sub Tasks</b>	<b>Description</b>
<b>System Security Plan</b>	<b>System Security Plan</b>	<p>The Contractor shall develop a System Security Plan (SSP) specific to the DS module that is compliant with the security plans and standards defined by HSD and those defined by the SI vendor.</p> <p>Part A of the SSP shall provide a summary description of the DS module and of the associated security architecture and components. SSP Part B and Part C shall document security and privacy controls, respectively, that will be implemented to protect the DS module. SSP Part D shall contain attachments that support the information provided in SSP Parts A and B.</p>

**Q. Deliverable 17: Security Design Plan**

<u>Deliverable Name</u>	<u>Due Date</u>	<u>Compensation</u>
<b>Security Design Plan</b>	<b>04/08/2019</b>	<b>Total Compensation Not to Exceed: \$50,000, Including NM GRT</b> <b>Less: \$5,000 Retainage</b> <b>Total Net Payable on Acceptance: \$45,000, Including NM GRT</b>

<b>Task Item</b>	<b>Sub Tasks</b>	<b>Description</b>
<b>Security Design Plan</b>	<b>Security Design Plan</b>	<p>The Contractor shall develop a Security Design Plan specific to the DS module that is compliant with the security design plan and standards defined by HSD and those defined by the SI vendor.</p> <p>The DS Security Design Plan shall document the detailed security design of the security components for the DS module. This shall include the technical architecture for security-related components in the DS module, including but not limited to the Identity and Access Management (IdAM) environment, Splunk solution, and the IBM DataPower SOA Gateway.</p> <p>The DS Security Design Plan shall contain logical and physical architectural diagrams of the security components depicting their integration points with the SI Platform.</p>

**R. Deliverable 18: System Design Document**

<u>Deliverable Name</u>	<u>Due Date</u>	<u>Compensation</u>
<b>System Design Document</b>	<b>03/25/2019</b>	<b>Total Compensation Not to Exceed: \$55,000, Including NM GRT</b> <b>Less: \$5,500 Retainage</b> <b>Total Net Payable on Acceptance: \$49,500, Including NM GRT</b>

Task Item	Sub Tasks	Description
System Design Document	System Design Document	<p>The Contractor shall coordinate with HSD stakeholders to develop a System Design Document that documents the high-level system design specifications, the allocation and use of technologies within the DS module, and interfaces to the SI module, core shared services, the other MMISR modules and the user interfaces.</p> <p>The System Design Document shall comply with CMS Enterprise Performance Lifecycle (EPLC), NM Department of Information Technology (DoIT) and the Architectural Review Board's HHS 2020 Enterprise Architecture requirements.</p> <p>The System Design Document shall address the following topics, at a minimum:</p> <ol style="list-style-type: none"> <li>a. A high-level overview of the system architecture that is further decomposed into low-level detailed design specifications for each system component, including hardware, internal communications, software, system integrity controls, and external interfaces.</li> <li>b. A technical description of all DS Module components.</li> <li>c. Diagrams of hardware and software for each environment</li> <li>d. A complete inventory of the hardware and software (including version/release)</li> <li>e. A description of the primary and disaster recovery data centers and infrastructure services</li> </ol>

**S. Deliverable 19: Business Architecture Design Document**

<u>Deliverable Name</u>	<u>Due Date</u>	<u>Compensation</u>
<b>Business Architecture Design Document</b>	<b>03/25/2019</b>	<b>Total Compensation Not to Exceed: \$65,000, Including NM GRT</b> <b>Less: \$6,500 Retainage</b> <b>Total Net Payable on Acceptance: \$58,500, Including NM GRT</b>

Task Item	Sub Tasks	Description
Business Architecture Design Document	Business Architecture Design Document	<p>The Contractor shall coordinate with HSD stakeholders to develop a Business Architecture Design Document that describes the DS module from the user community perspective.</p> <p>The Business Architecture Design document shall address the following topics, at a minimum:</p> <ol style="list-style-type: none"> <li>a. As-Is and To-Be DS module overview and architecture diagram from the business perspective;</li> <li>b. Descriptions and uses cases for each reporting and analytic application component and user interface;</li> <li>c. As-Is and To-Be business process models for reporting and analytic business processes;</li> <li>d. Description of user types (e.g., power, casual, executive) with skill recommendation for each;</li> <li>e. Adoption plan for DS Module and To-Be business processes; and</li> <li>f. Description of the interaction between enterprise data governance and DS module management.</li> </ol>

**T. Deliverable 20: Integration Catalog**

<u>Deliverable Name</u>		<u>Due Date</u>	<u>Compensation</u>
<b>Integration Catalog</b>		<b>10/7/2019</b>	<b>Total Compensation Not to Exceed: \$60,000, Including NM GRT</b> <b>Less: \$6,000 Retainage</b> <b>Total Net Payable on Acceptance: \$54,000, Including NM GRT</b>
Task Item	Sub Tasks	Description	
Integration Catalog	Integration Catalog	<p>The Contractor will develop an Integration Catalog to document message schemas, services, and data exchange to and from other systems identified as consumer/producer interactions that occur via web services, adapters, open interfaces, file formats, and exposed APIs.</p> <p>The Contractor shall coordinate with the SI vendor to include the details of this deliverable into the SI deliverable SIDM4 Information Governance Catalog.</p> <p>The Integration Catalog will include an Interface Control Document to account for data flows inside the Data Warehouse such as staging to Operational Data Store (ODS) to Data Warehouse (DWH) to Marts to Cubes to Reports.</p>	

**U. Deliverable 21: Training Plan**

Deliverable Name	Due Date	Compensation
Training Plan	03/25/2019	<p><b>Total Compensation Not to Exceed: \$45,000, Including NM GRT</b></p> <p><b>Less: \$4,500 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$40,500, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Training Plan	Training Plan	<p>The Contractor shall coordinate with HSD stakeholders to develop a Training Plan that describes the approach, roles and responsibilities, tools and processes to ensure adequate training of HSD personnel on the DS module.</p> <p>The Training Plan shall address the following topics, at a minimum:</p> <ul style="list-style-type: none"> <li>a. Description of how the Contractor shall deliver on-site instructor-led trainings for each of the proposed BI tools (e.g. Cognos, Tableau, ARC GIS, Oracle SQL, Watson Analytics, Survey Monkey, data visualizations [dashboards and scorecards], bulletins, newsfeeds, queries, the sandbox);</li> <li>b. Description of training for content areas (e.g., Aspen, MMIS), to include an overview of the DS data model, associated documentation, and the DS data structures;</li> <li>c. Description of Contractor-provided training in healthcare analytics fundamentals, including use of proposed flexible analytics (e.g., Episode of Care, Disease Staging, data/text mining, analytics [descriptive, diagnostic, predictive, prescriptive], benchmarking, trending);</li> <li>d. Development and HSD approval of training manuals to accompany each planned training course.</li> <li>e. Summary level ADDIE (Analysis, Design, Development, Implementation, and Evaluation) for each planned training course, to be reviewed and</li> </ul>

		<p>accepted as part of the Training Plan and to guide the detail for each Training Manual;</p> <ul style="list-style-type: none"> <li>f. Description of on-line self-training support for using mobile devices for Tableau and other independent training modes</li> <li>g. Description of how end users will be stratified into user proficiency bands (e.g., Executive User, Casual Users, Business Users and Power Users), matching the definitions from the Business Architecture Design, so that training can be tailored to suit the specific needs of each group;</li> <li>h. Artifact storage and access to shared project sites where training related materials will be kept;</li> <li>i. Description of training at different project phases, including User Acceptance Training (UAT), Go-live, New Users, and ongoing refresher courses;</li> <li>j. Description of training to accompany each DDI release specific to the new and additional functionality, data content, tools, views, etc.;</li> <li>k. A sample User Profile Questionnaire to be tailored for each Training Manual, and to be used to elicit user-specific training needs and to ascertain current and desired skills in advance of the actual training;</li> <li>l. A Sample Evaluation to be tailored for each Training Manual, and to be used to rate the overall user impression and to identify areas of training improvement at the conclusion of the training.</li> </ul>
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V. Deliverable 22: DDI Release 2

Deliverable Name		Due Date	Compensation
DDI Release 2		06/28/2019	<b>Total Compensation Not to Exceed: \$1,100,000, Including NM GRT</b> <b>Less: \$110,000 Retainage</b> <b>Total Net Payable on Acceptance: \$990,000, Including NM GRT</b>
Task Item	Sub Tasks	Description	
Release	Release Schedule	In coordination and compliance with the Release Strategy date set for this release, the Contractor shall coordinate with HSD stakeholders to develop a detailed release schedule for all activities, document updates and deliverables within this release.	
	Release Refinement and Iteration Planning	Prior to each release, the Contractor and HSD stakeholders will review the release schedules, iterations definitions and work planned then make updates based on Change Request, backlog grooming, and defects. As a part of this refinement, the Contractor shall complete the following: <ul style="list-style-type: none"> <li>a. Review and update prioritized items, including Change Requests and Defects and update RTM as needed.</li> <li>b. Review and potential update of feature estimates</li> <li>c. Review and update of vendor dependency</li> <li>d. Review and update of team velocity compared to prior release execution, compared to average velocity of prior iterations and based on team availability for this release</li> <li>e. Refinement and finalization of individual resource tasks</li> <li>f. Review and update of any scheduled work based on work refinement and team's velocity</li> <li>g. Review and update of future releases based on review of past releases</li> <li>h. Implementation of any agreed upon process improvement based on previous release reviews</li> </ul>	
	Release and iteration monitoring	The Contractor shall monitor each iteration within this release to control scope and ensure quality.	
	Release	For each DDI release, the Contractor and HSD stakeholders	



	Requirements	<p>shall complete requirements selection and inclusion iteratively to accommodate prioritization and scoping refinements that emerge over the course of the project.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. Requirements Specification Document</li> <li>b. RTM</li> <li>c. Business Architecture Design Document</li> </ul>
	Release Design	<p>For each DDI release, the Contractor and HSD stakeholders shall complete design iteratively.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. System Design Document</li> <li>b. Metadata Catalog</li> <li>c. Data Dictionary within the Metadata catalog</li> <li>d. Data models (Conceptual, Logical, Physical)</li> <li>e. ICD (Integration Catalog)</li> <li>f. Capacity Planning</li> <li>g. Security Approach</li> </ul>
	Release System Test Plan and Reports	<p>For each DDI release, the Contractor shall coordinate with HSD stakeholders to develop a Release System Test Plan in compliance with the Master Test Plan.</p> <p>In accordance with the accepted Release System Test Plan, the Contractor shall produce System Test Reports for items tested in this release and associated iterations, including:</p> <ul style="list-style-type: none"> <li>a. Summary of test results;</li> <li>b. Pass/failure rate;</li> <li>c. Defects found and severity level of failures; and</li> <li>d. Proposed or enacted resolution for identified defects.</li> </ul>
	Release Acceptance Test Plan and Reports	<p>For each DDI release, the Contractor and HSD stakeholders shall partner to complete UAT testing iteratively.</p> <p>The Contractor shall produce the following UAT test artifacts based on the release scope:</p> <ul style="list-style-type: none"> <li>a. Acceptance Test Scenarios</li> <li>b. Acceptance test cases including expected results and pass/fail criteria</li> <li>c. Acceptance test scripts</li> </ul> <p>The Contractor and HSD stakeholders shall partner to produce UAT reports, address any issues discovered and complete retesting where needed.</p>
	Release	The Contractor shall prepare and execute a Release

	<p><b>Readiness</b></p>	<p>Readiness process that documents and ensures readiness for all functionality within the release.</p> <p>The contractor shall coordinate with the HSD management team to use a set of guidelines and templates that will ensure the readiness of each release.</p> <p>The contractor shall assess key attributes of the release against standards, policies, quality metrics, and release criteria to evaluate the readiness of the release, target environment, supporting release package, rollout and rollback plans, training plans, support plans and the risk management plan.</p> <p>The Release Readiness review results in a go/no-go decision about whether to deploy the release.</p>
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W. Deliverable 23: DDI Release 3

Deliverable Name	Due Date	Compensation
DDI Release 3	08/23/2019	<p><b>Total Compensation Not to Exceed: \$1,220,000, Including NM GRT</b></p> <p><b>Less: \$122,000 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$1,098,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Release	Release Schedule	In coordination and compliance with the Release Strategy date set for this release, the Contractor shall coordinate with HSD stakeholders to develop a detailed release schedule for all activities, document updates and deliverables within this release.
	Release Refinement and Iteration Planning	<p>Prior to each release, the Contractor and HSD stakeholders will review the release schedules, iterations definitions and work planned then make updates based on Change Request, backlog grooming, and defects. As a part of this refinement, the Contractor shall complete the following:</p> <ul style="list-style-type: none"> <li>a. Review and update prioritized items, including Change Requests and Defects and update RTM as needed.</li> <li>b. Review and potential update of feature estimates</li> <li>c. Review and update of vendor dependency</li> <li>d. Review and update of team velocity compared to prior release execution, compared to average velocity of prior iterations and based on team availability for this release</li> <li>e. Refinement and finalization of individual resource tasks</li> <li>f. Review and update of any scheduled work based on work refinement and team's velocity</li> <li>g. Review and update of future releases based on review of past releases</li> <li>h. Implementation of any agreed upon process improvement based on previous release reviews</li> </ul>
	Release and iteration monitoring	The Contractor shall monitor each iteration within this release to control scope and ensure quality.
	Release	For each DDI release, the Contractor and HSD stakeholders

	Requirements	<p>shall complete requirements selection and inclusion iteratively to accommodate prioritization and scoping refinements that emerge over the course of the project.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. Requirements Specification Document</li> <li>b. RTM</li> <li>c. Business Architecture Design Document</li> </ul>
	Release Design	<p>For each DDI release, the Contractor and HSD stakeholders shall complete design iteratively.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. System Design Document</li> <li>b. Metadata Catalog</li> <li>c. Data Dictionary within the Metadata catalog</li> <li>d. Data models (Conceptual, Logical, Physical)</li> <li>e. ICD (Integration Catalog)</li> <li>f. Capacity Planning</li> <li>g. Security Approach</li> </ul>
	Release System Test Plan and Reports	<p>For each DDI release, the Contractor shall coordinate with HSD stakeholders to develop a Release System Test Plan in compliance with the Master Test Plan.</p> <p>In accordance with the accepted Release System Test Plan, the Contractor shall produce System Test Reports for items tested in this release and associated iterations, including:</p> <ul style="list-style-type: none"> <li>a. Summary of test results;</li> <li>b. Pass/failure rate;</li> <li>c. Defects found and severity level of failures; and</li> <li>d. Proposed or enacted resolution for identified defects.</li> </ul>
	Release Acceptance Test Plan and Reports	<p>For each DDI release, the Contractor and HSD stakeholders shall partner to complete UAT testing iteratively.</p> <p>The Contractor shall produce the following UAT test artifacts based on the release scope:</p> <ul style="list-style-type: none"> <li>a. Acceptance Test Scenarios</li> <li>b. Acceptance test cases including expected results and pass/fail criteria</li> <li>c. Acceptance test scripts</li> </ul> <p>The Contractor and HSD stakeholders shall partner to produce UAT reports, address any issues discovered and complete retesting where needed.</p>
	Release	The Contractor shall prepare and execute a Release

	<p>Readiness</p>	<p>Readiness process that documents and ensures readiness for all functionality within the release.</p> <p>The contractor shall coordinate with the HSD management team to use a set of guidelines and templates that will ensure the readiness of each release.</p> <p>The contractor shall assess key attributes of the release against standards, policies, quality metrics, and release criteria to evaluate the readiness of the release, target environment, supporting release package, rollout and rollback plans, training plans, support plans and the risk management plan.</p> <p>The Release Readiness review results in a go/no-go decision about whether to deploy the release.</p>
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**X. Deliverable 24: DDI Release 4**

Deliverable Name	Due Date	Compensation
DDI Release 4	11/15/2019	<b>Total Compensation Not to Exceed: \$1,220,000, Including NM GRT</b> <b>Less: \$122,000 Retainage</b> <b>Total Net Payable on Acceptance: \$1,098,000, Including NM GRT</b>

Task Item	Sub Tasks	Description
Release	Release Schedule	In coordination and compliance with the Release Strategy date set for this release, the Contractor shall coordinate with HSD stakeholders to develop a detailed release schedule for all activities, document updates and deliverables within this release.
	Release Refinement and Iteration Planning	Prior to each release, the Contractor and HSD stakeholders will review the release schedules, iterations definitions and work planned then make updates based on Change Request, backlog grooming, and defects. As a part of this refinement, the Contractor shall complete the following: <ul style="list-style-type: none"> <li>a. Review and update prioritized items, including Change Requests and Defects and update RTM as needed.</li> <li>b. Review and potential update of feature estimates</li> <li>c. Review and update of vendor dependency</li> <li>d. Review and update of team velocity compared to prior release execution, compared to average velocity of prior iterations and based on team availability for this release</li> <li>e. Refinement and finalization of individual resource tasks</li> <li>f. Review and update of any scheduled work based on work refinement and team's velocity</li> <li>g. Review and update of future releases based on review of past releases</li> <li>h. Implementation of any agreed upon process improvement based on previous release reviews</li> </ul>
	Release and iteration monitoring	The Contractor shall monitor each iteration within this release to control scope and ensure quality.
	Release	For each DDI release, the Contractor and HSD stakeholders

	Requirements	<p>shall complete requirements selection and inclusion iteratively to accommodate prioritization and scoping refinements that emerge over the course of the project.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. Requirements Specification Document</li> <li>b. RTM</li> <li>c. Business Architecture Design Document</li> </ul>
	Release Design	<p>For each DDI release, the Contractor and HSD stakeholders shall complete design iteratively.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. System Design Document</li> <li>b. Metadata Catalog</li> <li>c. Data Dictionary within the Metadata catalog</li> <li>d. Data models (Conceptual, Logical, Physical)</li> <li>e. ICD (Integration Catalog)</li> <li>f. Capacity Planning</li> <li>g. Security Approach</li> </ul>
	Release System Test Plan and Reports	<p>For each DDI release, the Contractor shall coordinate with HSD stakeholders to develop a Release System Test Plan in compliance with the Master Test Plan.</p> <p>In accordance with the accepted Release System Test Plan, the Contractor shall produce System Test Reports for items tested in this release and associated iterations, including:</p> <ul style="list-style-type: none"> <li>a. Summary of test results;</li> <li>b. Pass/failure rate;</li> <li>c. Defects found and severity level of failures; and</li> <li>d. Proposed or enacted resolution for identified defects.</li> </ul>
	Release Acceptance Test Plan and Reports	<p>For each DDI release, the Contractor and HSD stakeholders shall partner to complete UAT testing iteratively.</p> <p>The Contractor shall produce the following UAT test artifacts based on the release scope:</p> <ul style="list-style-type: none"> <li>a. Acceptance Test Scenarios</li> <li>b. Acceptance test cases including expected results and pass/fail criteria</li> <li>c. Acceptance test scripts</li> </ul> <p>The Contractor and HSD stakeholders shall partner to produce UAT reports, address any issues discovered and complete retesting where needed.</p>
	Release	The Contractor shall prepare and execute a Release

	Readiness	<p>Readiness process that documents and ensures readiness for all functionality within the release.</p> <p>The contractor shall coordinate with the HSD management team to use a set of guidelines and templates that will ensure the readiness of each release.</p> <p>The contractor shall assess key attributes of the release against standards, policies, quality metrics, and release criteria to evaluate the readiness of the release, target environment, supporting release package, rollout and rollback plans, training plans, support plans and the risk management plan.</p> <p>The Release Readiness review results in a go/no-go decision about whether to deploy the release.</p>
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**Y. Deliverable 25: Operations and Maintenance Plan**

Deliverable Name	Due Date	Compensation
Operations and Maintenance Plan	01/13/2020	<p><b>Total Compensation Not to Exceed: \$65,000, Including NM GRT</b></p> <p><b>Less: \$6,500 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$58,500, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Operations and Maintenance Plan	O&M Plan	<p>The Contractor shall coordinate with HSD stakeholders to develop an Operations and Maintenance (O&amp;M) Plan that describes the approach, roles and responsibilities, tools and processes to be used following go-live.</p> <p>This Operations and Maintenance (O&amp;M) Plan shall address the following processes for operations work post go-live</p> <ul style="list-style-type: none"> <li>• <u>Operations and Maintenance (O &amp; M) Transition process</u> – This is the process and checklists that will be executed and completed as items transition from DDI to operations. This process will include updates to the Technical Operations Plan, user documentation, and operational staff training as necessary.</li> </ul>



		<ul style="list-style-type: none"> <li>• <u>Operations and Maintenance (O&amp;M) Release Process</u> – The O &amp; M Release Process shall reference and use process detailed in the Release strategy document to scope, plan, and monitor releases post go-live. The Plan will detail any unique differences related to the Release strategy to accommodate processes unique to O &amp; M. In addition, this section shall reference any enhancements to the Change Management Plan for DDI and Risk Management plan to accommodate unique O &amp; M Requirements. This process will include how lessons learned will be captured and folded into future releases.</li> <li>• <u>Operations and Maintenance (O&amp;M) Communication Process</u> – The O &amp; M process shall have its own communication process for status reporting and meeting cadences. This section shall detail out the communications specific to O &amp; M. For example, system outage escalation and communication procedures for the account team to follow for user notifications.</li> <li>• <u>Operations and Maintenance (O&amp;M) Hardware and Software Maintenance process</u> – This process will detail how routine software and hardware patches will be identified, scheduled, communicated and validated during the Operations phase. The section shall include approaches to limit the disruption to production availability and downtime.</li> <li>• <u>Operations and Maintenance (O&amp;M) Staffing Process</u> – This process will detail out how the Operation and Maintenance staffing will be onboarded and trained. It shall include the transition process of select implementation resources over to operations to allow continuity of knowledge. It will include the final Staffing model for operations and Maintenance (O&amp;M) along with roles and responsibilities.</li> <li>• <u>Operations and Maintenance (O&amp;M) Quality Management Process</u> - This process will detail out how Testing will be done on enhancements and release. It will reference the Master Test Plan for</li> </ul>
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		<p>DDI and will contain any unique processes that will be needed for O &amp; M.</p> <ul style="list-style-type: none"> <li>• <u>Operations and Maintenance (O&amp;M) Training Process</u> - This process will detail out the training process for O &amp; M. This process will reference the DDI Training plan and then it will include unique processes that will be needed for O &amp; M.</li> <li>• <u>Operations and Maintenance (O&amp;M) Performance Metrics Monitoring and Reporting process</u> – This process will detail out what performance metrics will be monitored and how they will be reported to HSD.</li> </ul>
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**Z. Deliverable 26: DDI Release 5**

Deliverable Name	Due Date	Compensation
DDI Release 5	02/07/2020	<p><b>Total Compensation Not to Exceed: \$1,160,000, Including NM GRT</b>  <b>Less: \$116,000 Retainage</b>  <b>Total Net Payable on Acceptance: \$1,044,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Release	Release Schedule	In coordination and compliance with the Release Strategy date set for this release, the Contractor shall coordinate with HSD stakeholders to develop a detailed release schedule for all activities, document updates and deliverables within this release.
	Release Refinement and Iteration Planning	<p>Prior to each release, the Contractor and HSD stakeholders will review the release schedules, iterations definitions and work planned then make updates based on Change Request, backlog grooming, and defects. As a part of this refinement, the Contractor shall complete the following:</p> <ol style="list-style-type: none"> <li>Review and update prioritized items, including Change Requests and Defects and update RTM as needed.</li> <li>Review and potential update of feature estimates</li> <li>Review and update of vendor dependency</li> </ol>

	<ul style="list-style-type: none"> <li>d. Review and update of team velocity compared to prior release execution, compared to average velocity of prior iterations and based on team availability for this release</li> <li>e. Refinement and finalization of individual resource tasks</li> <li>f. Review and update of any scheduled work based on work refinement and team's velocity</li> <li>g. Review and update of future releases based on review of past releases</li> <li>h. Implementation of any agreed upon process improvement based on previous release reviews</li> </ul>
Release and iteration monitoring	The Contractor shall monitor each iteration within this release to control scope and ensure quality.
Release Requirements	<p>For each DDI release, the Contractor and HSD stakeholders shall complete requirements selection and inclusion iteratively to accommodate prioritization and scoping refinements that emerge over the course of the project.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. Requirements Specification Document</li> <li>b. RTM</li> <li>c. Business Architecture Design Document</li> </ul>
Release Design	<p>For each DDI release, the Contractor and HSD stakeholders shall complete design iteratively.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. System Design Document</li> <li>b. Metadata Catalog</li> <li>c. Data Dictionary within the Metadata catalog</li> <li>d. Data models (Conceptual, Logical, Physical)</li> <li>e. ICD (Integration Catalog)</li> <li>f. Capacity Planning</li> <li>g. Security Approach</li> </ul>
Release System Test Plan and Reports	<p>For each DDI release, the Contractor shall coordinate with HSD stakeholders to develop a Release System Test Plan in compliance with the Master Test Plan.</p> <p>In accordance with the accepted Release System Test Plan, the Contractor shall produce System Test Reports for items tested in this release and associated iterations, including:</p> <ul style="list-style-type: none"> <li>a. Summary of test results;</li> </ul>

		<ul style="list-style-type: none"> <li>b. Pass/failure rate;</li> <li>c. Defects found and severity level of failures; and</li> <li>d. Proposed or enacted resolution for identified defects.</li> </ul>
	<p>Release Acceptance Test Plan and Reports</p>	<p>For each DDI release, the Contractor and HSD stakeholders shall partner to complete UAT testing iteratively.</p> <p>The Contractor shall produce the following UAT test artifacts based on the release scope:</p> <ul style="list-style-type: none"> <li>a. Acceptance Test Scenarios</li> <li>b. Acceptance test cases including expected results and pass/fail criteria</li> <li>c. Acceptance test scripts</li> </ul> <p>The Contractor and HSD stakeholders shall partner to produce UAT reports, address any issues discovered and complete retesting where needed.</p>
	<p>Release Readiness</p>	<p>The Contractor shall prepare and execute a Release Readiness process that documents and ensures readiness for all functionality within the release.</p> <p>The contractor shall coordinate with the HSD management team to use a set of guidelines and templates that will ensure the readiness of each release.</p> <p>The contractor shall assess key attributes of the release against standards, policies, quality metrics, and release criteria to evaluate the readiness of the release, target environment, supporting release package, rollout and rollback plans, training plans, support plans and the risk management plan.</p> <p>The Release Readiness review results in a go/no-go decision about whether to deploy the release.</p>

AA. Deliverable 27: DDI Release 6

Deliverable Name	Due Date	Compensation
DDI Release 6	05/01/2020	<b>Total Compensation Not to Exceed: \$1,160,000, Including NM GRT</b> <b>Less: \$116,000 Retainage</b> <b>Total Net Payable on Acceptance: \$1,044,000, Including NM GRT</b>

Task Item	Sub Tasks	Description
Release	Release Schedule	In coordination and compliance with the Release Strategy date set for this release, the Contractor shall coordinate with HSD stakeholders to develop a detailed release schedule for all activities, document updates and deliverables within this release.
	Release Refinement and Iteration Planning	Prior to each release, the Contractor and HSD stakeholders will review the release schedules, iterations definitions and work planned then make updates based on Change Request, backlog grooming, and defects. As a part of this refinement, the Contractor shall complete the following: <ul style="list-style-type: none"> <li>a. Review and update prioritized items, including Change Requests and Defects and update RTM as needed.</li> <li>b. Review and potential update of feature estimates</li> <li>c. Review and update of vendor dependency</li> <li>d. Review and update of team velocity compared to prior release execution, compared to average velocity of prior iterations and based on team availability for this release</li> <li>e. Refinement and finalization of individual resource tasks</li> <li>f. Review and update of any scheduled work based on work refinement and team's velocity</li> <li>g. Review and update of future releases based on review of past releases</li> <li>h. Implementation of any agreed upon process improvement based on previous release reviews</li> </ul>
	Release and iteration monitoring	The Contractor shall monitor each iteration within this release to control scope and ensure quality.
	Release	For each DDI release, the Contractor and HSD stakeholders

	Requirements	<p>shall complete requirements selection and inclusion iteratively to accommodate prioritization and scoping refinements that emerge over the course of the project.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. Requirements Specification Document</li> <li>b. RTM</li> <li>c. Business Architecture Design Document</li> </ul>
	Release Design	<p>For each DDI release, the Contractor and HSD stakeholders shall complete design iteratively.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. System Design Document</li> <li>b. Metadata Catalog</li> <li>c. Data Dictionary within the Metadata catalog</li> <li>d. Data models (Conceptual, Logical, Physical)</li> <li>e. ICD (Integration Catalog)</li> <li>f. Capacity Planning</li> <li>g. Security Approach</li> </ul>
	Release System Test Plan and Reports	<p>For each DDI release, the Contractor shall coordinate with HSD stakeholders to develop a Release System Test Plan in compliance with the Master Test Plan.</p> <p>In accordance with the accepted Release System Test Plan, the Contractor shall produce System Test Reports for items tested in this release and associated iterations, including:</p> <ul style="list-style-type: none"> <li>a. Summary of test results;</li> <li>b. Pass/failure rate;</li> <li>c. Defects found and severity level of failures; and</li> <li>d. Proposed or enacted resolution for identified defects.</li> </ul>
	Release Acceptance Test Plan and Reports	<p>For each DDI release, the Contractor and HSD stakeholders shall partner to complete UAT testing iteratively.</p> <p>The Contractor shall produce the following UAT test artifacts based on the release scope:</p> <ul style="list-style-type: none"> <li>a. Acceptance Test Scenarios</li> <li>b. Acceptance test cases including expected results and pass/fail criteria</li> <li>c. Acceptance test scripts</li> </ul> <p>The Contractor and HSD stakeholders shall partner to produce UAT reports, address any issues discovered and complete retesting where needed.</p>
	Release	The Contractor shall prepare and execute a Release

	Readiness	<p>Readiness process that documents and ensures readiness for all functionality within the release.</p> <p>The contractor shall coordinate with the HSD management team to use a set of guidelines and templates that will ensure the readiness of each release.</p> <p>The contractor shall assess key attributes of the release against standards, policies, quality metrics, and release criteria to evaluate the readiness of the release, target environment, supporting release package, rollout and rollback plans, training plans, support plans and the risk management plan.</p> <p>The Release Readiness review results in a go/no-go decision about whether to deploy the release.</p>
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**BB. Deliverable 28: DDI Release 7**

Deliverable Name	Due Date	Compensation
DDI Release 7	07/24//2020	<p><b>Total Compensation Not to Exceed: \$1,160,000, Including NM GRT</b></p> <p><b>Less: \$116,000 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$1,044,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Release	Release Schedule	In coordination and compliance with the Release Strategy date set for this release, the Contractor shall coordinate with HSD stakeholders to develop a detailed release schedule for all activities, document updates and deliverables within this release.
	Release Refinement and Iteration Planning	<p>Prior to each release, the Contractor and HSD stakeholders will review the release schedules, iterations definitions and work planned then make updates based on Change Request, backlog grooming, and defects. As a part of this refinement, the Contractor shall complete the following:</p> <ul style="list-style-type: none"> <li>a. Review and update prioritized items, including Change Requests and Defects and update RTM as needed.</li> <li>b. Review and potential update of feature estimates</li> </ul>

	<ul style="list-style-type: none"> <li>c. Review and update of vendor dependency</li> <li>d. Review and update of team velocity compared to prior release execution, compared to average velocity of prior iterations and based on team availability for this release</li> <li>e. Refinement and finalization of individual resource tasks</li> <li>f. Review and update of any scheduled work based on work refinement and team's velocity</li> <li>g. Review and update of future releases based on review of past releases</li> <li>h. Implementation of any agreed upon process improvement based on previous release reviews</li> </ul>
Release and iteration monitoring	The Contractor shall monitor each iteration within this release to control scope and ensure quality.
Release Requirements	<p>For each DDI release, the Contractor and HSD stakeholders shall complete requirements selection and inclusion iteratively to accommodate prioritization and scoping refinements that emerge over the course of the project.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. Requirements Specification Document</li> <li>b. RTM</li> <li>c. Business Architecture Design Document</li> </ul>
Release Design	<p>For each DDI release, the Contractor and HSD stakeholders shall complete design iteratively.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. System Design Document</li> <li>b. Metadata Catalog</li> <li>c. Data Dictionary within the Metadata catalog</li> <li>d. Data models (Conceptual, Logical, Physical)</li> <li>e. ICD (Integration Catalog)</li> <li>f. Capacity Planning</li> <li>g. Security Approach</li> </ul>
Release System Test Plan and Reports	<p>For each DDI release, the Contractor shall coordinate with HSD stakeholders to develop a Release System Test Plan in compliance with the Master Test Plan.</p> <p>In accordance with the accepted Release System Test Plan, the Contractor shall produce System Test Reports for items tested in this release and associated iterations, including:</p>



		<ul style="list-style-type: none"> <li>a. Summary of test results;</li> <li>b. Pass/failure rate;</li> <li>c. Defects found and severity level of failures; and</li> <li>d. Proposed or enacted resolution for identified defects.</li> </ul>
	<p>Release Acceptance Test Plan and Reports</p>	<p>For each DDI release, the Contractor and HSD stakeholders shall partner to complete UAT testing iteratively.</p> <p>The Contractor shall produce the following UAT test artifacts based on the release scope:</p> <ul style="list-style-type: none"> <li>a. Acceptance Test Scenarios</li> <li>b. Acceptance test cases including expected results and pass/fail criteria</li> <li>c. Acceptance test scripts</li> </ul> <p>The Contractor and HSD stakeholders shall partner to produce UAT reports, address any issues discovered and complete retesting where needed.</p>
	<p>Release Readiness</p>	<p>The Contractor shall prepare and execute a Release Readiness process that documents and ensures readiness for all functionality within the release.</p> <p>The contractor shall coordinate with the HSD management team to use a set of guidelines and templates that will ensure the readiness of each release.</p> <p>The contractor shall assess key attributes of the release against standards, policies, quality metrics, and release criteria to evaluate the readiness of the release, target environment, supporting release package, rollout and rollback plans, training plans, support plans and the risk management plan.</p> <p>The Release Readiness review results in a go/no-go decision about whether to deploy the release.</p>

**CC. Deliverable 29: DDI Release 8**

Deliverable Name	Due Date	Compensation
DDI Release 8	10/16/2020	<p><b>Total Compensation Not to Exceed: \$1,160,000, Including NM GRT</b></p> <p><b>Less: \$116,000 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$1,044,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Release	Release Schedule	In coordination and compliance with the Release Strategy date set for this release, the Contractor shall coordinate with HSD stakeholders to develop a detailed release schedule for all activities, document updates and deliverables within this release.
	Release Refinement and Iteration Planning	<p>Prior to each release, the Contractor and HSD stakeholders will review the release schedules, iterations definitions and work planned then make updates based on Change Request, backlog grooming, and defects. As a part of this refinement, the Contractor shall complete the following:</p> <ul style="list-style-type: none"> <li>a. Review and update prioritized items, including Change Requests and Defects and update RTM as needed.</li> <li>b. Review and potential update of feature estimates</li> <li>c. Review and update of vendor dependency</li> <li>d. Review and update of team velocity compared to prior release execution, compared to average velocity of prior iterations and based on team availability for this release</li> <li>e. Refinement and finalization of individual resource tasks</li> <li>f. Review and update of any scheduled work based on work refinement and team's velocity</li> <li>g. Review and update of future releases based on review of past releases</li> <li>h. Implementation of any agreed upon process improvement based on previous release reviews</li> </ul>
	Release and iteration monitoring	The Contractor shall monitor each iteration within this release to control scope and ensure quality.
	Release	For each DDI release, the Contractor and HSD stakeholders

	Requirements	<p>shall complete requirements selection and inclusion iteratively to accommodate prioritization and scoping refinements that emerge over the course of the project.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. Requirements Specification Document</li> <li>b. RTM</li> <li>c. Business Architecture Design Document</li> </ul>
	Release Design	<p>For each DDI release, the Contractor and HSD stakeholders shall complete design iteratively.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. System Design Document</li> <li>b. Metadata Catalog</li> <li>c. Data Dictionary within the Metadata catalog</li> <li>d. Data models (Conceptual, Logical, Physical)</li> <li>e. ICD (Integration Catalog)</li> <li>f. Capacity Planning</li> <li>g. Security Approach</li> </ul>
	Release System Test Plan and Reports	<p>For each DDI release, the Contractor shall coordinate with HSD stakeholders to develop a Release System Test Plan in compliance with the Master Test Plan.</p> <p>In accordance with the accepted Release System Test Plan, the Contractor shall produce System Test Reports for items tested in this release and associated iterations, including:</p> <ul style="list-style-type: none"> <li>a. Summary of test results;</li> <li>b. Pass/failure rate;</li> <li>c. Defects found and severity level of failures; and</li> <li>d. Proposed or enacted resolution for identified defects.</li> </ul>
	Release Acceptance Test Plan and Reports	<p>For each DDI release, the Contractor and HSD stakeholders shall partner to complete UAT testing iteratively.</p> <p>The Contractor shall produce the following UAT test artifacts based on the release scope:</p> <ul style="list-style-type: none"> <li>a. Acceptance Test Scenarios</li> <li>b. Acceptance test cases including expected results and pass/fail criteria</li> <li>c. Acceptance test scripts</li> </ul> <p>The Contractor and HSD stakeholders shall partner to produce UAT reports, address any issues discovered and complete retesting where needed.</p>
	Release	The Contractor shall prepare and execute a Release

	<p>Readiness</p>	<p>Readiness process that documents and ensures readiness for all functionality within the release.</p> <p>The contractor shall coordinate with the HSD management team to use a set of guidelines and templates that will ensure the readiness of each release.</p> <p>The contractor shall assess key attributes of the release against standards, policies, quality metrics, and release criteria to evaluate the readiness of the release, target environment, supporting release package, rollout and rollback plans, training plans, support plans and the risk management plan.</p> <p>The Release Readiness review results in a go/no-go decision about whether to deploy the release.</p>
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**DD. Deliverable 30: CMS (R2) Operational Milestone Review for Certification**

Deliverable Name	Due Date	Compensation
<p><b>CMS (R2) Operational Milestone Review for Certification</b></p>	<p>9/1/2020</p>	<p><b>Total Compensation Not to Exceed: \$400,000, Including NM GRT</b></p>
Task Item	Sub Tasks	Description
<p><b>CMS (R2) Operational Milestone Review for Certification</b></p>	<p><b>CMS (R2) Operational Milestone Review for Certification</b></p>	<p>The Contractor shall support HSD and the MMISR Independent Verification and Validation (IV&amp;V) Contractor through the CMS MMIS certification process. The Contractor shall ensure that the DS module meets CMS certification requirements.</p> <p>The Contractor shall provide the documentation required to support CMS Operational Milestone Review for Certification and keep them updated in the HHS 2020 Document Library.</p> <p>The Contractor shall comply with applicable CMS MMIS MECT checklist requirements for the DS module and shall provide the necessary artifacts and evidence for CMS Operational Milestone review. The Contractor shall work with HSD and the MMISR IV&amp;V Contractor to review the artifacts and evidence and shall update the documentation if needed.</p>

		<ul style="list-style-type: none"> <li>• The Contractor shall refer to Addendum 18 HHS 2020 MITA Business Area to Module in the Procurement Library in the MMISR Integrated Master Schedule;</li> <li>• Coordinating preparation for DS Certification activities;</li> <li>• Assisting in responses to questions from CMS; and</li> <li>• Monitoring the Certification review process and helping to resolve issues that CMS may have.</li> </ul>
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**EE. Deliverable 31: Technical Operations Plan**

Deliverable Name	Due Date	Compensation
<p align="center"><b>Technical Operations Plan</b></p>	<p align="center"><b>01/11/2021</b></p>	<p align="center"> <b>Total Compensation Not to Exceed: \$65,000, Including NM GRT</b>  <b>Less: \$6,500 Retainage</b>  <b>Total Net Payable on Acceptance: \$58,500, Including NM GRT</b> </p>

Task Item	Sub Tasks	Description
<p>Technical Operations Plan</p>	<p>Technical Operations Plan</p>	<p>The Contractor shall coordinate with HSD stakeholders to develop a Technical Operations Plan to guide those who will maintain, support and/or use the DS module in a day-to-day, operations environment.</p> <p>This plan shall contain the following detailed procedures describing how the steps the staff will execute to ensure that the deployed systems are working as expected.</p> <ul style="list-style-type: none"> <li>• <u>System Health Check Procedures</u>: For each system, this plan shall contain a set of documented procedures that are run periodically to ensure the system is operational and meets the SLA for availability and performance.</li> <li>• <u>System Operations Procedures</u>: For each system deliverable deployed, this plan shall contain information that details the run procedures for batch job execution, system issues escalation procedures, key resource contact information, and maintenance strategy for versions and security</li> </ul>

		<p>patches. It will also contain a list of possible error scenarios and solutions.</p> <ul style="list-style-type: none"> <li>• <u>Help Desk Procedures:</u> For the DS Solution, this document shall detail the policy and procedures for users and team members to contact the help desk and create help desk tickets and how these tickets should be resolved and escalated.</li> <li>• <u>SLA Tracking Procedures:</u> For all SLAs, there will be procedures on how to collect and track SLAs. It will also include the escalation procedures if SLAs are not meet and how root cause analysis will be executed.</li> </ul>
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**FF.Deliverable 32: Privacy Impact Analysis**

Deliverable Name	Due Date	Compensation
Privacy Impact Analysis	01/11/2021	<p><b>Total Compensation Not to Exceed: \$60,000, Including NM GRT</b></p> <p><b>Less: \$6,000 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$54,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
Privacy Impact Analysis	Privacy Impact Analysis	<p>The Contractor shall develop a Privacy Impact Analysis that</p> <ul style="list-style-type: none"> <li>• Identifies the specific types of confidential, restricted, and public data that the Contractor will collect, secure, share, store, use, process, disclose, or disseminate.</li> <li>• Analyzes the privacy risks associated with maintaining that information, and subsequently documents the results of the analysis.</li> <li>• Contains privacy and security policies, procedures, and standards for its business partners and other third parties and the agreements that bind these entities, incident handling procedures, and privacy and/or security awareness programs and materials for its workforce.</li> </ul>

		<ul style="list-style-type: none"> <li>• Outlines the legal environment as specified by HSD (legal authorities and Federal/State privacy laws) that needs to be addressed for privacy of data.</li> <li>• Conforms to the CMS required format.</li> </ul>
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**GG. Deliverable 33: System Risk Assessment**

Deliverable Name	Due Date	Compensation
System Risk Assessment	01/11/2021	<p><b>Total Compensation Not to Exceed: \$60,000, Including NM GRT</b></p> <p><b>Less: \$6,000 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$54,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
System Risk Assessment	System Risk Assessment	<p>The Contractor shall develop a System Risk Assessment that</p> <ul style="list-style-type: none"> <li>• provides structured identification of risk exposure for the Data Services Module</li> <li>• addresses threats, vulnerabilities, risks, and</li> <li>• recommends appropriate safeguards (management, operational, and technical controls) in support of continued business operations.</li> </ul>

**HH. Deliverable 34: Security Certification & Accreditation**

Deliverable Name	Due Date	Compensation
<p align="center"><b>Security Certification &amp; Accreditation</b></p>	<p align="center"><b>01/11/2021</b></p>	<p align="center"> <b>Total Compensation Not to Exceed: \$60,000, Including NM GRT</b>  <b>Less: \$6,000 Retainage</b>  <b>Total Net Payable on Acceptance: \$54,000, Including NM GRT</b> </p>

Task Item	Sub Tasks	Description
<p><b>Security Certification &amp; Accreditation</b></p>	<p><b>Security Certification &amp; Accreditation</b></p>	<p>The Contractor shall produce Certification and Accreditation documentation compliant with the CMS requirements for CMS certification. The documentation shall cover (6) distinct phases to form a continuous security management practice. The documentation elements and sequence shall be as follows below -</p> <ul style="list-style-type: none"> <li>• Certification and Accreditation Cover Memo</li> <li>• Table of Contents</li> <li>• Executive Summary</li> <li>• Security Certification Form</li> <li>• System Security Plan (SSP)</li> <li>• Information Security Risk Assessment (IS RA)</li> <li>• Contingency Plan (CP)</li> <li>• Test of the CP</li> <li>• Security Test &amp; Evaluation (ST&amp;E) Report</li> <li>• Plan of Action and Milestones</li> </ul>



**II. Deliverable 35: Security Questionnaire**

Deliverable Name	Due Date	Compensation
Security Questionnaire	01/11/2021	<p><b>Total Compensation Not to Exceed: \$60,000, Including NM GRT</b></p> <p><b>Less: \$6,000 Retainage</b></p> <p><b>Total Net Payable on Acceptance: \$54,000, Including NM GRT</b></p>
Task Item	Sub Tasks	Description
Security Questionnaire	Security Questionnaire	<p>The Contractor shall develop a Security Questionnaire that includes the questions necessary to assess the readiness of the MMISR module Contractors to meet the Integration Platform policies, procedures, and standards. The questionnaire shall evaluate MMISR module Contractors in the following categories.</p> <ul style="list-style-type: none"> <li>a. Security and privacy policy, procedures and standards</li> <li>b. Identity and access management</li> <li>c. Security auditing, logging and reporting</li> <li>d. Data encryption</li> <li>e. System boundary protection and infrastructure security</li> <li>f. Applicable management, operations and technical controls from the system security plan</li> </ul> <p>The questionnaire shall inquire if the module contractors meet each security requirement out of the box, will meet it but customization is required, or if a requirement cannot be met.</p>

JJ. Deliverable 36: DDI Release 9

Deliverable Name	Due Date	Compensation
DDI Release 9	03/05/2021	<b>Total Compensation Not to Exceed: \$1,160,000, Including NM GRT</b> <b>Less: \$116,000 Retainage</b> <b>Total Net Payable on Acceptance: \$1,044,000, Including NM GRT</b>

Task Item	Sub Tasks	Description
Release	Release Schedule	In coordination and compliance with the Release Strategy date set for this release, the Contractor shall coordinate with HSD stakeholders to develop a detailed release schedule for all activities, document updates and deliverables within this release.
	Release Refinement and Iteration Planning	Prior to each release, the Contractor and HSD stakeholders will review the release schedules, iterations definitions and work planned then make updates based on Change Request, backlog grooming, and defects. As a part of this refinement, the Contractor shall complete the following: <ul style="list-style-type: none"> <li>a. Review and update prioritized items, including Change Requests and Defects and update RTM as needed.</li> <li>b. Review and potential update of feature estimates</li> <li>c. Review and update of vendor dependency</li> <li>d. Review and update of team velocity compared to prior release execution, compared to average velocity of prior iterations and based on team availability for this release</li> <li>e. Refinement and finalization of individual resource tasks</li> <li>f. Review and update of any scheduled work based on work refinement and team's velocity</li> <li>g. Review and update of future releases based on review of past releases</li> <li>h. Implementation of any agreed upon process improvement based on previous release reviews</li> </ul>
	Release and iteration monitoring	The Contractor shall monitor each iteration within this release to control scope and ensure quality.
	Release	For each DDI release, the Contractor and HSD stakeholders

	Requirements	<p>shall complete requirements selection and inclusion iteratively to accommodate prioritization and scoping refinements that emerge over the course of the project.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. Requirements Specification Document</li> <li>b. RTM</li> <li>c. Business Architecture Design Document</li> </ul>
	Release Design	<p>For each DDI release, the Contractor and HSD stakeholders shall complete design iteratively.</p> <p>The Contractor shall update the following artifacts based on DDI 1 release scope:</p> <ul style="list-style-type: none"> <li>a. System Design Document</li> <li>b. Metadata Catalog</li> <li>c. Data Dictionary within the Metadata catalog</li> <li>d. Data models (Conceptual, Logical, Physical)</li> <li>e. ICD (Integration Catalog)</li> <li>f. Capacity Planning</li> <li>g. Security Approach</li> </ul>
	Release System Test Plan and Reports	<p>For each DDI release, the Contractor shall coordinate with HSD stakeholders to develop a Release System Test Plan in compliance with the Master Test Plan.</p> <p>In accordance with the accepted Release System Test Plan, the Contractor shall produce System Test Reports for items tested in this release and associated iterations, including:</p> <ul style="list-style-type: none"> <li>a. Summary of test results;</li> <li>b. Pass/failure rate;</li> <li>c. Defects found and severity level of failures; and</li> <li>d. Proposed or enacted resolution for identified defects.</li> </ul>
	Release Acceptance Test Plan and Reports	<p>For each DDI release, the Contractor and HSD stakeholders shall partner to complete UAT testing iteratively.</p> <p>The Contractor shall produce the following UAT test artifacts based on the release scope:</p> <ul style="list-style-type: none"> <li>a. Acceptance Test Scenarios</li> <li>b. Acceptance test cases including expected results and pass/fail criteria</li> <li>c. Acceptance test scripts</li> </ul> <p>The Contractor and HSD stakeholders shall partner to produce UAT reports, address any issues discovered and complete retesting where needed.</p>
	Release	The Contractor shall prepare and execute a Release

	<p>Readiness</p>	<p>Readiness process that documents and ensures readiness for all functionality within the release.</p> <p>The contractor shall coordinate with the HSD management team to use a set of guidelines and templates that will ensure the readiness of each release.</p> <p>The contractor shall assess key attributes of the release against standards, policies, quality metrics, and release criteria to evaluate the readiness of the release, target environment, supporting release package, rollout and rollback plans, training plans, support plans and the risk management plan.</p> <p>The Release Readiness review results in a go/no-go decision about whether to deploy the release.</p>
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**KK. Deliverable 37: CMS (R3) Certification Final Review**

Deliverable Name	Due Date	Compensation
<p><b>CMS (R3) Certification Final Review</b></p>	<p><b>12/10/2021</b></p>	<p><b>Total Compensation Not to Exceed: \$500,000, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
<p><b>CMS (R3) Certification Final Review</b></p>	<p><b>CMS (R3) Certification Final Review</b></p>	<p>The Contractor shall support HSD and IV&amp;V contractor through the CMS MMIS certification process. The Contractor will ensure that the Data Services Module meets certification requirements.</p> <p>The Contractor will provide the documentation required to support CMS Certification Final review and keep them updated in the HHS 2020 Document Library.</p> <p>Contractor will comply with applicable CMS MMIS MECT checklist requirements for the Data Services Module and provide the necessary artifacts/evidence for CMS Certification Final review.</p> <p>The Contractor will work with HSD and the IV&amp;V Contractor to review the artifacts/evidence, and update if needed.</p>

		<p>Contractor will refer to Addendum 18 HHS 2020 MITA Business Area to Module in the Procurement Library as a living document which can change due to: CMS updates to the MECT checklists; or if it is mutually agreed between the State and the Contractor.</p> <p>The Contractor will work with HSD, the IV&amp;V Contractor, the SI Contractor and CMS to coordinate their participation in the CMS Certification Final review and process, including understanding and elucidating timing and submission of documents and artifacts/evidence, providing DS schedule details for inclusion in the integrated Master Schedule, coordinating preparation for Certification activities and presentations, assisting in responses to questions from CMS, monitoring the Certification review process and helping to resolve issues that might prevent certification.</p>
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**LL. Deliverable 38: Program and Project Management Services and Status Report**

Deliverable Name	Due Date	Compensation
<p align="center"><b>Program and Project Management Services and Status Report</b></p>	<p align="center"><b>Monthly beginning 11/01/2018 through 03/31/2021</b></p>	<p align="center"><b>Total Compensation Not to Exceed: \$1,680,000, Including NM GRT Invoiced Monthly with Compensation Not to Exceed \$60,000/Month, Including NM GRT</b></p>
Task Item	Sub Tasks	Description
<p><b>Program and Project Management Services and Status Report</b></p>	<p><b>Program and Project Management Services and Status Report</b></p>	<p>The Contractor, in coordination with the HSD PMO and SI PMO, shall produce and be accountable for the successful outcomes in all areas of project management related to the DS module and its interactions with other modules.</p> <p>The Contractor shall perform all required project management work including, but not limited to:</p> <ul style="list-style-type: none"> <li>a. Maintaining the detailed Project Work Plan for DS and providing updates to the SI Integrated Master Schedule;</li> <li>b. Managing work against the approved DS schedule and the SI Integrated Master Schedule;</li> <li>c. Identifying, analyzing, and actively managing project-related risks;</li> </ul>

		<ul style="list-style-type: none"> <li>d. Identifying, documenting and actively managing project-related action items and issues;</li> <li>e. Managing DS project budget and financials, including providing regular and ad hoc reports;</li> <li>f. Managing Contractor resources for successful delivery of project work;</li> <li>g. Planning, facilitating, leading and documenting meetings;</li> <li>h. Reporting on project status;</li> <li>i. Updating the Project Document Library for DS artifacts;</li> <li>j. Managing Stakeholder Collaboration for DS module;</li> <li>k. Managing assets related to the DS module.</li> <li>l. Maintaining and updating as needed all other planning, management, design and definition documents covered under this agreement.</li> </ul> <p>Compensation for updates to planning, management, design and definition documents is included in the monthly payment for this deliverable.</p> <p>The Contractor shall produce a monthly status report to update project stakeholders and executives on progress against the project work plan. The report shall address actual progress against planned work, identification of any schedule slippages or impacts on dependent tasks, and steps that will be taken to address schedule-related issues.</p> <p>The Contractor shall produce the monthly status report in format agreed upon between the State and the Contractor. The monthly status report shall include, at a minimum:</p> <ul style="list-style-type: none"> <li>a. Work performed the previous month;</li> <li>b. Work planned for the upcoming month;</li> <li>c. DS Project status (red/yellow/green) by categories agreed upon with the State;</li> <li>d. Outstanding action items and issues;</li> <li>e. DS Project risks and mitigation plans;</li> <li>f. DS progress against planned work schedule, slippage, impacts, corrective action plans;</li> <li>g. Dashboard for SLA's related to DS responsibility;</li> <li>h. Certification milestone status; and</li> <li>i. Brief summary of this report content to be included in the SI status report.</li> </ul>
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**MM. Deliverable 39: Monthly M&O Services and Report**

Deliverable Name	Due Date	Compensation
<p align="center"><b>Monthly M&amp;O Services and Report</b></p>	<p align="center"><b>Monthly beginning 04/30/2021 thru 09/30/2022</b></p>	<p align="center"><b>Total Compensation Not to Exceed: \$3,475,000, Including NM GRT</b></p> <p align="center"><b>Invoiced Monthly with Compensation Not to Exceed \$173,750/Month, Including NM GRT</b></p>

Task Item	Sub Tasks	Description
<p><b>Monthly M&amp;O Services and Report</b></p>	<p><b>Monthly M&amp;O Services and Report</b></p>	<p>The Contractor shall provide ongoing M&amp;O services for the DS module. These services shall include, but not be limited to the ongoing execution and utilization of management plans and services defined and developed during DDI and the M&amp;O services described in this and other M&amp;O related deliverables.</p> <p>The Contractor shall document the execution of these services, their effectiveness, deficiencies and planned improvements in a monthly M&amp;O Services Report. Compensation for these services and reports will be made through this monthly deliverable and associated payment.</p> <p>The services shall include, but not be limited to:</p> <ul style="list-style-type: none"> <li>• Monitoring progress in addressing DS issues that adversely affect MMISR operations, service delivery, performance levels, and data integrity.</li> </ul> <p>Updating the DS module on a monthly release cycle, to include needed enhancements, functionality corrections, data corrections and other changes.</p> <ul style="list-style-type: none"> <li>• Augmenting the monthly release cycle as needed with “off-cycle” releases at a frequency determined by mutual agreement between the Contractor and HSD.</li> <li>• Producing all standardized and production promoted reports, views, queries, analytics and data extracts or interfaces, such as TMSIS and other Federal and State reports and data files.</li> <li>• Establishing an IT Service Management (ITSM)-compliant service desk that offers Tier 1, Tier 2</li> </ul>

		<p>and Tier 3 support for the DS module components and functionality. The help desk shall coordinate resolution of service requests for all DS components and functionality. The help desk shall work in coordination with the SI ITSM help desk in escalation paths, ticket tracking and problem resolution.</p> <ul style="list-style-type: none"> <li>• Staffing the service desk during business hours.</li> <li>• Monitoring the performance of the DS solution against agreed-upon SLAs and identifying and resolving service-level violations.</li> <li>• Managing all aspects of user support for the DS module components.</li> </ul> <p>Providing a web-based issue tracking system designed to optimize workflow and effectively manage technical and end user issues. The issue tracking system shall allow searches, using knowledge base articles and content repository, of all information contained on the site, including solutions to previously reported issues of general interest.</p> <ul style="list-style-type: none"> <li>• Analyzing and reporting on downtime and availability for the DS module.</li> <li>• Defining and developing user activity reports, and producing and distributing these for use.</li> <li>• Providing measurement and assessment services, including reporting and analytics, to track and measure operational performance.</li> <li>• Producing other reports related to system availability, performance, mean time between failures, or other related topics as requested by HSD.</li> <li>• Provide support for complex client issues, with designed processes to ensure follow-up and closure.</li> <li>• Providing expert level support from the Medicaid and Analytic Advisory Panel.</li> <li>• Developing and delivering a monthly O&amp;M status report that describes their activity in ongoing user support, data analytics expert support, data warehouse support, Medicaid and other problem identification, root cause analyses, monitoring, documentation and problem resolutions for issues in the Data Services Module.</li> </ul>
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**EXHIBIT A-1 – KEY PERSONNEL**

Contractor's key personnel shall not be diverted from this Agreement without the prior written approval of the HSD. Key personnel are those individuals considered by the HSD to be mandatory to the work to be performed under this Agreement.

Quantity	Role/Title	Name
1	Project Executive	Annie Ahern
1	Project Manager	Betsy Guthrie
1	Data Manager	Paul Eidsvoog
1	Implementation / Integration Manager	TBD
1	Database Administrator	Elena Cohen
1	Privacy and Security Lead	Lester Garripee
1	Test Manager/TQM Lead	TBD
1	Solution Architect	Greg Frank

**EXHIBIT B – PERFORMANCE MEASURES**

Contractor will not be liable for any failure to meet performance measures or for associated liquidated damages resulting in whole or in part from events, causes, or responsibilities that are outside of Contractor's control.

Phase	#	Category	Performance Standard	Liquidated Damages
DDI/O PS	1	Configuration Management	<p>The DS Contractor shall not put into production any changes including configurable items and business rules without the prior written approval of HSD via the Change Control and Release Management processes.</p> <p>HSD will use an emergency approval process to expedite urgent changes necessary to support maximum system availability.</p>	<p>HSD may assess \$5,000 per occurrence for DS Contractor's failure to obtain HSD prior written approval for changes.</p> <p>This performance standard shall only apply after the MMISR Go Live in accordance with the mutually agreed upon Project Schedule.</p>
OPS	2	Disaster Recovery	<p>For the DS module, the DS Contractor shall perform and pass the annual recovery and restoration testing that is outlined and accepted by HSD in the "Disaster Recovery Plan" Deliverable.</p> <p>DS Contractor shall coordinate with the SI Contractor and their disaster recovery testing related to its interaction with the DS module. The testing schedule shall be mutually agreed upon by HSD and DS Contractor.</p>	<p>HSD may assess \$5,000 per business day for each day the passing completion of the test for the DS module is beyond the scheduled test date.</p>
OPS	3	Disaster Recovery	<p>The DS Contractor shall achieve a Recovery Point Objective (RPO) of 4 hours or less for the DS module and data such that the established environment contains the full data of the production environment including installed software and configurations at the time of the last replication.</p>	<p>HSD may assess \$5,000 for each hour or part thereof for an RPO realization that is greater than 4 hours.</p>
OPS	4	Disaster Recovery	<p>The DS Contractor shall provide capacity, process and performance to fail-over and resume all components of production operations from the production environment to the disaster recovery environment within a Recovery Time Objective (RTO) of 4 hours of the declaration of disaster for all DS module components. The environment shall contain the full data of the production environment</p>	<p>HSD may assess \$5,000 per hour for every hour or part thereof beyond the 4 hours specified that the production functionality is not failed-over and operational for all DS module components.</p>

Phase	#	Category	Performance Standard	Liquidated Damages
			including installed software and configurations at the time of the last replication.	
DDI	5	Project Management	DS Contractor shall deliver the deliverables, per DED requirements, by the due dates as set forth in the then-approved project schedule or as otherwise mutually agreed upon.	HSD may assess \$1,000 per business day thereafter until the date that deliverable is delivered to HSD.
OPS	6	Project Management	<p>The DS Contractor shall deliver to the HSD project manager or designee timely and accurate reports specific to each defined performance measure described in this table of performance measures. The reports shall be specific to the related time period and quantifiably specific to the measure being reported. Reports shall be based on a measuring and monitoring methodology and tools approved by HSD.</p> <p>The DS Contractor and HSD will work together to develop a performance standards status report ("Dashboard").</p>	HSD may assess \$100 per performance measurement per day for reports that are not presented to HSD by the agreed upon date and time for submission.
DDI/O PS	7	Staff Resource Management	The DS Contractor shall timely replace Key Personnel according to the contract process. Replacement of Key Personnel will take place within 30 calendar days of removal unless a longer period is approved by HSD.	HSD may assess up to \$1,000 per Business Day for each Business Day beyond the 30 calendar days allowed for replacement of Key Personnel. This Performance Standard will not apply to days that proposed candidates are being reviewed by HSD for their approval.
DDI/O PS	8	Staff Resource Management	<p>Except as set forth in the Contract or due to a personnel resignation or termination, the DS Contractor shall not replace Key Personnel without prior written approval of HSD.</p> <p>The list of Key Personnel during Contract will be mutually agreed upon by the HSD and DS Contractor.</p>	HSD may assess up to a maximum of \$10,000 per occurrence.
OPS	9	System Availability	DS Contractor shall provide all components of the DS module available for production	HSD may assess liquidated damages per day as specified

Phase	#	Category	Performance Standard	Liquidated Damages
			<p>processing 99.99% of the time 365 days per year.</p> <p>Maintenance downtime hours approved on exceptional basis do not apply to this standard.</p>	<p>below when the average daily performance fails to meet the performance standard.</p> <p>Availability drops below 99.99% to 99.9% (more than 8.66 seconds and less than 1.44 minutes of downtime per 24-hour period): \$5,000</p> <p>Availability drops below 99.9% to (more than 14.4 minutes of downtime per 24-hour period): \$7,500</p> <p>Availability drops below 99% (more than 14.4 minutes of downtime per 24-hour period): \$10,000</p> <p>The assessment of Liquidated Damages for this performance standard shall only apply 90 days after the MMISR Go Live in accordance with the mutually agreed upon Project Schedule.</p>
OPS	10	System Maintenance	<p>DS Contractor shall analyze and propose a resolution to HSD for all DS module Severity 1 incidents within 1 hour from the time the DS Contractor is aware of the incident.</p> <p>For the purposes of the SLA herein, Severity 1 incidents shall be defined as mutually agreed upon prior to Go-Live.</p>	<p>HSD may assess \$1,000 per hour, or part of an hour, for each hour when the resolution is not proposed to HSD per the performance standard.</p> <p>The assessment of Liquidated Damages for this performance standard shall only apply 90 days after the MMISR Go Live in accordance with the mutually agreed upon Project Schedule.</p>
OPS	11	System Maintenance	<p>DS Contractor shall analyze and propose a resolution to HSD for all DS module Severity 2 incidents within 4 hours from the time the DS Contractor is aware of the incident.</p> <p>For the purposes of the SLA herein, Severity 2 incidents shall be defined as mutually agreed</p>	<p>HSD may assess \$5,000 per day, when the resolution is not proposed to HSD per the performance standard.</p> <p>The assessment of Liquidated Damages for this performance</p>

Phase	#	Category	Performance Standard	Liquidated Damages
			upon prior to Go-Live.	standard shall only apply 90 days after the MMISR Go Live in accordance with the mutually agreed upon Project Schedule.
OPS	12	System Performance	<p>The DS system shall provide the following response times based on 100 concurrent users:</p> <p>95% of standard ad hoc queries in the production environment will return results in no less than 5 seconds. A standard ad hoc query will be defined as a query that returns less than 5000 rows of data and that does not perform complex data aggregation before returning the results to the user.</p> <p>Under 10 seconds to display maps and imagery</p>	HSD may assess \$5,000 per month per standard when the daily average exceeds the standard.
OPS	13	Reporting	The DS Contractor shall produce Federal reports in compliance with federal reporting timelines.	HSD may assess \$5,000 per day per report for reports produced later than the deadline.
OPS	14	Reporting	The DS Contractor shall produce Federal reports will be produced with 100% accuracy.	HSD may assess \$5,000 per day per inaccurate report until the inaccuracy is corrected and report(s) is reproduced.

**EXHIBIT C – HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“BAA”) is entered into between the New Mexico Human Services Department (“Department”) and International Business Machines Corporation, hereinafter referred to as “Business Associate”, in order to comply with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) as amended by Health Information Technology for Economic and Clinical Health Act of 2009 (the “HITECH Act”), including the Standards of the Privacy of Individually Identifiable Health Information and the Security Standards at 45 CFR Parts 160 and 164.

**BUSINESS ASSOCIATE**, by this PSC 19-630-4000-0003 has agreed to provide services to, or on behalf of the HSD which may involve the disclosure by the Department to the Business Associate (referred to in PSC 19-630-4000-0003 as “Contractor”) of Protected Health Information. This Business Associate Agreement is intended to supplement the obligations of the Department and the Contractor as set forth in PSC 19-630-4000-0003, and is hereby incorporated therein.

**THE PARTIES** acknowledge HIPAA, as amended by the HITECH Act, requires that Department and Business Associate enter into a written agreement that provides for the safeguarding and protection of all Protected Health Information which Department may disclose to the Business Associate, or which may be created or received by the Business Associate on behalf of the Department.

**1. Definition of Terms**

- a. **Breach.** “Breach” has the meaning assigned to the term breach under 42 U.S.C. § 17921(1) [HITECH Act § 13400 (1)] and 45 CFR § 164.402.
- b. **Business Associate.** “Business Associate”, herein being the same entity as the Contractor in PSC 19-630-4000-0003, shall have the same meaning as defined under the HIPAA standards as defined below, including without limitation Contractor acting in the capacity of a Business Associate as defined in 45 CFR § 160.103.
- c. **Department.** “Department” shall mean in this agreement the State of New Mexico Human Services Department.
- d. **Individual.** “Individual” shall have the same meaning as in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502 (g).
- e. **HIPAA Standards.** “HIPAA Standards” shall mean the legal requirements as set forth in the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009, and the regulations and policy guidance, as each may be amended over time, including without limitation:
  - i. **Privacy Rule.** “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information in 45 CFR Part 160 and Part 164, Subparts A and E.
  - ii. **Breach Notification Rule.** “Breach Notification” shall mean the Notification in the case of Breach of Unsecured Protected Health Information, 45 CFR Part 164, Subparts A and D

- iii. Security Rule. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160 and 164, Subparts A and C, including the following:
  - f. Security Standards. "Security Standards" hereinafter shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.306.
  - g. Administrative Safeguards. "Administrative Safeguards" shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.308.
  - h. Physical Safeguards. "Physical Safeguards" shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.310.
  - i. Technical Safeguards. "Technical Safeguards" shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.312.
  - j. Policies and Procedures and Documentation Requirements. "Policies and Procedures and Documentation Requirements" shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR §164.316.
  - k. Protected Health Information. "Protected Health Information" or "PHI" shall have the same meaning as in 45 CFR §160.103, limited to the information created, maintained, transmitted or received by Business Associate, its agents or subcontractors from or on behalf of Department.
  - l. Required By Law. "Required By Law" shall have the same meaning as in 45 CFR §164.103.
  - m. Secretary. "Secretary" shall mean the Secretary of the U. S. Department of Health and Human Services, or his or her designee.
  - n. Covered Entity. "Covered Entity" shall have the meaning as the term "covered entity" defined at 45 CFR §160.103, and in reference to the party to this BAA, shall mean the State of New Mexico Human Services Department.

Terms used, but not otherwise defined, in this BAA shall have the same meaning as those terms in the HIPAA Standards. All terms used and all statutory and regulatory references shall be as currently in effect or as subsequently amended.

## 2. **Obligations and Activities of Business Associate**

- a. General Rule of PHI Use and Disclosure. The Business Associate may use or disclose PHI it creates for, receives from or on behalf of, the Department to perform functions, activities or services for, or on behalf of, the Department in accordance with the specifications set forth in this BAA and in this PSC 19-630-4000-0003; provided that such use or disclosure would not violate the HIPAA Standards if done by the Department; or as Required By Law.
  - i. Any disclosures made by the Business Associate of PHI must be made in accordance with HIPAA Standards and other applicable laws.
  - ii. Notwithstanding any other provision herein to the contrary, the Business Associate shall limit uses and disclosures of PHI to the "minimum necessary," as set forth in the HIPAA Standards.

- iii. The Business Associate agrees to use or disclose only a “limited data set” of PHI as defined in the HIPAA Standards while conducting the authorized activities herein and as delineated in PSC 19-630-4000-0003, except where a “limited data set” is not practicable in order to accomplish those activities.
- iv. Except as otherwise limited by this BAA or PSC 19-630-4000-0003, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- v. Except as otherwise limited by this BAA or PSC 19-630-4000-0003, Business Associate may disclose PHI for the proper management and administration of the Business Associate provided that the disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- vi. Business Associate may use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR § 164.502(j).
- vii. Business Associate may use PHI to provide Data Aggregation services to the Department as permitted by the HIPAA Standards.
- b. Safeguards. The Business Associate agrees to implement and use appropriate Security, Administrative, Physical and Technical Safeguards, and comply where applicable with subpart C of 45 C.F.R. Part 164, to prevent use or disclosure of PHI other than as required by law or as provided for by this BAA or PSC 19-630-4000-0003. Business Associate shall identify in writing upon request from the Department all of those Safeguards that it uses to prevent impermissible uses or disclosures of PHI.
- c. Restricted Uses and Disclosures. The Business Associate shall not use or further disclose PHI other than as permitted or required by this BAA or PSC 19-630-4000-0003, the HIPAA Standards, or otherwise as permitted or required by law. The Business Associate shall not disclose PHI in a manner that would violate any restriction which has been communicated to the Business Associate.
  - i) The Business Associate shall not directly or indirectly receive remuneration in exchange for any of the PHI unless a valid authorization has been provided to the Business Associate that includes a specification of whether the PHI can be further exchanged for remuneration by the entity receiving the PHI of that individual, except as provided for under the exceptions listed in 45 C.F.R. § 164.502 (a)(5)(ii)(B)(2).
  - ii) Unless approved by the Department, Business Associate shall not directly or indirectly perform marketing to individuals using PHI.
- d. Agents. The Business Associate shall ensure that any agents that create, receive, maintain or transmit PHI on behalf of Business Associate, agree in writing to the same restrictions and conditions that apply to the Business Associate with respect to PHI, in accordance with 45 C.F.R. § 164.502(e)(1)(ii), and shall make that agreement available to the Department upon request. Upon the Business Associate’s contracting with an agent for the sharing of



PHI, the Business Associate shall provide the Department written notice of any such executed agreement.

- e. Availability of Information to Individuals and the Department. Business Associate shall provide, at the Department's request, and in a reasonable time and manner, access to PHI in a Designated Record Set (including an electronic version if required) to the Department or, as directed by the Department, to an Individual in order to meet the requirements under 45 CFR § 164.524. Within three (3) business days, Business Associate shall forward to the Department for handling any request for access to PHI that Business Associate receives directly from an Individual. If requested by the Department, the Business Associate shall make such information available in electronic format as required by the HIPAA Standards to a requestor of such information and shall confirm to the Department in writing that the request has been fulfilled.
- f. Amendment of PHI. In accordance with 45 CFR § 164.526, Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Department directs or agrees to, at the request of the Department or an Individual, to fulfill the Department's obligations to amend PHI pursuant to the HIPAA Standards. Within three (3) business days, Business Associate shall forward to the Department for handling any request for amendment to PHI that Business Associate receives directly from an Individual.
- g. Internal Practices. Business Associate agrees to make internal practices, books and records, including policies, procedures and PHI, relating to the use and disclosure of PHI, available to the Department or to the Secretary within seven (7) days of receiving a request from the Department or receiving notice of a request from the Secretary, for purposes of the Secretary's determining the Department's compliance with the Privacy Rule.
- h. PHI Disclosures Recordkeeping. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for the Department to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with the HIPAA Standards and 45 CFR § 164.528. Business Associate shall provide such information to the Department or as directed by the Department to an Individual, to permit the Department to respond to an accounting request. Business Associate shall provide such information in the time and manner reasonably designated by the Department. Within three (3) business days, Business Associate shall forward to the Department for handling any accounting request that Business Associate directly receives from an individual.
- i. PHI Disclosures Accounting. Business Associate agrees to provide to the Department or an Individual, within seven (7) days of receipt of a request, information collected in accordance with Section 2 (h) of this Agreement, to permit the Department to respond to a request for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.
- j. Security Rule Provisions. As required by 42 U.S.C. § 17931 (a) [HITECH Act Section 13401(a)], the following sections as they are made applicable to business associates under the HIPAA Standards, shall also apply to the Business Associate: 1) Administrative Safeguards; 2) Physical Safeguards; 3) Technical Safeguards; 4) Policies and Procedures and Documentation Requirements; and 5) Security Standards. Additionally, the Business Associate shall either implement or properly document the reasons for non-implementation

of all safeguards in the above cited sections that are designated as “addressable” as such are made applicable to Business Associates pursuant to the HIPAA Standards.

- k. Civil and Criminal Penalties. Business Associate agrees that it will comply with the HIPAA Standards as applicable to Business Associates, and acknowledges that it may be subject to civil and criminal penalties for its failure to do so.
- l. Performance of Covered Entity's Obligations. To the extent the Business Associate is to carry out the Department 's obligations under the HIPAA Standards, Business Associate shall comply with the requirements of the HIPAA Standards that apply to the Department in the performance of such obligations.
- m. Subcontractors. The Business Associate shall ensure that any subcontractors that create, receive, maintain or transmit PHI on behalf of Business Associate, agree in writing to the same restrictions and conditions that apply to the Business Associate with respect to PHI, with 45 C.F.R. § 164.502(e)(1)(ii), and shall make such information available to the Department upon request. Upon the Business Associate's contracting with an agent for the sharing of PHI, the Business Associate shall provide the Department written notice of any such executed agreement. Upon the Business Associate's contracting with a subcontractor for the sharing of PHI, the Business Associate shall provide the Department written notice of any such executed agreement.

### **3. Business Associate Obligations for Notification, Risk Assessment, and Mitigation**

During the term of this BAA or PSC 19-630-4000-0003, the Business Associate shall be required to perform the following pursuant to the Breach Notification Rule regarding Breach Notification, Risk Assessment and Mitigation:

#### Notification

- a. Business Associate agrees to report to the Department Contract Manager or HIPAA Privacy and Security Officer any use or disclosure of PHI not provided for by this BAA or PSC 19-630-4000-0003 and HIPAA Standards, including breaches of unsecured PHI as required by 45 C.F.R. § 164.410, as soon as it (or any employee or agent) becomes aware of the Breach, and in no case later than three (3) business days after it (or any employee or agent) becomes aware of the Breach, except when a government official determines that a notification would impede a criminal investigation or cause damage to national security.
- b. Business Associate shall provide the Department with the names of the individuals whose unsecured PHI has been, or is reasonably believed to have been, the subject of the Breach and any other available information that is required to be given to the affected individuals, as set forth in 45 CFR §164.404(c), and, if requested by the Department, provide information necessary for the Department to investigate promptly the impermissible use or disclosure. Business Associate shall continue to provide to the Department information concerning the Breach as it becomes available to it, and shall also provide such assistance and further information as is reasonably requested by the Department.

#### Risk Assessment

- c. When Business Associate determines whether an impermissible acquisition, use or disclosure of PHI by an employee or agent poses a low probability of the PHI being compromised, it shall document its assessment of risk in accordance with 45 C.F.R. § 164.402 (in definition of “Breach”, ¶ 2) based on at least the following factors: (i) the

nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used the protected health information or to whom the disclosure was made; (iii) whether the protected health information was actually acquired or viewed; and (iv) the extent to which the risk to the protected health information has been mitigated. Such assessment shall include: 1) the name of the person(s) making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons documenting the determination of risk of the PHI being compromised. When requested by the Department, Business Associate shall make its risk assessments available to the Department.

- d. If the Department determines that an impermissible acquisition, access, use or disclosure of PHI, for which one of Business Associate's employees or agents was responsible, constitutes a Breach, and if requested by the Department, Business Associate shall provide notice to the individuals whose PHI was the subject of the Breach. When requested to provide notice, Business Associate shall consult with the Department about the timeliness, content and method of notice, and shall receive the Department's approval concerning these elements. The cost of notice and related remedies shall be borne by Business Associate. The notice to affected individuals shall be provided as soon as reasonably possible and in no case later than 60 calendar days after Business Associate reported the Breach to the Department.

#### Mitigation

- e. In addition to the above duties in this section, Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI, by Business Associate in violation of the requirements of this Agreement or the HIPAA Standards. Business Associate shall draft and carry out a plan of corrective action to address any incident of impermissible use or disclosure of PHI. If requested by the Department, Business Associate shall make its mitigation and corrective action plans available to the Department.
- f. The notice to affected individuals shall be written in plain language and shall include, to the extent possible, 1) a brief description of the Breach, 2) a description of the types of Unsecured PHI that were involved in the Breach, 3) any steps individuals can take to protect themselves from potential harm resulting from the Breach, 4) a brief description of what the Business Associate and the Department are doing to investigate the Breach, to mitigate harm to individuals and to protect against further Breaches, and 5) contact procedures for individuals to ask questions or obtain additional information, as set forth in 45 CFR §164.404(c).

#### Notification to Clients

- g. Business Associates shall notify individuals of Breaches as specified in 45 CFR §164.404(d) (methods of individual notice). In addition, when a Breach involves more than 500 residents of a State or jurisdiction, Business Associate shall, if requested by the Department, notify prominent media outlets serving such location(s), following the requirements set forth in 45 CFR §164.406.

#### **4. Obligations of the Department to Inform Business Associate of Privacy Practices and Restrictions**

- a. The Department shall notify Business Associate of any limitation(s) in the Department's Notice of Privacy Practices, implemented in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- b. The Department shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- c. The Department shall notify Business Associate of any restriction in the use or disclosure of PHI that the Department has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- d. The Department shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Department.

#### **5. Term and Termination**

- a. Term. This BAA terminates concurrently with PSC 19-630-4000-0003, except that obligations of Business Associate under this BAA related to final disposition of PHI in this Section 5 shall survive until resolved as set forth immediately below.
- b. Disposition of PHI upon Termination. Upon termination of this PSC 19-630-4000-0003 and BAA for any reason, Business Associate shall return or destroy all PHI in its possession, and shall retain no copies of the PHI. In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to the Department notification of the conditions that make return or destruction of PHI not feasible. Upon mutual agreement of the Parties that return or destruction of the PHI is infeasible, Business Associate shall agree, and require that its agents, affiliates, subsidiaries and subcontractors agree, to the extension of all protections, limitations and restrictions required of Business Associate hereunder, for so long as the Business Associate maintains the PHI.
- c. If Business Associate breaches any material term of this BAA, the Department may either:
  - i. provide an opportunity for Business Associate to cure the Breach and the Department may terminate this PSC 19-630-4000-0003 and BAA without liability or penalty in accordance with Article 4, Termination, of PSC 19-630-4000-0003, if Business Associate does not cure the breach within the time specified by the Department; or,
  - ii. immediately terminate this PSC 19-630-4000-0003 without liability or penalty if the Department determines that cure is not reasonably possible; or,
  - iii. if neither termination nor cure are feasible, the Department shall report the breach to the Secretary.

The Department has the right to seek to cure any breach by Business Associate and this right, regardless of whether the Department cures such breach, does not lessen any right or remedy available to the Department at law, in equity, or under this BAA or PSC 19-630-4000-0003, nor does it lessen Business Associate's responsibility for such breach or its

duty to cure such breach.

## 6. Penalties and Training.

Business Associate understands and acknowledges that violations of this BAA or PSC 19-630-4000-0003 may result in notification by the Department to law enforcement officials and regulatory, accreditation, and licensure organizations. If requested by the Department, Business Associate shall participate in training regarding use, confidentiality, and security of PHI.

## 7. Miscellaneous

- a. Interpretation. Any ambiguity in this BAA, or any inconsistency between the provisions of this BAA or PSC 19-630-4000-0003 shall be resolved to permit the Department to comply with the HIPAA Standards.
- b. Business Associate's Compliance with HIPAA. The Department makes no warranty or representation that compliance by Business Associate with this BAA or the HIPAA Standards will be adequate or satisfactory for Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.
- c. Change in Law. In the event there are subsequent changes or clarifications of statutes, regulations or rules relating to this BAA or PSC 19-630-4000-0003, the Department shall notify Business Associate of any actions it reasonably deems necessary to comply with such changes, and Business Associate shall promptly take such actions. In the event there is a change in federal or state laws, rules or regulations, or in the interpretation of any such laws, rules, regulations or general instructions, which may render any of the material terms of this BAA unlawful or unenforceable, or which materially affects any financial arrangement contained in this BAA, the parties shall attempt amendment of this BAA to accommodate such changes or interpretations. If the parties are unable to agree, or if amendment is not possible, the parties may terminate the BAA and PSC 19-630-4000-0003 pursuant to its termination provisions.
- d. No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Department, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- e. Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself and any agents, affiliates, subsidiaries, subcontractors or workforce members assisting Business Associate in the fulfillment of its obligations under this BAA and PSC 19-630-4000-0003 available to the Department, at no cost to the Department, to testify as witnesses or otherwise in the event that litigation or an administrative proceeding is commenced against the Department or its employees based upon claimed violation of the HIPAA standards or other laws relating to security and privacy, where such claimed

violation is alleged to arise from Business Associate's performance under this BAA or PSC 19-630-4000-0003, except where Business Associate or its agents, affiliates, subsidiaries, subcontractors or employees are named adverse parties.

- f. Additional Obligations. Department and Business Associate agree that to the extent not incorporated or referenced in any Business Associate Agreement between them, other requirements applicable to either or both that are required by the HIPAA Standards, those requirements are incorporated herein by reference.