



# CONTRACT

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

<b>Begin Date</b> April 1, 2023	<b>End Date</b> June 30, 2029	<b>Agency Tracking #</b> 31786-00168	<b>Edison Record ID</b> 77853
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<b>Contractor Legal Entity Name</b> Sharecare Operating Company, Inc.	<b>Edison Vendor ID</b> 267633
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**Goods or Services Caption** (one line only)  
Population Health and wellness services

<b>Contractor</b> <input checked="" type="checkbox"/> Contractor	<b>CFDA #</b>
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Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2024			\$3,500,000		\$3,500,000
2025			\$5,200,000		\$5,200,000
2026			\$5,000,000		\$5,000,000
2027			\$4,900,000		\$4,900,000
2028			\$4,700,000		\$4,700,000
2029			\$2,700,000		\$2,700,000
<b>TOTAL:</b>			<b>\$26,000,000</b>		<b>\$26,000,000</b>

**Contractor Ownership Characteristics:**

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

Woman Business Enterprise (WBE)

Tennessee Service Disabled Veteran Enterprise (SDVBE)

Disabled Owned Business (DSBE)

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

Government  Non-Minority/Disadvantaged  Other:

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

Competitive Selection RFP

Other

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

<b>Speed Chart</b> (optional)	<b>Account Code</b> (optional)
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**CONTRACT**  
**BETWEEN THE STATE OF TENNESSEE,**  
**Department of Finance & Administration, Division of Benefits**  
**Administration, State Insurance Committee, Local Education**  
**Insurance Committee, Local Government Insurance Committee**  
**AND**  
**Sharecare Operating Company, Inc.**

This Contract, by and between the State of Tennessee, Department of Finance & Administration, Division of Benefits Administration, State Insurance Committee, Local Education Insurance Committee, Local Government Insurance Committee ("State") and Sharecare Operating Company, Inc. ("Contractor"), is for the provision of population health and wellness services for the State's Plans, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is For-Profit Corporation  
Contractor Place of Incorporation or Organization: Delaware  
Contractor Edison Registration ID #267633

**A. SCOPE:**

- A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.
- a. The Contractor shall make available all services described in this Contract, including but not limited to lifestyle counseling, chronic condition management, weight management, biometric screenings, Member materials, call center, incentive administration, and web portal to all eligible Members enrolled in the Plan, regardless of the benefit option in which the Member is enrolled.
- A.2. Definitions. For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:
- a. **Account Executive:** Designated full-time employee of the Contractor who has primary oversight and management of the Contract and all services, deliverables, and requirements.
  - b. **Account Manager:** Designated full-time employee of the Contractor who supports the Contract primarily handling member services and issues including inquiries regarding incentive payments.
  - c. **Affiliate:** A business organization or entity that, directly or indirectly, is owned or controlled by the Contractor, or owns or controls the Contractor, or is under common ownership or control of the Contractor.
  - d. **Agency Benefits Coordinator ("ABC"):** The individual within each agency or department who is the officially designated liaison between BA and employees.
  - e. **At-Risk Performance Payment:** Contractor's payment based on KPI performance listed on the SLA Scorecard set forth in Contract Attachment C. The payment is calculated based on the SLA Scorecard score and percentage of the administrative fees at risk.
  - f. **Average Speed of Answer ("ASA"):** The average waiting time for a caller before he/she is answered by a call center service representative. For this definition, the term "answer" shall mean to begin an uninterrupted dialogue with the caller. If a call center representative asks the caller to hold during the first 60 seconds of the dialogue, the Contractor shall not consider the call to be "answered" for purposes of this definition until the call center representative returns to the caller and begins an uninterrupted dialogue.
  - g. **Benefits:** The services available to Members and the corresponding amounts that Members and the Program will pay for covered services under this contract.
  - h. **Benefits Administration ("BA"):** The division of the Tennessee Department of Finance &

Administration that administers the State Group Insurance Program.

- i. **Body Mass Index (“BMI”)**: As defined by the National Heart, Lung, and Blood Institute in its clinical guidelines on the identification, evaluation, and treatment of overweight and obesity in adults, BMI equals a person’s weight in pounds divided by height in inches squared and multiplied by 703, or as weight in kilograms divided by height in meters squared.
- j. **Business Days**: Traditional workdays, including Monday, Tuesday, Wednesday, Thursday, and Friday. State Government Holidays are excluded.
- k. **Decision Support System (“DSS”)**: A database and query tool containing health care information and claims data which allows for analytics and executive decision making.
- l. **Dependent**: The child or spouse of an employee or retiree.
- m. **EAP/BHO**: Employee Assistance Program/Behavioral Health Organization Contractor providing EAP to eligible employees and Members and administration of behavioral health and substance use coverage for Plan Members enrolled in health coverage.
- n. **Edison**: The State’s enterprise resource planning system, which supports human resources, payroll, insurance, contracting, procurement and other agency functions.
- o. **Edison ID (Edison Employee ID)**: Eight digits including two leading 00s. It is used as the unique identifier for a Member and their Dependents. It can be found on the weekly enrollment file.
- p. **First Call Resolution**: A Member or employee’s question(s) is answered during their first call eliminating the need for the Contractor or Member to call back.
- q. **Go Live or Go-Live Date**: January 1, 2024
- r. **Head of Contract**: Eligible employee, retiree, or individual qualified under the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) – not including Dependents – who is enrolled in one of the medical benefit options of the State Group Insurance Program.
- s. **Information System(s)**: A combination of computing and telecommunications hardware and software that is used in: (a) the capture, storage, manipulation, movement, control, display, interchange and/or transmission of information, i.e., structured data (which may include digitized audio and video) and documents as well as non-digitized audio and video; and/or (b) the processing of information and non-digitized audio for the purposes of enabling and/or facilitating a business process or related transaction.
- t. **In Writing**: Written communication between the Parties, which may be in the form of an official memo, or documents sent via postal mail, fax, or email communications.
- u. **Key Performance Indicators (“KPI”)**: Performance indicators which are the metrics used to measure and evaluate Contractor’s performance against the desired outcomes. These indicators are used to determine Contractor’s At-Risk Performance Payment as set forth in Contract Section C and Contract Attachment C.
- v. **Local Education Agency (“LEA”)**: A local education agency pursuant to Tenn. Code Ann. § 49-3-302.
- w. **Local Government Agency (“LGA”)**: A local government agency pursuant to Tenn. Code Ann. § 8-27-702.
- x. **National Committee for Quality Assurance (“NCQA”)**: is an independent 501(c)(3) non-profit organization that works to improve health care quality through the administration of evidence-based standards, measures, programs and accreditation.
- y. **Member(s)**: Employees and their Dependents, retirees and their Dependents and/or survivors, and individuals qualified under The Federal Consolidated Omnibus Budget Reconciliation Act (“COBRA”) and their Dependents who are enrolled in the Program sponsored by the State, Local Education, and Local Government Insurance Committees.

- z. **PEPM:** Per employee per month. For purposes of this definition, “employee” is any person who is enrolled in the Plans and who is also a Head of Contract.
- aa. **Pharmacy Benefit Manager (“PBM”):** State’s Contractor which provides pharmacy benefit management services.
- bb. **Plan Group:** One of three or more groups: the State Plan (comprised of the Central State as one employer as well as the University of Tennessee as another employer and the Tennessee Board of Regents which is comprised of many different campuses and employer groups), the Local Education Plan (many different school systems, or the Local Government Plan (many different city or county governments or quasi-governmental entities).
- cc. **Plan Documents:** The legal publications that define eligibility, enrollment, benefits and administrative rules of the Plans.
- dd. **Plan Year:** January 1 through December 31 of the same calendar year.
- ee. **Program:** The voluntary population health and wellness programs provided under the provisions of this Contract.
- ff. **Protected Health Information (“PHI”):** individually identifiable health information that is transmitted by electronic media, maintained in electronic media; or transmitted or maintained in any other form or medium.
- gg. **Public Key Infrastructure (“PKI”):** The framework and services that provide for the generation, production, distribution, control, accounting, and destruction of public key certificates. Components include the personnel, policies, processes, server platforms, software, and workstations used for the purpose of administering certificates and public-private key pairs, including the ability to issue, maintain, recover, and revoke public key certificates.
- hh. **Section 508:** Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) and implementing regulations at 36 CFR 1194 Parts A-D which requires accessibility among persons with a disability.
- ii. **Secure Chat:** A specialized form of instant messaging that encrypts and decrypts the contents of the messages such that only the actual users can understand them.
- jj. **Service Level Agreement (“SLA”) Scorecard:** Performance management scorecard that contains Contractor’s KPIs and desired outcomes in Contract Attachment C. The At-Risk Performance Payments will be based on the Contractor’s ability to meet the listed KPIs.
- kk. **Span of Control:** Information Technology and telecommunications capabilities that the Contractor itself operates or for which it is otherwise legally responsible according to the terms and conditions of this Contract. The Span of Control also includes Systems and telecommunications capabilities outsourced by the Contractor.
- ll. **Splash Page:** Dedicated and customized webpage for this Contract, which does not require individuals to log in, containing information specific to the Program.
- mm. **State Group Insurance Program (“Plan” or “SGIP”):** Refers to all benefit options sponsored by the State, Local Government, and Local Education Insurance Committees (e.g., health plan options, disability insurance, life insurance, other voluntary benefits).
- nn. **State Holidays:** Days on which official holidays and commemorations, as defined in Tenn. Code Ann. § 15-1-101 et seq., are observed.
- oo. **State, Local Government, and Local Education Insurance Committees -** Policy making bodies for the State, Local Government, and Local Education agencies under the State Group Insurance Program established under Tenn. Code Ann. § 8-27-101, 8-27-207, and 8-27-301 respectively.

- pp. **Third Party Administrator (“TPA”)**: The State’s contractor responsible for medical benefits, claims processing, and related management services.

A.3. Implementation

- a. The Contractor’s programs, services, and systems, including but not limited to lifestyle counseling, chronic condition management, weight management, Member materials, the Contractor’s call center, and the Contractor’s website, shall be fully operational by the date outlined in Contract Section A.23.
- b. The Contractor shall implement the Information Systems and other processes required to perform all other services described herein. The Contractor shall work with the State to ensure the Contractor satisfied applicable requirements of this Contract, including requirements in the Plan Documents (which are located on the State’s website) and all applicable state and federal law.
- c. The Contractor shall have a designated full-time implementation manager who is responsible for leading and coordinating all contract implementation activities as well as a designated implementation team. Unless otherwise directed by the State, the implementation manager should be designated full-time to this implementation project through thirty (30) days after the Go-Live Date. All other implementation team members that the Contractor referenced in its proposal to the State shall be approved by the State and shall be available as needed during the implementation but should be designated to this project at least two (2) months prior to Go-Live and at least thirty (30) days after Go-Live. The Contractor’s implementation team shall include a full-time Account Executive and a full-time Account Manager designated to this Contract, who will be the main contacts with the State for all day-to-day matters relating to the implementation and ongoing operations of this Contract. Also, the Contractor shall assign an Information Systems project coordinator to coordinate information technology activities among the Contractor and the State’s existing contractors and all internal and external participating and affected entities. All the Contractor’s implementation team members shall have participated in the implementation of at least one other large employer (i.e., employer with Population Health and Wellness Services covering at least 30,000 lives).
- d. All key Contractor project staff shall attend a project kick-off meeting at the State of Tennessee offices in Nashville, TN, unless otherwise agreed upon with the State, within the first thirty (30) days after the Contract effective date. With prior approval In Writing, this meeting may be held virtually. State staff shall provide access and orientation to the Plans and system documentation, as requested by the Contractor.
- e. The Contractor shall provide a project implementation plan to the State no later than thirty (30) days after the Contract effective date (refer also to Contract Attachment B, Liquidated Damages). The Contractor shall update, maintain, and provide the plan at least weekly, in a format accessible to the State.
- f. The project implementation plan shall comprehensively detail all aspects of implementation, which includes all tasks with deliverable dates necessary to satisfactorily implement all Population Health and Wellness Services no later than Go-Live. The plan shall also include a description of the members on the implementation team and their roles with respect to each item/task/function. The plan shall include a detailed timeline description of all work to be performed both by the Contractor and the State. The implementation plan shall also provide specific details on the following and shall require written approval by the State:
  - (1) Identification, timing, and assignment of significant responsibilities and tasks;
  - (2) Identification and timing of deliverables and milestones;
  - (3) Names and titles of key implementation staff;
  - (4) Identification and timing of the State’s responsibilities;
  - (5) Data requirements (indicate type and format of data required);
  - (6) Identification and timing for the testing, acceptance and certification of exchange of data between the Contractor and the State’s Edison system and other relevant Information Systems;
  - (7) Member communications and their timing;
  - (8) Schedule of in-person meetings and conference calls with the State; and

(9) Transition requirements

- g. The Contractor shall provide for a comprehensive operational readiness review (pre implementation review) by the State, and/or its authorized representative, at least sixty (60) days prior to Go-Live (refer also to Contract Attachment B, Liquidated Damages). Such review by the State, and/or its authorized representative, may include, but not be limited to, an onsite review of the Contractor's operational readiness for all services required in this Contract (e.g., lifestyle coaching, chronic condition management, weight management, Member services, call center cultural readiness, training, and website development). The review may also include reviews of documentation that includes but is not limited to:
- (1) Policy and Procedures Manual(s);
  - (2) Call center scripts;
  - (3) Information Systems documentation; and
  - (4) The ability to provide, and the process governing the preparation of, any and all deliverables required under this Contract.
- h. At its discretion, the State shall also conduct an additional, pre-implementation review of the Contractor's progress towards fulfilling the Information Systems of this Contract. Such review by the State, and/or its authorized representative, may include onsite (at the Contractor's offices) or remote reviews, including but not limited to staff interviews, system demonstrations, systems testing, and document review.
- i. During onsite visits as part of readiness review or a pre-implementation review, the Contractor shall provide the State, and/or its authorized representative onsite workspace (at the Contractor's offices) and access to a telephone, copier, and internet connection. The Contractor's staff members shall be freely available to the State officials to answer questions during these visits.
- j. Unless otherwise directed by the State, the Contractor shall conduct status meetings with the State concerning project development, project implementation and Contractor performance at least once a week during implementation through the first month following Go-Live, with additional meetings as needed. Thereafter, all ongoing operational meetings shall be conducted on a State-specified schedule but shall occur no less than weekly unless otherwise directed by the State. Such meetings shall be either by phone, virtually, or onsite at the offices of the State, as determined by the State, and shall include the Designated Account Executive, Designated Account Manager, and other appropriate Contractor staff. Any costs incurred by the Contractor as a result of a meeting with the State shall be the responsibility of the Contractor.
- k. No later than forty-five (45) days post Go-Live, the State shall complete an implementation performance assessment survey of the Contractor's performance to determine the State's satisfaction with the implementation process and Contractor. Results shall be shared with the Contractor including the identification of any deficiencies. The Contractor shall respond within fifteen (15) days of receiving the results with a corrective action plan as necessary to remedy any identified deficiencies. In response to the corrective action plan, the Contractor shall comply with all recommendations and requirements agreed upon by the State within the timeframes agreed upon by the State.
- l. Lessons Learned Debriefing. The Contractor shall conduct a self-assessment regarding implementation of this Contract, prepare a report summarizing its findings, including successes, challenges, and lessons learned, and provide an in-person or remote debriefing presentation to the State. The report and presentation shall be provided to the State no later than ninety (90) days post Go-Live.

A.4. Biometric Screenings

- a. The State and the Contractor shall agree on the elements to be included in the biometric screening, but at a minimum should include the following: blood glucose, total cholesterol, LDL, HDL, triglycerides, blood pressure, height/weight, and BMI. Waist circumference should also be collected, if available.

- b. The Contractor shall provide options for Members to complete a biometric screening with the option to earn an incentive for specific Plan Groups as approved by the Insurance Committees and shall capture the biometric values through one of the methods outlined below.
- c. The State will reimburse the Contractor for only one (1) biometric screening option per member during the Plan Year.
- d. That Contractor shall provide a secure website for Members to schedule a workplace screening, request a home-kit, request a voucher for a contracted lab, download the physician screening form and upload a completed physician screening form.
- e. The Contractor shall, at no additional cost to the State, electronically accept/upload all biometric screening data listed above into the Contractor's system and into the Member's web portal.
- f. Workplace Screening
  - (1) The Contractor shall work with the ABC and BA staff to coordinate and organize workplace screenings during the spring and fall of each year, if requested.
  - (2) The Contractor may request, with prior written approval from the State, a minimum capacity of scheduled appointments for the screening site.
  - (3) The Contractor shall organize and coordinate all planning and related logistics for the workplace screening. Including: securing the screening space (in conjunction with ABC), promoting the event and notifying Members, registering Members, setting up the screening registration and the screening site set up. The Contractor shall coordinate its planning and all changes thereto with the State in order to keep the State informed and involved.
  - (4) The Contractor shall provide the workplace screening protocol by the Go-Live date in Contract Section A.23. The Contractors screening protocols shall address procedures for responding to urgent and emergent situations (e.g., dangerously high or low screening results, emergencies, injuries, etc.)
  - (5) Contractor shall use a fasting fingerstick (e.g., Cholestech method) for the blood draw.
  - (6) The Contractor shall ensure that the screening staff shall be appropriately trained to collect biometric data as well as have at least one person working the site to be trained in cardiopulmonary resuscitation and first aid.
  - (7) The Contractor may cancel a workplace screening site if the agreed upon minimum number of appointments are not met, however they must have the ability to notify Members who have appointments either by phone, email or some other agreed upon communication method.
  - (8) The Contractor shall allow walk-in appointments to the extent the site has the capacity to accommodate.
  - (9) The Contractor shall provide a short counseling session as part of the screening, including a one-page summary of the screening results. The summary report template shall be finalized by the date outlined in Contract Section A.23.
  - (10) The Contractor shall survey each Member who participates in a workplace screening and provide the results of those surveys to the State, if applicable. See Contract Section A.16.r. and Contract Attachment D.
  - (11) The Contractor shall survey the State as well as the ABC who schedule the screening sites for their workplace(s) after the screenings have concluded to

determine satisfaction with the screening operation and coordination and annually report the results to the State. See Contract Attachment D. The Contractor shall implement any corrective action plans, as needed.

g. Lab Collection Network

- (1) If approved, the State will allow Members to use lab sites or lab vouchers that are part of the Contractor's network to collect the biometric screening data, provided the lab locations will submit the biometric screening data to the Contractor.
- (2) The Contractor shall electronically accept and auto-populate into the Contractor's system (and the Member's record) the screening results from the lab.

h. At-Home Test Kit

- (1) As prior approved by the State, the Contractor shall allow Members to use an at-home test kit to conduct the screening. Members shall be able to request a home screening kit from the Contractor.
- (2) The Contractor shall arrange for the home screening kit to be delivered to the Member. The home screening kit shall include detailed instructions for the Member to follow.
- (3) The Contractor shall have a process in place to receive the results of the home screening kit and input the results to the Contractor's system (and ultimately the Member's record).

i. Provider Screening Form

- (1) The Contractor shall provide a State approved and customized physician screening form that the Member may download and take to their healthcare provider. The form should be pre-populated with the Member's specific information (i.e., name, Edison ID, DOB, address, etc.)
- (2) The Contractor shall electronically accept and auto-populate into the Contractor's system (and the Member's record) the screening results from the provider screening form. The State shall reimburse providers through the medical Third-Party Administrators (TPAs) for any covered health care services (e.g., annual physicals) rendered to Members to complete the form.
- (3) The Contractor shall inform Members that they will only receive credit for completion of the screening if the provider completes the State approved screening form, signs it, and submits it according to the Contractor's policies and procedures.
- (4) If the Contractor receives an incomplete form or information on a form other than that required under this Contract, the Contractor shall contact the Member to alert them to the specific deficiency and allow the Member to correct the issue.
- (5) The State and the Contractor shall mutually agree on the acceptable timeline for the screening completion dates to count toward incentive earnings.

j. The Contractor shall submit biometric screening summary and completion reports to the State (see Contract Attachment D).

A.5. Health Risk Assessment (Health Questionnaire)

- a. The Contractor shall provide a health risk assessment (health questionnaire). The health risk assessment shall:
  - (1) Collect information on Member demographics, contact information (including preferred email address(es) and phone number(s)), lifestyle behaviors (including but not limited to tobacco use, nutrition, physical activity stress, and depression;



- (2) Take no more than fifteen (15) minutes to complete if the Member responds to all questions;
  - (3) Be written at or below the sixth (6.0) grade reading level and meet other State requirements for written materials (see Contract Section A.14.m.); and
  - (4) Be made available electronically online or via a mobile application.
- b. The Contractor's electronic, online health questionnaire shall allow Members to partially complete the health questionnaire and return to it with all previously entered information saved. Consistent with the State's goal of maximizing use of web-based tools by Members, the Contractor shall not provide a print version of the health questionnaire on its website.
  - c. The electronic, online health questionnaire shall be available on the Contractor's website and via a link to the Contractor's website on websites specified by the State, including but not limited to the website for ParTNers for Health.
  - d. The Contractor shall submit its health questionnaire and related materials to the State for review on or before the date specified in Contract Section A.23. The Contractor shall not modify the health questionnaire without prior notice to the State and shall notify the State, In Writing, thirty (30) days prior to any significant changes to related materials.
  - e. The Contractor shall take appropriate steps, including sending reminders in the form of email, telephone message, mailers, or other State approved format, to ensure eligible Members complete the health questionnaire by the deadline to earn their incentive.
  - f. The Contractor shall submit health questionnaire summary and completion reports to the State (see Contract Attachment D).

A. 6. Content and Structure of Programs/Services

- a. The Contractor shall provide all programs as a continuum of services. The Contractor shall communicate the availability of services to Members. Based on a Member's needs, the Contractor shall provide services for chronic condition management, weight management or lifestyle counseling, regardless of the program in which the Member is actually enrolled.
- b. The Contractor shall offer the ability for a Member to utilize a digital health device to provide real time feedback to the Member and coach/clinician. This includes showing the Member his/her progress toward goals related to A1c or blood glucose, blood pressure, weight, etc. Payment for health device shall be listed in Contract Section C.3.b. If the Contractor would like to add a device to a program listed in this Contract but there is not a payment listed in Contract Section C.3.b., at the State's discretion Contract Section E.3. may be utilized.
- c. The Contractor shall be able to either sync with a Member's current device or have the ability to provide a device, if requested.
- d. Upon a Member's enrollment in a program, the Contract will provide the Member with the following:
  - (1) Information about the Contractor and specific information about the program and how it works.
  - (2) The incentive available to the eligible Member for participating in and/or completing the program.
  - (3) Information about the Member's right to disenroll from the program at any time and how doing so will impact earning the incentive, if applicable.
- e. Each of the Contractor's programs shall be structured around, and integrate, nationally recognized, evidence-based and industry best practices consistent with the requirements in Contract Section A.16.o.
- f. At the State's request, the Contractor shall submit to the State program descriptions for all programs. The Contractor shall notify the State, In Writing, thirty (30) days prior to any significant changes to these program descriptions. The State reserves the right to review the proposed change(s).

- g. The Contractor shall make reasonable efforts to accommodate a Member's request to have a male or female coach/clinician.
- h. For Members enrolled in a lifestyle counseling, weight management or chronic condition management program, the Contractor shall establish policies and procedures for assigning coaches (or teams), changing coaches, and notifying Members of such changes.
- i. The Contractor's policies and procedures shall include: criteria for matching coaches and clinicians to Members and other factors considered in assignments; how the Contractor ensures continuity of care when coach/clinician changes are made, whether initiated by the Member or by the Contractor; and how the Contractor provides advance notice to the Member of planned coach/clinician changes initiated by the Contractor (e.g., due to staff turnover or a change in the Member's needs or condition).
- j. The Contractor shall submit the policies and procedures required by A.6.k. to the State by the date outlined in Contract Section A.23. The State reserves the right to review the policies and procedures and propose changes. The Contractor shall notify the State, In Writing, thirty (30) days prior to any significant changes to these policies and procedures. The State reserves the right to review the proposed change(s) and require revisions.
- k. Consistent with the requirements of Contract Section A.17.a. the Contractor shall interact with the Member's medical TPA, EAP/BHO contractor, the PBM, and other State Contractors as necessary to avoid duplication of effort and ensure coordinated and comprehensive care for Members.
- l. The Contractor's programs may be delivered using a variety of modalities, including group coaching and options for the Contractor and Member to interact with one another online or video chat, telephonically, text or some other method of interaction prior approved by the State and shall accommodate a Member's preferred means of communication, if available. The Contractor shall ensure that all electronic correspondence is secure and meets HIPAA and other privacy and confidentiality requirements.
- m. All programs shall be delivered in a non-intrusive manner that promotes a relationship between the Member and the program.
- n. Members eligible for chronic condition management and lifestyle counseling shall have the ability to opt-in, if they meet the eligibility criteria, to any programs. Members may also access all other resources such as the web portal, challenges, educational resources, etc. without having to first complete any minimum requirements.

#### A.7. Identification, Outreach and Engagement

##### a. Identification:

- (1) In collaboration with the State, the Contractor shall use multiple sources of data and information for identifying Members for Programs. This includes, but is not limited to, information from the completed health questionnaire and biometric screening, claims (medical and pharmacy), referrals from providers; referrals from a State contractor (e.g., medical TPAs, EAP/BHO contractor, or PBM) or Member self-referral.
- (2) Based on the information collected by the Contractor, the Contractor shall determine which program is most appropriate for the Member and shall notify the Member of eligibility for the program. Consistent with Section C.3, the Contractor may only bill the State for one program for each Member during any one month. Consistent with Section A.6.a., the Contractor shall enroll the Member in the most appropriate program, and provide the full continuum of services for which the Member is eligible.
- (3) The Contractor shall review with the State, prior to program Go-Live, the criteria/methodology used to determine risk stratification for all programs

delivered by the Contractor, including chronic condition management, and lifestyle counseling. The State will not ask to make changes to the criteria, however the Contractor shall review, in detail, the methodology for determining eligibility for all programs.

- (4) Should the Member qualify for other programs offered through an external contractor (such as the Diabetes Prevention Program, etc.), the Contractor shall make the eligible Member aware of those programs.

b. Outreach

- (1) The Contractor shall, in consultation with the State, conduct Member outreach for all programs offered by the Contractor. The final outreach criteria must be prior approved In Writing by the State.
- (2) The Contractor shall be responsible for notifying and enrolling Members who agree to enroll in the Program. The Contractor shall have a procedure in place to ensure that the Member has the ability to opt-out of any program and the Contractor will remove the Member from outreach for the remainder of the year. Once removed, the Contractor shall not contact the Member regarding program participation for the remainder of the Plan Year, unless the Member contacts the Contractor to opt-in again.
- (3) The Contractor shall be responsible for ensuring Members who are eligible to earn the incentives clearly understand how the incentive program works and all of the options to earn the incentives. The notification can be provided through the Contractor's web portal or other means with the State's approval In Writing.
- (4) At the request of the State, the Contractor shall outreach to Members via email or text (with the ability to opt out) to distribute any messages to Members. The Contractor shall have the capacity to distribute these messages within one (1) business day of said request. The Contractor shall limit the distribution of these messages by Head -of Contract, employee, or spouse, sex, age, benefit option, Public Sector Plan type, budget object code, information from the health questionnaire (e.g., smokers) or information from the health screening at the request of the State.
- (5) Only Head of Contract and spouses shall be contacted about enrollment into any programs. Dependent adult children, ages 18 and up may enroll at their own request, if eligible.

c. The Contractor shall not use a robo phone tree without the prior approval of the State. The Contractor shall seek separate State approval for each round or series of calls.

d. At the request of the State, the Contractor shall make available appropriate staff to provide Lifestyle counseling and chronic condition management services to Members, either individually or in a group setting at a site approved by the State.

e. Engagement

- (1) In order to consider a Member as "engaged" in lifestyle counseling and/or chronic condition management, for purposes of reimbursement pursuant to Section C.3, the Contractor shall document a minimum of one (1) completed, interactive contact with the Member (meaning the Member was responsive to the Contractor's outreach) at least once per month to be paid for that month. The Contractor shall provide more frequent interactive contact than the minimum if needed and/or desired by the Member.
- (2) In order to consider a Member as "engaged" in the weight management program for purposes of reimbursement pursuant to Section C.3, the Contractor shall track the Member's participation and weight loss for purposes of reimbursement.

- (3) "Engagement" shall not be defined as a series of outbound outreach attempts whether via web-portal, phone, text, email or some other means of contact from the Contractor to which the Contractor receives no response from the Member.
- f. The Contractor shall submit program participation reports (lifestyle management and chronic condition management) and files to the State (see Contract Attachment D) as specified in Contract Section A.23.
- g. The Contractor shall submit a quarterly report for Members who are engaged in the diabetes reversal/remission program. Reports should include, at a minimum, enrollment count, changes in biomarkers including diabetes clinical markers (A1c or glucose), weight loss and/or changes in BMI and medication reduction (see Contract Attachment D) as specified in Contract Section A.23.

#### A.8. Chronic Condition Management

- a. Unless otherwise directed by the State, the Contractor shall analyze medical and pharmacy claims data to identify and stratify Members who identify as low, moderate, or high risk and outreach to those who meet these criteria. Members who are low risk may self-enroll. The Contractor shall provide chronic condition management for a minimum of the following conditions:
  - (1) asthma;
  - (2) hypertension
  - (3) chronic-obstructive pulmonary disease (COPD);
  - (4) congestive heart failure (CHF);
  - (5) coronary artery disease (CAD);
  - (6) chronic kidney disease (CKD) 1-3 – specific to Members with diabetes and/or hypertension;
  - (7) diabetes;
  - (8) diabetes remission/reversal; and
  - (9) other conditions as approved by the State.
- b. The Contractor shall provide a high quality, evidenced based chronic condition management program. The program(s) should apply principles of behavior modification and education aimed at improving self-management for the above outlined conditions with the ultimate goal of improving clinical outcomes for those actively engaged. The Contractor shall tailor the type, intensity, frequency, and content to the Member and the severity and complexity of the Member's condition(s).
- c. The Contractor shall encourage Member compliance with the care treatment plan for a Member's specific condition as well as treatment recommended by the Member's providers.
- d. The Contractor is expected to provide comprehensive chronic condition management for those Members with comorbidities and mutlimorbidities as well as encourage completion of age and gender specific preventive screenings for all Members. The clinician shall also provide interventions for lifestyle behaviors that may improve care of the Member's chronic condition and provide referrals to other State programs that may benefit the Member.
- e. The Contractor shall offer a program for diabetes remission/reversal that includes tracking A1c and/or other key biomarkers, personalized nutrition and medication deprescribing, if warranted.
- f. The Contractor shall support a Member's emotional and mental health in dealing with a chronic condition, including a referral to our EAP/BHO contractor to I support.

#### A.9. Lifestyle Counseling (lifestyle coaching)

- a. The Contractor shall provide population health programs/services to address behavior change for a minimum of the following:

- (1) physical activity
- (2) nutrition
- (3) sleep
- (4) stress management; and
- (5) tobacco cessation
- (6) other conditions as approved by the State

- b. The Contractor shall provide a high quality, evidenced based lifestyle counseling program for those actively engaged. The program(s) should apply principles of behavior modification and education aimed at reducing risk factors that, left unmanaged, can lead to chronic conditions.
- c. The Contractor shall tailor the type, intensity, frequency, and content of a Member's interventions to the Member's needs and the severity and complexity of the Member's condition(s).

#### A. 10. Weight Management

- a. The weight management program is aimed at reducing a Member's BMI. Emphasis for outreach shall be for Members with a BMI greater than 29.9. At the State's request, in consultation with the Contractor, the thresholds for eligibility may be adjusted.
- b. The Program shall include, at a minimum, weekly activities and interaction between the Contractor and Member as well as collect a Member's weight on a regular basis. At the request of the State, the Member's weight must be captured via a scale with connected capability which is provided to the Member at no charge from the Contractor.
- c. The program may be delivered in a group setting using a variety of modalities, including options for the Contractor and Member to interact with one another via secure online or video chat, telephonically, group virtual meeting, text or some other method of interaction prior approved by the State.
- d. Prior to program Go-Live and periodically throughout the contract term, the State and the Contractor will meet to review the criteria/methodology used to determine BMI risk stratification to determine Member eligibility for the program.
- e. The Contractor shall submit a weight management program participation report to the State (see Contract Attachment D) as specified in Contract Section A.23. The report shall at a minimum include participation rates, percent of participant weight loss at 3, 6 and 12 months, (if applicable) and percent still enrolled at those benchmarks, percent weight loss at end of program; percent with weight loss >5% at the end of program; biometric data and the difference at end of program compared to baseline (start of program); the shift in the participating population's BMI risk profile, total pounds lost, average weight loss, the number of scales/activity trackers mailed, the number of sessions completed and the number of participants who graduated from the program.

#### A.11. Incentive Oversight & Administration

- a. The Contractor shall provide incentive (reward) tracking and monitoring on the Contractor's website for all Members eligible to earn an incentive, including those participating in a program provided by an external contractor if applicable.
- b. Incentive payments shall be in the form of cash added to the member's paycheck or funds added to the member's Health Savings Account, if elected. The State will be responsible for providing the funds to State payroll, UT, TBR and offline agencies using the incentive reports provided by the Contractor.

- c. The total incentive amount shall be determined by the State and the value associated with each activity shall be finalized by the State, in consultation with the Contractor, prior to BA finalizing the benefit design for the upcoming Calendar Year and prior to program Go-Live for each subsequent Calendar Year. The Contractor shall coordinate the collection of program data with external contractors in order to track, monitor and report Member activities online and via any other State requested methods, including activities for programs offered by the State's other contractor partners, if applicable.
  - (1) This includes clearly communicating what programs/activities are available to the Member and the deadlines to complete said activities.
  - (2) Tracking completion of the programs/activities and clearly indicating through the web portal the status of said activities and the amount of incentive earned, if applicable.
- d. The Contractor shall reimburse the State for one hundred percent (100%) of incentive payments made in error if the error was based on incorrect incentive reports from the Contractor.
- e. Alternative Standard/Appeals
  - (1) The Contractor shall manage and track a Member's request for an alternative standard to the wellness requirements, including programs offered by external contractors, as well as a request for exemption as required by federal law. Prior to program Go-Live, the State and Contractor shall review and agree to the available alternative standards.
  - (2) Members eligible to earn an incentive may file an appeal if they feel information is incorrect or inaccurate and therefore deemed the Member ineligible for an incentive. The Contractor shall maintain a process by which a Member may file the appeal and such appeals shall be reviewed by the Contractor.
  - (3) At least one (1) month prior to the Go-Live date, the Contractor shall provide the State information describing in detail the Contractor's appeals process and procedures along with a sample notification letter of the appeal resolution (see Contract Section A.23.). The State reserves the right to review the appeals process and procedures and letter and require changes, where appropriate.
  - (4) The Contractor shall include notification of the member's right to file an appeal in any materials related to activities where there is an opportunity to earn the incentive. The text and format of this notice is subject to prior written approval from the State.
  - (5) The Contractor shall complete their appeal reviews and issue a written decision to a Member within 10 Business Days of receipt.
  - (6) The Contractor shall submit appeal reports to the State as specified in Contract Section A.23. (See Contract Attachment D).

#### A.12. Member Services

- a. All Member services representatives handling calls related to this Contract shall be familiar with the terms and provisions of this Contract. The representatives shall also have basic knowledge about Member Benefits, including the TPAs, EAP/BHO, PBM and Benefits for which each contractor is responsible as well as contact information for each contractor.
- b. The Contractor's member services representatives may be non-dedicated to this Contract provided the staff members meet the requirements of this Contract. If the Contractor uses dedicated staff, then the Contractor may use non-dedicated staff to handle call overflow during peak periods, or in the event of unexpected call volume to meet the needs of Members.

- c. The Contractor shall have sufficient member services representatives to respond to inquiries, correspondence, complaints, and problems related to all aspects of the programs and services required in this contract. Responsibilities include, but are not limited to, explaining the resources the Member has access to based on their eligibility and making referrals to other external Contractors. Member services representatives shall connect or warm transfer Members to other State contractors for Benefits as needed based upon the Member's inquiry or issue. The Contractor shall not answer technical questions regarding the State's eligibility and enrollment policies or systems issues and shall refer these questions to BA Service Center staff.
- d. The Contractor shall have and implement procedures for monitoring and ensuring the quality of services provided by its member services representatives. Such procedures may include, but are not limited to, the following activities:
  - (1) Auditing calls/correspondence for each member services representative;
  - (2) Silent monitoring of calls;
  - (3) Recording calls for quality and training purposes;
  - (4) Skill refresher courses; and
  - (5) Call coaching.
- e. Working in conjunction with the State, the Contractor shall set standards for Member services representatives based upon, but not limited to, an evaluation of the following areas: documentation, greeting, courtesy, responsiveness, explanation and guiding techniques, and accuracy. The standards shall be disclosed to the State no later than thirty (30) days prior to Go-Live. Adherence to the standards shall be measured, monitored and reviewed by the Contractor according to Contractor policies and procedures and reported to the State monthly. See Contract Attachment D.
- f. The Contractor shall provide a personalized response, In Writing, to ninety-five percent (95%) of written (mail or email) inquiries from Members concerning requested information within five (5) Business Days and one hundred percent (100%) within ten (10) Business Days. The Contractor shall acknowledge receipt of email inquiries within one (1) Business Day and reply within the same timeframe established for standard mail. See Contract Attachment B.
- g. The Contractor may designate a client service liaison to respond to Member-related issues identified by the State. For matters designated as urgent by the State, the Contractor shall contact the Member and resolve the issue and then notify the State of the resolution.
- h. The Contractor shall maintain a procedure for resolving complaints informally by phone. Where a complaint cannot be resolved to the Member's satisfaction, the Contractor shall advise the Member of his/her right to file an appeal and shall provide instructions and assistance as needed by the Member for doing so.
  - (1) When a complaint cannot be resolved to the Member's satisfaction or cannot be resolved by phone, the Contractor may require the Member to submit a written request or to complete and submit a complaint form or other designated form provided by the Contractor.
  - (2) At least one (1) month prior to Go-Live, the Contractor shall provide the State information describing in detail the Contractor's complaint process and procedures along with a sample determination letter. The State reserves the right to review and require changes, where appropriate.
  - (3) The Contractor shall submit quarterly complaints reports with information regarding each complaint filed along with the resolution. See Contract Attachment D.
  - (4) For complaints, the Contractor shall complete the review and issue a written decision within ten Business Days of receipt.

A.13. Call Center

- a. The Contractor shall operate a Member services call center that uses the dedicated toll-free

telephone number **(888)741-3390** as the entry point for Members contacting the Contractor.

- b. The Contractor shall be responsible for transferring the number, which is currently in use, from the incumbent Contractor, on a timeline approved by the State and at no additional cost to the State.
- c. The toll-free telephone number is the property of the State of Tennessee and shall be retained upon the termination of this Contract. The Contractor shall transfer said number to the State, or its contractor, at no cost to the State such that the State or its designee can maintain this same number for continuous, uninterrupted use by Members who need assistance with population health and wellness programs and services after the termination of this Contract.
- d. The Contractor's call center shall be open and staffed with designated trained and qualified member service representatives, no later than one (1) month prior to Go-Live. See also Contract Attachment B, Liquidated Damages.
- e. The Contractor's call center and staff shall be located in the continental United States.
- f. The Contractor's call center shall accept all calls Monday through Friday for a continuous nine (9) hour period beginning no later than 8:00 a.m. Central Time except on official State Holidays. The Contractor's hours of operations are subject to prior State approval.
- g. When applicable, calls to the Contractor's dedicated call center shall be transferred via warm transfer as follows:
  - (1) To the Member's coach/clinician when indicated or requested. If the coach/clinician is not available, the Member shall be directed to the voice mail or another coach/clinician if requested.
  - (2) To the State and its Contractors, including the Member's TPAs and the PBM, as appropriate.
- h. On every telephone contact with a Member, the member services representative shall verify the Member's contact information, including home address, phone number and email address. If there is a change to a Member's home address or phone number as reflected in the State's enrollment file, the Contractor shall refer the Member to their employer to update their address and contact information.
- i. The Contractor's call center shall be equipped with TDD (telephone device for the deaf) technology in order to serve the hearing-impaired population.
- j. The Contractor shall offer and provide oral interpretation services via a telephone interpretation service free of charge to any caller who has limited English proficiency as defined by a caller whose native language is not English and whose difficulty in speaking or understanding English limits their ability to access services.
- k. The Contractor shall have policies and procedures related to the operation of its call center, including scripts and referral protocols. These policies and procedures shall be submitted to the State for review and prior approval on or before two (2) months prior to Go-Live. See Contract Section A.23.
- l. The Contractor's call center shall meet each of the following performance standards.
  - (1) The Contractor shall maintain a monthly average ASA of thirty (30) seconds or less. After answering the call, the Contractor may only put callers on hold in order to (a) make outbound calls as necessary or (b) to research a caller's issue.
  - (2) Telephone Service Factor of 80-20, meaning 80% of calls are answered within 20 seconds.
  - (3) Open call/inquiry closure rate of 90% within five (5) Business Days.
  - (4) First Call Resolution average of 85% or greater as measured by one or more of the following methods: a Member post-call phone or web survey; an end of call script where the customer service representative asks if the Member's issue has



been resolved; a voice menu allowing the Member to indicate if this is the first call, they've made to resolve their inquiry or problem, or another method prior approved by the State.

- m. The Contractor shall provide call center statistics related to the performance standards above to the State on a monthly basis once the call center is open. See Contract Attachment D, Reporting Requirements. The ASA and First Call Resolution performance standards shall be assessed quarterly. See Contract Attachment C.
- n. The Contractor's call center shall have call management systems and communications infrastructure that can manage the potential call volume and achieve the performance standards described in this Contract.
- o. The Contractor's call management systems shall be scalable and flexible so they can be adapted as needed, within negotiated timeframes where applicable, in response to program, benefit, or enrollment changes.
- p. The Contractor's call management systems shall be equipped with caller identification. In addition, the Contractor's call center shall adopt caller identification for itself that is prior approved In Writing by the State.
- q. The Contractor's call management systems shall provide greeting messaging when necessary. The Contractor may play music and/or messages prior approved by the State for the callers while they are on hold and shall play messages as directed by the State. The Contractor shall not play advertising or informational messages for callers while they are on hold unless prior approved In Writing by the State (or the State directs the Contractor to play certain messages). Additionally, the Contractor's systems shall provide a message that notifies callers that calls are being recorded and may be monitored by the Contractor for quality control purposes.
- r. The Contractor's call management system shall record and index at least a statistically valid sample of calls. The index shall include the phone number of the caller, the caller's name, the date/time of the call, and the staff Member who handled the call.
- s. The Contractor's call management systems shall facilitate the processing of all calls received and assign incoming calls to available member services representatives in an efficient manner. The system shall transfer calls to other telephone lines as necessary and appropriate, including transfers to the State call center or other contractors (e.g., TPAs, EAP/BHO contractor or PBM).
- t. The Contractor may use an automated interactive voice response (IVR) system for managing inbound calls, provided that the caller always has the ability to leave the IVR system and wait in queue in order to speak directly with a live-voice member services representative rather than continue through additional prompts. The Contractor shall not have more than one level of menu choices (limited to five (5) options) unless prior approved In Writing by the State., The Contractor's decision tree and menu are subject to State review and prior written approval.
- u. The Contractor shall inform callers of their likely wait times (based on real-time information, including call volume and member services representative availability) as they enter the queue. The Contractor shall also provide a "dial back" option that allows callers to receive a call back from the next available member services representative as applicable
- v. The Contractor shall have the ability to make outbound calls without interrupting the ability of callers to continue to access the call center.
- w. The Contractor shall have the ability to allow third parties (the State or its authorized representative) to review previously recorded calls from a remote location. The Contractor shall have the ability to provide a random sample of de-identified (recordings of interactions that have been stripped of identifying information) calls to the State upon request.
- x. The call management system shall enable the logging of all calls, including but not limited to:

- (1) The caller's identifying information (e.g., employee ID);

- (2) The call date and time;
  - (3) The reason for the call (including a reason code using a coding scheme);
  - (4) The member services representative that handled the call;
  - (5) The length of call; and
  - (6) The resolution of the call (including a resolution code using a coding scheme) and if unresolved, the action taken and follow up steps required.
- y. The call management systems shall maintain a history of correspondence and call transactions for performance management, quality management and audit purposes. This history shall contain the actual information, a date/time stamp that corresponds to when the transaction took place, the origin of the transaction (e.g., the State and/or one of its authorized representatives or the Member), and the member services representative that processed the transaction. Related correspondence and calls shall be indexed and properly recorded such that they can be treated in reporting and analysis as part of a distinct transaction.

A.14. Member Communications/Materials

- a. The Contractor shall develop a written marketing and communications plan by the date specified in Contract Section A.23. In addition, the Contractor shall update this plan on an annual basis to reflect any changes in marketing strategy and updated methods, tools, or technology to engage with Members. Contractor's marketing plan will reflect a thoughtful, proactive approach to encourage Member enrollment, and drive engagement and utilization of applicable services and programs. Contractor shall identify what resources (e.g., MailChimp, Constant Contact, etc.) Contractor will use to support marketing and communications. All marketing and communications plan updates shall be approved In Writing by the State.
- (1) Contractor will provide an annual analytics report of marketing and communications to include data on mail, email and/or other communications products and efforts. Analytics should demonstrate number of Members reached, read/response rate and number and rate of desired actions taken by Members as a result of the outreach. Contractor shall use the State's template or the Contractor's template with prior approval In Writing by the State. Contractor may provide monthly, quarterly and/or campaign specific analytics in addition to the annual report, if desired by the Contractor or requested by the State.
  - (2) The Contractor covenants that all materials distributed and prepared or produced by the Contractor shall be accurate in all material respects.
- b. The Contractor shall, in consultation with the State, develop and disseminate Member information and communication materials. All material must have approval In Writing by the State prior to distribution (refer also to Contract Attachment C, SLA scorecard). Contractor shall ensure that all Member materials and other communications meet any state or federal regulatory compliance (e.g., Civil Rights Compliance), if applicable. The Contractor shall develop all materials in conformance with the style, formatting and other related standards developed by the State and its marketing staff.
- (1) Materials could include, but are not limited to, welcome mailer, monthly newsletter, letters, emails, brochures, flyers, webinars, text messages, website copy, website images, mobile app and app content, social media content, PowerPoints, training materials and tutorials, marketing materials specific to the Program, Member testimonials and success stories and videos.
  - (2) Two (2) distinct welcome mailers shall be mailed annually, no later than the date specified in Contract Section A.23.
    - i. Welcome Mailer to Active State Plan Members (Head of Contract and Dependent Spouse) shall include at a minimum, an overview of the program, available incentives, and notification of legal notices (Notice Regarding Wellness Program and Protections from Disclosure of Medical Information).
    - ii. Welcome Mailer to all Retirees, Local Education and Local Government Members shall include at a minimum, an overview of the program and the above-mentioned legal notices, as required.

- (3) Beginning in January 2024, and annually thereafter, the Contractor shall develop twelve (12) monthly customized electronic Member newsletters. At the direction of the State, articles may include information to educate Members about the services available from the Contractor, how those services might benefit Members, Member testimonials from utilizing services, information and education on specific conditions or topics consistent with the annual communication plan and any upcoming events. The Contractor shall work collaboratively with the State and other State contractors to identify key topics for the newsletter.
  - (4) Marketing/segmenting: Contractor may offer or suggest marketing and communication activities and material based on segmentation of population (e.g., demographics, geography, etc.). Contractor will use and provide data to identify paths and barriers to engagement and participation in the Program and support recommendations to address deficiencies.
  - (5) Personalization of materials and digital communications may be an option upon request.
  - (6) Contractor shall provide marketing and communications samples of how they introduce Program options to Members.
  - (7) The Contractor shall use graphics to communicate key messages to populations with limited literacy, limited-benefit program literacy or limited English proficiency.
  - (8) The Contractor shall also prominently display the call center's telephone number in large, bolded typeface and hours of operation on all materials.
  - (9) The Contractor shall provide text and graphics, if applicable, for the State's communication to Members.
  - (10) As part of its submission to the State, the Contractor in consultation with the State shall specify how the materials will be sent (e.g., email, text, regular mail, other).
- c. Initial Member materials shall be finalized (including State review and sign-off) and ready for distribution on or before the date(s) specified in Contract Section A.23. or otherwise In Writing by the State.
- d. The Contractor shall collaborate with other contractors, especially EAP/BHO to cross promote member resources to support the whole person.
- e. In addition to the Member information and communications referenced above, the Contractor shall assist the State, if requested, in the education and dissemination of information regarding the Program. This assistance could include but may not be limited to:
- (1) Written information;
  - (2) Audio/video and webinar presentations;
  - (3) Member and Agency Outreach: With notification In Writing to the State, attendance at meetings, workshops, benefits fairs, marketing events and conferences (approximately 60-70 annually).
    - i. Educating State staff, ABC, Members and other persons on Contractor's programs and resources. Specifically, when a new agency joins the Plan, Contractor may be asked to attend onsite enrollment and benefits educational events.
    - ii. Educating Members and ABC could include targeted agency outreach and partnering with other state departments on outreach efforts across the state on benefit implementation, engagement, and education.
    - iii. Any on-site visits to agencies, marketing or other state department co-marketing efforts covered shall require prior notification In Writing to the State. The State also reserves the right to request Contractor's attendance at specific events or webinars.
- f. Unless otherwise specified, the Contractor shall be responsible for all costs related to the design, development, printing, distribution, mailing (if applicable) and revision of all materials that are required to be produced under this Contract.
- g. The Contractor shall use First Class Mail for all mailings, unless otherwise directed or unless otherwise approved by the State In Writing. With prior approval, the State may approve bulk or other alternative rates.

- h. The Contractor shall provide the State with draft versions of all communications materials and letters at least fourteen (14) Business Days prior to planned printing, assembly, and/or distribution (including web posting). The Contractor shall not distribute any materials until the State issues approval In Writing to the Contractor for the respective materials. The State has and retains the ability to edit and customize all communication pieces distributed by the Contractor, including the right to require that the State branding "ParTners for Health" logo be included on any Member letters or correspondence. The Contractor shall ensure communications are specific to the Program design and not simply a rebranding/repackaging of standard book-of-business materials or communications unless it is to remain in compliance with other regulatory requirements.
- i. The Contractor shall work in conjunction with the State's staff to ensure continuity of branding across all Program materials, mailings, emails, website, apps, social media and any other communications information, tools, communication methods, and resources. This branding shall include, but is not limited to, use of the "ParTners for Health" logo, color scheme and applicable taglines. All uses of these branding elements shall be subject to prior approval In Writing by the State. All marketing and communications materials specific to this Program, including contact information for any Members, shall become property of the State.
- j. The Contractor shall have the exclusive responsibility to write, edit and arrange for clearance of materials (such as securing full-time use of a stock photograph for perpetuity) for any and all marketing and communication materials.
- k. The Contractor shall distribute materials that are culturally sensitive and professional in content, appearance, and design with prior approval In Writing by the State.
- l. The Contractor shall provide electronic templates of all draft materials in a format that the State can easily alter, edit, revise and update.
- m. Unless otherwise prior approved In Writing by the State, the Contractor shall design all marketing and communication materials at a sixth (6.0) grade reading level or lower using the Flesch-Kincaid Index, or a comparable product. The Contractor shall evaluate materials using the entire text of the materials (except return addresses). When submitting draft materials to the State for approval, the Contractor shall provide a certification of the reading level of each piece of material.
- n. On an annual basis, at least three (3) months prior to the State's annual enrollment period, as requested by the State, the Contractor shall provide to the State in electronic format drafts of any enrollment material requested by the State that may be helpful to potential and existing Members. See Contract Section A.23. Items may include, but not be limited to, a toll-free Member services number, website address, website logon information, procedures for accessing services, informational flyers, and other pertinent updates, changes and/or materials.
- o. At any time and at the State's request, the Contractor shall notify Members, In Writing, of any benefit or other Program changes no less than thirty (30) Business Days prior to the implementation of the change.
- p. Unless otherwise directed by the State, the Contractor shall print and distribute any mass mailings developed by the State within fourteen (14) Business Days of receiving the language/copy from the State.
- q. The Contractor shall ensure that up-to-date versions of all printed Member marketing and communication materials can be downloaded from the Splash Page. The Contractor shall provide an electronic copy of all marketing and communication materials at the State's request to the State for posting on the State's website.
- r. The Contractor shall update web-based versions of all materials as Program changes are made and to correct errors. The Contractor shall update web-based versions at the request of the State, within five (5) Business Days or other time approved by the State. New Plan Year information must be added no later than one (1) month prior to the State's annual enrollment.

- s. Unless approved in advance and In Writing by the State, the Contractor shall not distribute any promotional materials or gifts to employees or Members, even if such gifts are of a de minimus value (e.g., magnets, pens, etc.).
- t. Postage and productions costs incurred by the Contractor, which are the direct result of communications requested by the State for benefit Plan changes outside of annual enrollment, shall be treated as pass-through costs and shall include substantiating documentation, including a line-item description of the postage and production costs incurred by the Contractor. The State shall pay the postage, printing and production costs of such mailings pursuant to Contract Section C.3. However, if a mistake is the result of the Contractor's error and is not corrected prior to printing or distribution, the Contractor shall pay the postage, printing and production costs for these communications. The Contractor shall produce and distribute corrected versions of individual materials at the State's discretion within ten (10) Business Days.
- u. The Contractor shall work with the State to outreach to executive branch departments in state government to bring awareness to the resources available through the program. The Contractor may work directly with the departments, with prior State approval, to schedule lunch and learns (virtual or in person), webinars and onsite educational support.
- v. The Contractor shall work with the State and the EAP/BHO contractor to develop a series of educational webinars (4Mind4Body) aimed at addressing topical issues for mental and physical health. The contractors shall work with the State to develop the topics, topic descriptions and schedule for the sessions as well as provide a subject matter expert to lead or co-lead the session. The State shall be responsible for hosting and communicating the sessions unless otherwise requested.
- w. In conjunction with the State and other State contractors, the Contractor shall provide support for the Working for a Healthier Tennessee program for the executive branch of state government. It shall include but not be limited to:
  - (1) Provide awareness campaigns for resources and programs;
  - (2) Attend monthly wellness council webinars, when requested, to promote programs and resources;
  - (3) Provide report(s) specific to each department with aggregate health questionnaire and other data, if applicable to show improvement over time and areas of opportunity for health improvement; and
  - (4) Attend annual wellness council meetings, when requested.

A.15. Splash Page, Contractor Website, and Mobile Application

- a. The Contractor shall maintain a Splash Page dedicated to and customized for the State, containing program information specific to the Plan membership, which does not require a Member to log in. The design of the Splash Page, inclusive of the site map, page layout, color/font scheme and branding, static content and any documents which can be accessed via, or downloaded from, the Splash Page must be prior approved In Writing by the State. The Contractor shall obtain written prior approval In Writing from the State for any links from the site to an external website/portal or webpage.
- b. The Splash Page shall at a minimum contain the following information or a link to the information with no log in required:
  - (1) Contractor member services phone number and hours;
  - (2) Overview of program and services;
  - (3) Link to Biometric Screening Contractor, if applicable; and
  - (4) Member tools and information.
- c. The Contractor shall link the Splash Page to the BA website, other State contractor websites, microsites, content or other web or mobile device enabled video/multimedia tools apps, methods or technology as determined by the State that are useful or applicable for Members (State-approved tools from other approved contractors).

- d. The Splash Page shall have the capability to host streamed content (both audio and video) from other contractors including video/multimedia tools as determined by the State if useful and applicable to Members.
- e. Contractor shall have a link to the Contractor's website with a Member log-in portal on the Splash Page.
- f. The Contractor's website for this program shall be enabled for mobile devices, mobile app or by other methods that may apply. The website shall at a minimum contain:
  - (1) An easy to navigate home page with specific information about the programs and services available to Members;
  - (2) General information and resources about population health and wellness services;
  - (3) Have an intuitive user interface, including a frequently asked questions section and other resources;
  - (4) Online secure messaging or Secure Chat capabilities to answer questions from Members and/or allow Members to interact with coaches;
  - (5) Link to Biometric Screening Contractor, if applicable;
  - (6) The health risk assessment (health questionnaire);
  - (7) Community forums and other social networking features;
  - (8) Contain condition specific information to educate Members about their diagnosis and lifestyle behaviors;
  - (9) Link to fitness trackers; and
  - (10) Track and monitor wellness activities for earning incentives.
- g. The Contractor shall have the capability to suppress information on the website that is not applicable to the State's Members.
- h. The Contractor website shall be fully operational at least thirty (30) days prior to the Go-Live Date and shall reset for each Program Year by January 1. The Splash Page shall be available and or updated by the same dates. See Contract Attachment B, Liquidated Damages, item #6.
- i. The Contractor shall submit the text and screenshots of the Splash Page, grant the State access to the customized development Splash Page, and provide log-in credentials for the Contractor's website for this program to the State for review and approval at least two (2) months prior to Go-Live and at least thirty (30) days prior to the start of each calendar year in subsequent contract years.
- j. Unless otherwise approved by the State, the Contractor shall update content and/or documents posted to the Splash Page or website within five (5) Business Days of the State's prior approval of changes to said content and/or documents.
- k. The Contractor shall ensure that all up-to-date versions of all printed materials can be downloaded from the Splash Page or accessible via a mobile device, or other method, if applicable.
- l. Contractor shall obtain prior approval In Writing from the State for any links from the site to a non-governmental website or webpage.
- m. The Contractor shall host the website on a non-governmental server, which shall be located within the United States. The contractor shall have adequate server capacity and infrastructure to support the likely volume of traffic from Members without disruption or delay.
- n. To ensure accessibility among persons with a disability, the Contractor's Splash Page and the Contractor's website shall be in compliance with Section 508. If the Contractor posts any video content it shall include closed captioning options and/or include text scripting to comply with Section 508 for these products.
- o. The Contractor may include a mobile application for use by Members with prior approval In Writing by the State. The Contractor must agree to and adhere to all security measures as it relates to Member data. The Contractor must provide a one hundred percent (100%) secure

web-based application that requires only a web-browser and an Internet connection.

- p. The Contractor agrees that the State shall have the authority to request revisions to the Contractor's online Terms and Conditions or Online Service Agreement at any time and that the State shall be provided with a copy of any Terms and Conditions that a Member must consent to in order to be provided with online account access. If the Contractor revises the online Terms and Conditions or Online Service Agreement, the Contractor agrees to provide the State with a copy of the proposed changes at least sixty (60) Business Days prior to the new effective date, and will allow the State to make revisions.

A. 16. Audits and Quality Assurance

- a. Contractor shall provide the State files to validate the monthly incentive files, including a monthly control and total file, by the date outlined in Contract Section A.23. During implementation, the State will provide details related to file formats and file layouts.
- b. Upon thirty (30) days' written notice and the execution of any applicable third-party confidentiality agreement(s), if any, reasonably required by the Contractor, the State and/or its authorized representative shall have the right to examine and audit the Contractor services and pricing to ensure compliance with all applicable requirements. For the purpose of this requirement, the term, "Contractor," shall include its parent organization, Affiliates, subsidiaries, and subcontractors, who provide services under this Contract.
- c. The State has sole authority to determine who to choose for any kind of audit related to the services contained in the contract. This includes, but does not limit the selection to, state employees, state employees from the Comptroller's audit staff, and BA's consulting firm.
- d. If the State contracts with a private entity (non-state employees) to conduct an audit of the Contractor, the State will require the auditing entity to negotiate a reasonable confidentiality agreement with the Contractor. The Contractor shall not attempt to limit the State's audit rights in any way or timeframe; the State in its sole authority and with execution of any confidentiality document shall be allowed to audit the Contractor on any contracted service or program, customer service, or any other provision of this contract by whomever the State in its sole authority deems appropriate.
- e. In no instance shall the Contractor advise the State that one set of auditors is appropriate while another set is not. In addition, the State may audit or re-audit any time period in accordance with the timeframe for audits listed in Contract Section D.11. Previous audits of time periods or any other sort of audit does not negate the State's right to re-audit the same information again later. There shall be no audit blackout periods at any point during a year and any charges or fees in any form for any audits that the State chooses to exercise.
- f. The Contractor shall provide access, at any time during the period of this Contract and for five (5) years after final contract payment (longer if required by law), to the State and/or its authorized representative to examine and audit Contractor services, payments, and pricing pursuant to this Contract. The State reserves the right to request that documentation be provided for review at the authorized representative's location, the State's location, or at the Contractor's corporate site.
- g. The Contractor shall, at its own cost, provide the State and/or its authorized representative with prompt and complete access to any data, data extracts, documents, access to systems, and other information necessary to ensure Contractor compliance with all requirements of this Contract. The parties agree to abide by all applicable federal and state laws regarding the use and disclosure of PHI.
- h. The Contractor shall provide reasonable cooperation with requests for information, which includes but is not limited to the timing of the audit, deliverables, data/information requests and the Contractor's response time to the State's questions during and after the process. The Contractor shall provide written responses to all "findings" received during the audit process to assist in clarification and suggested resolutions. The Contractor shall also provide a formal audit response within thirty (30) days of the audit conclusion, or at a later date if mutually

determined with the State to be more reasonable based on the number and type of findings.

- i. The Contractor shall fund the following audits which shall be conducted by a qualified organization or representative chosen by the State and the scope of the audit shall be defined by the State:
  - (1) A pre-implementation audit to review, at a minimum, the Contractor's system configuration to show how Program activities are tracked and reported to the State as well as how the Contractor will comply with incentive tracking and reporting;
  - (2) An operational audit focusing on, at a minimum, staffing, customer service capabilities; and
  - (3) Any follow-up audits if significant deficiencies, as determined by the State, are noted.
- j. The State shall not be responsible for time or any costs incurred by the Contractor in association with an audit including, but not limited to, the costs associated with providing data, reports, documentation, systems access, or space.
- k. If the outcome of the audit results in an amount due to the State, the Contractor shall pay the amount due within (30) thirty days of final audit report notification from the State. Any amount due the State which is not paid within (30) thirty days of the final audit report will be deducted from the total amount due from the fees due to the Contractor pursuant to C.3 until the full amount due is paid. If the Contractor disagrees with a finding resulting in a payment to the State, the State will review the Contractor's comments, but if the State retains the original audit findings the Contractor will be responsible for any payment to the State.
- l. The Contractor shall maintain a comprehensive quality assurance program with prospective, concurrent, and retrospective review and monitoring programs in order to ensure the delivery of high-quality services to Members.
- m. Whenever the Contractor identifies a potential quality issue, the Contractor shall conduct appropriate follow-up, including taking corrective action as necessary to remedy a deficiency.
- n. The Contractor's quality assurance program shall include process and outcomes measurement, evaluation, and management for Contractor programs and annual reporting. This shall include but not be limited to: (1) measuring the shift in the population's risk profile; (2) measuring Member satisfaction with the Contractor's programs.
- o. As part of its quality assurance program, the Contractor shall ensure that programs are continuously updated to include nationally recognized, evidence-based and industry best practices.
- p. The Contractor and the State shall mutually agree on the methodology for reporting on the chronic condition management program performance measures outlined in Contract Attachment C, SLA scorecard.
- q. The Contractor shall report, annually, the chronic condition management program performance measures as listed in Appendix 7.4 and see Contract Section A.23. and Contract Attachment D.
- r. The Contractor shall offer exit surveys to all Members who attend a workplace screening event. The survey instrument shall be prior approved by the State, In Writing, by the deadline listed in Contract Section A.23. The Contractor shall submit an annual report to the State summarizing the results, identifying any activities to increase Member satisfaction with the process and identifying any corrective actions that have been or will be put in place to address complaints or concerns (see Contract Attachment D). The Contractor shall also provide, at the State's request, copies of any completed Member surveys.
- s. The Contractor shall conduct an annual survey of Members using best practice survey methodology and include questions about each aspect of the program. The survey shall, at a minimum, collect information on overall satisfaction with each program/service offered



(website, online tools and resources, chronic condition management, weight management, lifestyle counseling, screening process for both worksite and physician form, etc.), ease of administration, overall program quality, communications, behavior change and health improvement, value of incentives and incentive tracking, convenience of program, Member experience with customer service, coaches and clinicians. The survey tool and methodology shall be prior approved by the State In Writing by the deadline listed in Contract Section A.23. The Contractor shall submit an annual report to the State summarizing the methodology and results and identifying an action plan to increase satisfaction with each program by the date listed in Contract Section A.23. (refer also to Contract Attachment D, Reporting Requirements and Contract Attachment C, SLA Scorecard). The level of overall Member satisfaction shall be equal to or greater than eighty-five percent (85%) in the first year of the Contract and shall be equal to or greater than ninety percent (90%) in all subsequent year(s) within the contract term. The State reserves the right to review the action plan and require changes, where appropriate.

- t. The Contractor shall obtain (if it does not already have) NCQA provisional Wellness & Health Promotion Accreditation or NCQA provisional disease management accreditation, or Utilization Review Accreditation Commission (URAC) disease management accreditation within one (1) year of the program start date or another date as approved In Writing by the State and shall retain it thereafter for the full term of this Contract. Refer to Contract Attachment D, Reporting Requirements.
- u. Any provision of the Plan Documents and any guideline, protocol, or pathway adopted by BA shall take precedence over any guideline, protocol, or pathway used by the Contractor. The Contractor's website/portal shall contain all such guidelines, protocols, or pathways that are applicable to the Plans.
- v. The Contractor shall submit to the State, at least two (2) months prior to Go-Live, a summary report of its quality assurance program (see also Contract Section A.23.). The State reserves the right to review the program documents and request changes, where appropriate. The Contractor shall notify the State, In Writing, within thirty (30) days of any significant changes to its quality assurance program. The State reserves the right to review the changes and request changes, where appropriate.

#### A. 17. Coordination and Collaboration

- a. The Contractor shall coordinate with all other approved State contractors including, but not limited to, the PBM, TPAs and the EAP/BHO contractor as necessary to ensure that Members receive appropriate services. This coordination shall include, but is not limited to, making referrals, providing information, exchanging data, and attending and participating in meetings.
- b. As directed by the State, the Contractor shall assist with implementing cost-sharing incentives (e.g., lower rates of Coinsurance, provision of Copayments in lieu of Coinsurance, waiver of or provision of lower Deductible amounts) for Members engaged in chronic condition management and other programs. The Contractor shall transmit electronic files to the medical TPAs, the PBM, and EAP/BHO contractor that identify those Members eligible for these incentives. The Contractor shall develop and transmit files specific to each contractor such that only the members enrolled with that contractor or receiving services from that contractor are identified to them.
- c. The Contractor is responsible for working directly with the TPAs, PBM and EAP/BHO contractor. Coordination by the Contractor shall include the following:
  - (1) Provision of information for the TPA to include in the member handbook and the member identification card, including Program information, the Contractor's toll-free telephone number, hours of operation, and website address.
  - (2) Accepting and maintaining data, including claims data, from the PBM and each TPA in a manner and format and at a frequency specified by the State.

- d. The Contractor shall work with each TPA and EAP/BHO contractor in order to appropriately manage patients including co-management to include consultations, when necessary, between the clinical staff of the Contractor, PBM, TPAs.
- (1) Consistent with Contract Section A.11.d., the Contractor shall receive electronic files from the TPAs and EAP/BHO contractor for the Member to receive incentive credit for participation in activities included on the wellness incentive table. The file frequency shall be no more frequently than monthly and, in a format, mutually agreed upon between the Contractor and the TPAs and EAP/BHO contractor.
- e. Meetings with the State
- (1) The Contractor shall attend ongoing monthly and quarterly operational meetings according to the State-specified schedule. If necessary, the State may require more frequent meetings. Such meetings shall be either by phone or onsite at the offices of the State of Tennessee in Nashville, TN, as determined by the State, and shall include the Account Manager, Account Executive and appropriate staff. Any costs incurred by the Contractor as a result of a meeting with the State shall be the responsibility of the Contractor.
  - (2) The Contractor, at the request of either party, shall meet with representatives of the State periodically, but no less than quarterly, to discuss any problems and/or progress on matters outlined by the State. The Contractor shall have in attendance the staff requested by the State, which may include a Program Director and representatives from the Contractor's organizational units required to respond to topics indicated by the State's agenda. The Contractor shall provide information to the State concerning its efforts to engage Members and improve administrative activities, as well as trends in the provision of health management and wellness benefits. These meetings will take place at the State of Tennessee offices in Nashville, TN. However, at its discretion, the State may allow the Contractor to participate in such meetings by teleconference.
  - (3) At the request of the State, the Contractor shall be responsible for conducting no more than three (3) seminars, either in person or via webinar, on topics to be determined in collaboration with the State. The audience shall be State staff and other appropriate individuals as determined and requested by the State.
  - (4) Unless otherwise directed by the State, qualified members of the Contractor's staff shall participate in monthly conference calls with ABC and/or Wellness Councils as well as annual enrollment trainings and webinars requested by the State.
- f. Meetings with Other Contractors
- (1) If requested by the State, the Contractor shall attend State-sponsored contractor summits with representatives from the State and its other contractors. The purpose of the contractor summit is to identify issues, develop solutions, share information, leverage resources, and discuss and develop policies and procedures as necessary to ensure collaboration among contractors and the State.
  - (2) Unless otherwise directed by the State, qualified Members of the Contractor's clinical staff shall participate in regular conference calls, at a frequency to be mutually determined, with the TPAs, EAP/BHO Contractor, and PBM to address issues or concerns regarding individual Members, particularly Members with complex needs. In preparation for each call, the Contractor shall identify Members and their issues/concerns, provide applicable documentation, including clinical information to the appropriate contractors, and develop recommendations for resolving the issue/concern. The TPAs, PBM and/or the State may also identify Members, and the Contractor shall develop draft recommendations for resolving the issue/concern if applicable.

- (3) As requested by the State, qualified Members of the Contractor's staff shall participate in conference calls with the State and representatives from the TPAs, and/or PBM, and/or other State contractors to improve coordination of their services to Members.
- g. The Contractor shall submit case management referral reports to the State (see Contract Attachment D).

#### A.18. Administrative Services

- a. The Contractor, upon request by the State, shall review and comment on proposed revisions to the Benefits in the Plans. When so requested, the Contractor shall comment in regard to:
  - (1) Industry best practices;
  - (2) The overall cost impact to the Plans;
  - (3) Any potential cost impact to the Contractor's fee;
  - (4) Impact upon the Contractor's performance;
  - (5) Necessary changes in the Contractor's reporting requirements; and/or
  - (6) System changes which could be required to support the change.
- b. The Contractor shall provide advice and assistance with regard to questions regarding scope of services as requested by the State, TPAs, EAP/BHO contractor, PBM, Members, and Providers.
- c. The Contractor shall serve as a subject-matter resource and assist the State in responding to the requirements of all applicable federal regulations, including EEOC regulations and provide, at no additional charge to the State, consultation on Program changes required by new or updated regulations and the impact to the Program.
- d. The Contractor shall respond to all inquiries In Writing from the State within two (2) Business Days after receipt of said inquiry. In cases where additional information to answer the State's inquiry is required, the Contractor shall notify the State immediately as to when the response can be furnished to the State. For matters designated as urgent by the State, the Contractor shall provide a response to the State within four (4) hours during normal business hours. During non-business hours the Contractor shall provide a response to urgent matters to the State within twenty-four (24) hours. Staff members, from the applicable business unit, with final decision-making authority shall provide responses.
- e. The Contractor shall be responsible for preparing the agendas and taking notes during all meetings with the State, including meetings with non-State attendees. After all meetings, the Contractor shall prepare meeting minutes, which shall include specific information on required action items with responsible parties assigned to said action items. The Contractor shall distribute meeting minutes to all key Contractor project staff and meeting attendees.
- f. The Contractor shall cooperate with the State in analyzing the impact of proposed legislation on the operation of the Contract. Unless otherwise directed by the State, the Contractor shall respond In Writing with a summary of Plan impact and cost breakdown analysis to all inquiries from the State regarding responses to proposed legislation within forty-eight (48) hours of the State's request. The Contractor shall defer to the State's interpretation of the applicability of proposed legislation to the State Plans. The Contractor's analysis shall include legislation that is not directly applicable to the State Plans, but which may indirectly affect the Contract by increasing the cost of Contractor's operations.
- g. As requested, the Contractor shall meet with representatives of the State to discuss any problems and/or progress on matters outlined by the State. The Contractor shall have in attendance the staff requested by the State, which may include a program director and representatives from the Contractor's organizational units required to respond to topics indicated by the State's agenda. The Contractor shall provide information to the State concerning its efforts to engage members and improve administrative activities, as well as trends in the provision of population health and wellness benefits. These meetings will take

place at the State of Tennessee offices in Nashville, TN. However, at its discretion, the State may allow for the meeting to occur remotely. Any costs incurred by the Contractor as a result of a meeting with the State shall be the responsibility of the Contractor.

- h. The State requests a mid-contract industry and innovation review and planning meeting. Said meeting may occur at either the State offices or at the Contractor's offices and shall include Contractor executives and key leadership individuals with direct knowledge and influence of the Contractor's corporate vision and direction. Meeting date, agenda, and attendees shall be mutually developed, at a minimum, by the State program director and Contractor Account Executive.
- i. The Contractor shall refer all media and legislative inquiries to BA, which will have the sole and exclusive responsibility to respond to all such queries. However, the Contractor shall respond directly to audit requests from the Comptroller, to audit requests from divisions within the Department of Finance & Administration, and to subpoenas; in all such instances, the Contractor shall copy BA on all correspondence.
- j. Unless prior approved In Writing by the State and in compliance with State and Federal law, the Contractor shall not use information gained through this Contract, including but not limited to utilization and pricing information, in marketing or expanding non-State business relationships or for any pecuniary gain.
- k. The Contractor shall notify the State, within three (3) Business Days of identification, about any situation that appears to negatively impact the administration or delivery of the program, Plans, or Benefits, including but not limited to, file and data sharing between contractors. Failure to do so may result in at risk performance payments as specified in Attachment C, SLA Scorecard. The situation shall be researched and resolved in a timeframe mutually agreed upon with the State.
- l. As prior approved In Writing by the State (see Contract Section D.7.), the Contractor may subcontract for some of the requirements of this Contract. However, the Contractor may not subcontract for more than three (3) of the core functions provided by this Contract. Core functions include the web portal (website), data management, incentive administration, health questionnaire, weight management program, chronic condition management programs, and lifestyle counseling. If the Contractor subcontracts for any of the requirements of this Contract, the Contractor shall implement monitoring processes to ensure compliance with requirements stated herein. These monitoring processes shall be provided to the State for review.
- m. In the event the Contractor has reason to believe that fraud or abuse has or may be taking place, the Contractor shall simultaneously inform BA and the Division of State Audit in the Office of the Comptroller of the Treasury. If requested by the State, the Contractor shall provide assistance to the State in any fraud investigation related to this Contract.

#### A.19. Staffing

- a. The Contractor shall provide and maintain qualified staff at a level that enables the Contractor to meet the requirements of this Contract. The Contractor shall ensure all persons, including the Contractor's employees, independent contractors, subcontractors and consultants assigned by it to perform under the Contract, shall have the experience and qualifications necessary to perform the work required herein. The Contractor shall include a similar provision in any contract with any subcontractor selected to perform work hereunder.
- b. For its work under this Contract, the Contractor shall not use any person or organization on the U.S. Department of Health and Human Services' Office of Inspector General (OIG) exclusions list unless the Contractor receives prior, written approval from the State.
- c. The Contractor shall ensure all staff members receive initial and ongoing training regarding all applicable requirements of this Contract and the Plans. The Contractor shall ensure staff members who provide services under this Contract have received comprehensive orientation and training regarding their functions, are knowledgeable about the Contractor's operations

relating to the Plans, and are knowledgeable about their functions and how those functions relate to the requirements of this Contract.

- d. The Contractor shall have sufficient qualified and trained staff as specified in the Contractor's Proposal in response to RFP#31786-00168 to provide weight management, chronic condition management and lifestyle counseling. The Contractor shall ensure continuous training, education, certification, and licensure, if applicable, of all coaches and clinicians.
  - 1) All chronic condition clinicians shall be clinical professionals appropriately licensed or certified;
  - 2) All weight management and lifestyle coaches shall have, at a minimum, a degree in a related field; and
  - 3) All coaches and clinicians shall be familiar with the Benefits and coverage for medical, pharmacy and EAP/BHO services.
- e. The Contractor shall have an ongoing designated, full-time Account Team approved by the State that can provide daily operational support as well as strategic planning and analysis. All members of the Account Team shall have previous experience administering population health and wellness services for large employers (over 10,000 members). The Account Team shall be available for consultation with the State during the hours of 8:00 a.m. to 4:30 p.m. Central Time, Monday through Friday, as required to fulfill the scope of services specified in this Contract. The Account Executive shall also be available via cell phone and email after hours, including weekends.
- f. The Contractor shall designate a full time Account Executive and Account Manager as members of the Account Team. Unless otherwise directed by the State, the Account Executive shall have had at least three (3) years of experience as an Account Executive for a population health and wellness contract with at least 10,000 members. The Account Executive shall have the responsibility and authority to manage the entire range of services specified in this Contract and shall respond promptly to changes in benefit plan design, program design, incentive administration or general administrative problems identified by the State. The Account Manager shall have at least three (3) years of experience with population health and wellness programs and shall have the responsibility and authority to respond promptly to Member issues or inquiries as identified by the State. At a minimum, the Account Executive and Account Manager shall meet in person with the State once a quarter and more often if required by the State. At its discretion, the State may approve the Contractor to participate in such meetings remotely.
- g. The Contractor shall have a designated staff member as the central contact for all State training requests, marketing materials distribution requests, and benefit and wellness fair requests. This could be the Account Manager or someone else assigned by the Contractor. As needed and as part of its education and information role the Contractor shall, as requested by the State, attend ABC trainings and benefits fairs for Members at the State, Universities, LEAs, LGAs and shall participate in ABC calls as needed and requested.
- h. The State shall perform an account satisfaction survey of the Contractor's performance annually during the first quarter of the Calendar Year to determine the State's satisfaction with the ongoing account team and Contractor. This survey will be developed by the State and distributed internally to those employees who work directly with the Contractor and this account. The State shall compile the results and the results shall be shared with the Contractor including the identification of any deficiencies. The Contractor shall respond within fifteen (15) days of receiving the results with a corrective action plan as necessary to remedy any identified deficiencies.
- i. The Contractor agrees that the State may approve or disapprove the staff assigned to this Contract prior to the proposed assignment including approving the implementation and account teams. The State may also direct the Contractor to replace staff members providing core services as the State deems necessary and appropriate. The decision of the State on these matters shall not be subject to appeal.
- j. Key personnel commitments made in the Contractor's proposal shall be approved In Writing during implementation and shall not be changed unless requested by the State or prior

approved by the State In Writing. The Contractor shall notify the State at least fifteen (15) Business Days in advance, or as soon as the information is available, of proposed changes and shall submit justification (including proposed substitutions) in sufficient detail regarding education and experience equal to previous staff to the State to evaluate the impact upon the Contract.

- k. If any key position becomes vacant, the Contractor shall immediately provide a temporary replacement and shall provide a permanent replacement with commensurate experience and required professional credentials within sixty (60) days of the vacancy unless the State grants an exception to this requirement In Writing.

#### A.20. Information Systems

- a. The Contractor's systems shall have the capability of adapting to any future changes necessary as a result of modifications to the design of the Plans or this Contract and its requirements, including e.g., data collection, records and reporting based upon unique identifiers to track services and expenditures across population types/demographic groups, regions/parts of the state. The systems shall be scalable and flexible so they can be adapted as needed, within negotiated timeframes, e.g., in response to changes in Contract requirements or increases in enrollment estimates. The Contractor's system architecture shall facilitate rapid application of the more common changes that can occur in the Contractor's operation, including but not limited to:

- (1) Changes in payment methodology;
- (2) Additions and deletions of in-scope services;
- (3) Changes in program management rules, e.g., eligibility for certain services; and
- (4) Standardized contact/event/service codes.

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

- (1) Electronic Transactions and Code Sets
- (2) Privacy
- (3) Security
- (4) National Provider Identifier
- (5) National Employer Identifier
- (6) National Individual Identifier
- (7) Claims attachments
- (8) National Health Plan Identifier
- (9) Enforcement

- c. All Contractor systems shall maintain linkages and Head-of-Contract-Dependent (e.g., spouse to spouse and parent to child) relationships between initial and related subsequent interactions/transactions/events/activities. Additionally, when the Contractor houses indexed images of documents used by Members, providers and subcontractors to transact with the Contractor, the Contractor shall ensure that these documents maintain logical relationships to certain key data such as member identification and provider/subcontractor identification numbers. The Contractor shall also ensure that records associated with a common event, transaction or customer service issue have a common index that facilitates search, retrieval and analysis of related activities, e.g., interactions with a particular Member about the same matter/problem/issue.
- d. Upon the State's request and timeline, the Contractor shall be able to generate a listing of all Members that were sent a particular document, the date and time that the document was generated, and the date and time that it was sent to particular Members or groups thereof. The Contractor shall also be able to generate a sample of said document.
- e. Retention and Accessibility of Information

- (1) The Contractor shall provide, one (1) month prior to Go-Live, and maintain thereafter a comprehensive information retention plan that is in compliance with state and federal requirements.
  - (2) The Contractor shall maintain information on-line for a minimum of three (3) years, based on the last date of update activity, and update detailed and summary history data monthly for up to three (3) years to reflect adjustments.
  - (3) The Contractor shall provide forty-eight (48) hour turnaround or better on requests for access to information that is between one (1) year and three (3) years old, and seventy-two (72) hour turnaround or better on requests for access to information that is between four (4) and five (5) years old. Such requests for information shall be made by the State or its authorized designee.
  - (4) If an audit or administrative, civil or criminal investigation or prosecution is in progress or audit findings or administrative, civil or criminal investigations or prosecutions are unresolved, information shall be kept in electronic form until all tasks or proceedings are completed.
- f. Information Ownership. All information, whether data or documents, and reports that contain or make references to said information, involving or arising out of this Contract shall be owned by the State. The Contractor is expressly prohibited from sharing or publishing State information and reports or releasing such information to external entities, Affiliates, parent company, or subsidiaries without the prior consent In Writing by the State.
- g. System Availability
- (1) The Contractor shall ensure that critical Member, provider and other web-accessible and/or telephone-based functionality and information, including the website described in Contract Section A.15., are available to the applicable system users twenty-four (24) hours a day, seven (7) days a week, except during periods of scheduled system unavailability agreed upon by the State and the Contractor. Unavailability caused by events outside of the Contractor's Span of Control is outside of the scope of this requirement. Any scheduled maintenance shall occur between the hours of midnight and 5:00 a.m. Central Time and shall be scheduled in advance with notification on the Member website. The Contractor shall make efforts to minimize any down time between 5:00 a.m. and 12:00 a.m. Central Time.
  - (2) The Contractor shall ensure that the systems within its Span of Control that support its data exchanges with the State and the State's contractors are available and operational according to the specifications and schedule associated with each exchange.
- h. Prior to implementing any major modification to or replacement of the Contractor's core Information Systems functionality and/or associated operating environment, the Contractor shall notify the State In Writing of the change or modification within a reasonable amount of time (commensurate with the nature and effect of the change or modification) if the change or modification: (a) would affect the Contractor's ability to perform one or more of its obligations under this Contract; (b) would be visible to State system users and Members; (c) might have the effect of putting the Contractor in noncompliance with the provisions or substantive intent of the Plan Documents and/or this Contract; or (d) would materially reduce the Benefits payable or services provided to the average Member. If so directed by the State, the Contractor shall discuss the proposed change with the State/its designee prior to implementing the change. Subsequent to this discussion, the State may require the Contractor to demonstrate the readiness of the impacted systems prior to the effective date of the actual modification or replacement.
- i. System and Information Security and Access Management Requirements
- (1) The Contractor's systems shall employ an access management function that restricts access to varying hierarchical levels of system functionality and information. The access management function shall:

- i. Restrict access to information on a “least privilege” basis, e.g., users permitted inquiry privileges only shall not be permitted to modify information;
  - ii. Restrict access to specific system functions and information based on an individual user profile, including inquiry only capabilities and the ability to create, change or delete certain data (global access to all functions shall be restricted to specified staff jointly agreed to by the State and the Contractor);
  - iii. Restrict unsuccessful attempts to access system functions to five (5), with a system function that automatically prevents further access attempts and records these occurrences; and
  - iv. Ensure that authentication credentials are not passed in clear text or otherwise displayed or presented.
- (2) The Contractor shall make system information available to duly authorized representatives of the State and other federal and state agencies to evaluate, through inspections or other means, the quality, appropriateness and timeliness of services performed.
- (3) The Contractor’s systems shall contain controls to maintain information integrity. These controls shall be in place at all appropriate points of processing. The controls shall be tested in periodic and spot audits following a methodology to be developed jointly by and mutually agreed upon by the Contractor and the State.
- (4) Audit trails shall be incorporated into all systems to allow information on source data files and documents to be traced through the processing stages to the point where the information is finally recorded. The audit trails shall:
- i. Contain a unique log-on or terminal ID, the date, and time of any create/modify/delete action and, if applicable, the ID of the system job that effected the action;
  - ii. Have the date and identification “stamp” displayed on any on-line inquiry;
  - iii. Have the ability to trace data from the final place of recording back to its source data file and/or document;
  - iv. Be supported by listings, transaction reports, update reports, transaction logs, or error logs; and
  - v. Facilitate batch audits as well as auditing of individual records.
- (5) The Contractor’s systems shall have inherent functionality that prevents the alteration of finalized records.
- (6) The Contractor shall provide for the physical safeguarding of its data processing facilities and the systems and information housed therein. The Contractor shall provide the State with access to data facilities upon request. The physical security provisions shall be in effect for the life of this Contract, if and when applicable.
- (7) The Contractor shall restrict perimeter access to equipment sites, processing areas, and storage areas through a card key or other comparable system, as well as provide accountability control to record access attempts, including attempts of unauthorized access.
- (8) The Contractor shall include physical security features designed to safeguard processor site(s) through required provision of fire-retardant capabilities, as well as smoke and electrical alarms, monitored by security personnel.
- (9) The Contractor shall put in place procedures, measures and technical security to prohibit unauthorized access to the regions of the data communications network inside of the Contractor’s Span of Control.
- (10) The Contractor shall conduct a security risk assessment at least annually and communicate the results to the State in compliance with Contract Attachment E. The first report shall be provided one (1) month prior to Go-Live and annually thereafter (refer also to Contract Attachment D, Reporting Requirements). The risk assessment shall also be made available to appropriate State and Federal



agencies. At a minimum the assessment shall contain the following: identification of loss risk events/vulnerabilities; analysis of the probability of loss risk and frequency of events; estimation of the impact of said events; identification and discussion of options for mitigating identified risks; cost-benefit analysis of options; recommended options and action plan for their implementation. The assessment shall be conducted in accordance with the following: requirements for administrative, physical, and technical safeguards to protect health data (45 CFR §§164.304 – 318); rules for conducting risk analysis and risk management activities (45 CFR §164.308); requirements for security awareness training (45 CFR §164.308(a)(5)); requirements for entities to have security incident identification, response, mitigation and documentation procedures (45 CFR §164.308(a)(6)).

- (11) To maintain the privacy of PHI, the Contractor shall enable Transport Layer Security (TLS) on the mail server used for daily communications (i.e., email) between the State and the Contractor. TLS shall be enabled no later than one month after the Contract Effective Date and shall remain in effect throughout the term of the contract.

#### A.21. Data Integration and Technical Requirements

- a. The Contractor shall establish and maintain an electronic data interface with Edison for the purpose of retrieving and processing Member enrollment information. The Contractor shall be responsible for providing and installing the hardware and software necessary. When the Contractor requires the exchange of PHI with the State, the State requires the use of second level authentication. Second level authentication is accomplished using the State's standard software product, which supports PKI. The Contractor shall design a solution and submit to the State In Writing how their design meets the requirements of this Contract using industry standard, software that can transmit files in a secure fashion. The initial implementation phase of this solution and the final production solution will differ in the method of authentication. The requirement for this solution is that all files that are transmitted will be encrypted, and the method of transmission will also be encrypted. Decryption of the files that are downloaded from this solution will not be decrypted until they are securely stored with in the Contractor's environment. Additionally, federal standards require encryption of all electronic protected health data at rest as well as during transmission. The State uses public key encryption with Advanced Encryption Standard to encrypt PHI. If the State plans to adopt a different or additional encryption standard or tool in the future, the State will notify the Contractor and the Contractor shall comply. The Contractor shall establish and maintain the security of all confidential state data according to all applicable state and federal standards within thirty (30) days of the State's use of the new or additional encryption standard or tool. Refer also to Attachment B, Liquidated Damages.
- b. Notwithstanding the requirement to maintain enrollment data, the Contractor shall not perform changes to enrollment data without the State's approval In Writing. This prohibition shall include, but not necessarily be limited to initiation, termination, and/or changes of coverage.
- c. At least two (2) months prior to Go-Live, the Contractor shall complete testing of the transmission, receipt, and loading of the test enrollment file from the State.
- d. At least one (1) month prior to Go-Live, the Contractor shall load, test, verify and make available online for use the State's enrollment information (refer also to Contract Attachment B, Liquidated Damages). The Contractor shall certify, In Writing, to the State that the Contractor understands and can fully accept and utilize the enrollment files as provided by the State, in the format provided by the State, with no modifications.
- e. The Contractor shall maintain, in its systems, in-force enrollment records of all individuals covered by the Plans.
  - (1) Weekly Enrollment Update: To ensure that the State's enrollment records remain accurate and complete, the Contractor shall retrieve, unless otherwise directed by the State, via secure medium, weekly enrollment files from the State, in the

State's Edison 834, which may be revised. Files will include full population records for all Members and will be in the format of ANSI ASC X12N, Benefit Enrollment and Maintenance 834 (5010), version 005010X220A1, with several fields customized by the State. Change files will not be sent.

- (2) The Contractor and/or its subcontractors, shall electronically process one hundred percent (100%) of electronically transmitted enrollment updates, including the resolution of any errors identified during processing, within two (2) Business Days of receipt of the weekly file (also refer to Contract Attachment C. The assessment for the scorecard will occur quarterly).
  - (3) The Contractor shall submit to the State a weekly enrollment file error report, in a format agreed upon by the State, within one (1) Business Day of receipt of the weekly file, which shall contain a) only errors that require correction and b) an indication of the correction required to resolve the error (also refer to Contract Attachment D, Report Requirements).
  - (4) The Contractor and/or its subcontractors shall resolve all enrollment discrepancies as identified by the State or Contractor within two (2) Business Days of identification.
  - (5) The Contractor and/or its subcontractors, with collaboration from the State, shall resolve all errors, as identified through enrollment discrepancy resolution, in a timeframe mutually agreed upon with the State.
- f. State Enrollment System Data Verification: Upon request by the State, not to exceed two (2) times annually, the Contractor shall submit to the State, in a secure manner, its full file of State Members, by which the State may conduct a data verification against the State's Edison database. The purpose of this data verification will be to determine the extent to which the Contractor is maintaining its database of State Members. The State will communicate results of this verification to the Contractor, including any Contractor requirements, and associated timeframes, for resolving the discrepancies identified.
- g. The Contractor shall establish and maintain systems and processes to receive and provide all appropriate and relevant data from entities and contractors providing services to Members, including contractors under contract with the State (e.g., PBM and TPAs,) and integrate such data into Contractor's systems and processes as appropriate no later than one (1) month prior to Go-Live at no additional cost to the State.
- h. Decision Support System (DSS)
- (1) The Contractor shall transmit a single monthly file that will include biometric, data, program participation and any additional information/data needed to report on the contracted clinical outcome measures to the State's current health care DSS contractor in a format provided by the State, or in a mutually agreed upon format. The Contractor shall submit test data file to the State's DSS contractor at least (2) months prior to the Go-Live date. Accompanying each data transmission, the Contractor must supply the State's DSS contractor with a control log of total information related to all data files including but not limited to date range, file length information, record totals, and any financial totals. The Contractor shall transmit the data, via a mutually agreed upon secure methodology, no later than fifteen (15) days following the end of each calendar month, or more frequently as directed by the State. Program Integrity will be notified by the DSS contractor of any delays in the file delivery for the quarterly assessment (see Contract Attachment C, SLA scorecard). The Contractor shall ensure that the data includes all of the variables as contained in the file layout approved by the State.
  - (2) Data provided to the DSS contractor shall meet the data quality indicators detailed in the SLA Scorecard, (Contract Attachment C) as determined by the State's DSS contractor. Any assessments for missed quality indicators shall occur quarterly.

- i. The Contractor's systems shall conform to future federal and state standards for data exchange by the standard's effective date.
- j. The Contractor shall partner with the State in the management of current and future data exchange formats and methods and in the development and implementation planning of future data exchange methods not specific to HIPAA or other Federal efforts.
- k. The Contractor's system(s) shall possess mailing address standardization functionality in accordance with U.S. Postal Service conventions.
- l. If requested by the State, the Contractor shall transmit on a monthly basis a complete, electronic file of members receiving Lifestyle Counseling, chronic condition management, and Weight Management to the State's TPAs, EAP/BHO and the PBM contractors. The Contractor shall generate and transmit files specific to each medical TPA such that only the members enrolled in that TPA are identified to that TPA. The Contractor's file shall be in a format specified by the State.
- m. The Contractor shall transmit to the BA Program Integrity Team a Control File, a Total File, and Incentive Payment File for incentive payment verification by the date outlined in Contract Section A.23. using the template files provided in RFP Appendix 7.5.
- n. The Contractor shall transmit to State Payroll, UT, TBR and Offline Agencies Incentive Payment Files for incentive payment by the date outlined in Contract Section A.23. using the template provided in RFP Appendix 7.5.
- o. Within sixty (60) days of notice of termination of this Contract, the Contractor shall transfer to the State all required data and records necessary to administer the plan(s)/program(s), subject to state and federal confidentiality requirements. The transfer shall be made electronically via secure medium, in a file format to be determined based on the mutual agreement between the State and the Contractor.

#### A.22. Reporting and Systems Access

- a. At the State's request In Writing, the Contractor shall provide the State access to its client facing reporting system if available, including program and fiscal information regarding members served, services rendered, and the ability for said personnel to retrieve reports. The Contractor shall provide training in and documentation on the use of this mechanism no later than two weeks prior to Go-Live. The Contractor shall provide access to this reporting functionality to a minimum of two (2) State employees no later than two weeks prior to the Go-Live date. Additional or replacement users may be added at any time at the State's request. If agreed upon by the State In Writing, the Contractor must provide the State with an individual dedicated to developing, retrieving, and providing reports in the timeframe requested by the State.
- b. The Contractor shall train the requested State staff (and any additional or replacement users) regarding access to the Contractor's system on all Contractor systems and tools no later than one (1) month prior to Go-Live. Such training may be delivered remotely or in-person.
- c. The Contractor shall submit reports in a mutually agreeable electronic format (e.g., Microsoft Word or Microsoft Excel), of the type, at the frequency, and containing the detail described in Contract Attachment D, Reporting Requirements. Reporting for the chronic condition management program shall continue for the claims run out period to finalize the final year of the contract's performance measures. Refer also to Contract Attachment C, SLA Scorecard.
- d. The Contractor shall provide the State access to an ad-hoc reporting analyst to assist in the development of reports that cannot be generated using the Contractor's standard reporting package. The Contractor shall deliver such reports to the State within five (5) Business Days of the State's request. If requested by the State, the Contractor shall deliver up to five (5) reports annually deemed as "urgent" by the State within two (2) Business Days. All ad-hoc reports shall be provided at no additional cost to the State (see also Contract Attachment D,

Reporting Requirements).

- e. The Contractor shall ensure reports submitted by the Contractor to the State meet the following standards:
- (1) The Contractor shall verify the accuracy and completeness of data and other information in reports submitted.
  - (2) The Contractor shall ensure delivery of reports or other required data on or before scheduled due dates.
  - (3) Reports or other required data shall conform to the State's defined written standards.
  - (4) All required information shall be fully disclosed in a manner that is responsive and with no material omission.
  - (5) As applicable, the Contractor shall analyze the reports for any early patterns of change, identified trend, or outlier (catastrophic case) and shall submit a written summary with the report including such analysis and interpretation of findings. At a minimum, such analysis shall include the identification of change(s), the potential reasons for change(s), and the proposed action(s).
  - (6) The Contractor shall notify the State regarding any significant changes in its ability to collect information relative to required data or reports.
  - (7) The submission of late, inaccurate or otherwise incomplete reports shall be considered failure to report within the specified timeframe (see Contract Attachment C, SLA Scorecard).
  - (8) State requirements regarding reports, report content and frequency of submission may change during the period of the Contract. The Contractor shall have at least forty-five (45) days to comply with changes specified In Writing by the State.
- f. The Contractor shall provide sufficient reports and data access to the State to allow the State to calculate the frequency and duration of contacts with Members who engage in any of the programs offered by the Contractor.

A.23. Due Dates for Deliverables/Milestones

Deliverables/Milestones		Contract Reference(s)	Deliverable Due Dates & Milestone Target Dates <i>(considered calendar days unless otherwise indicated)</i>
<b>Implementation</b>			
1.	Programs, service, and Information Systems are fully operational	A.1.a.	December 15, 2023
2.	Go-live	A.2.q.	January 1, 2024
3.	Kick-off meeting for all key Contractor staff	A.3.d.	Within 30 days after Contract effective date
4.	Implementation plan	A.3.e.	30 days after Contract effective date (on or before)
5.	State readiness review	A.3.g.	November 1, 2023 (on or before)
6.	Status Meetings	A.3.j.	Contract effective date through February 15, 2024
7.	Implementation Performance Assessment	A.3.k.	No later than 45 days after Go-Live
<b>Biometric Screenings</b>			

8.	Workplace Screening Protocol	A.4.f.(4)	January 1, 2024
9.	Biometric Screening One-Page Summary for Workplace Screening (final)	A.4.f.(9)	November 15, 2023
10.	Workplace Screening Operation and Coordination Survey Report	A.4.f. (11) and Attachment D	Annually
11.	Biometric Screening Completion Report	A.4.j. and Attachment D	Quarterly after Go-Live
12.	Biometric Screening Summary Report	A.4.j. and Attachment D	Quarterly after Go-Live
<b>Health Questionnaires</b>			
13.	Health Questionnaire (final)	A.5.d.	October 15, 2023
14.	Health Questionnaire Available on Member Website/portal	A.5.c.	January 1, 2024
15.	Health Questionnaire Completion Report	A.5.f. and Attachment D	Quarterly after Go-Live
16.	Health Questionnaire Summary Report	A.5.f. and Attachment D	Quarterly after Go-Live
<b>Content and Structure of Programs/Services</b>			
17.	Policies and Procedures for assigning coaches	A.6.i.	October 15, 2023
<b>Identification, Outreach and Engagement</b>			
18.	Review with State risk stratification/methodology for all programs	A.7.a.(3)	September 30, 2023
19.	Program Participation Report	A.7.f. and Attachment D	Monthly after Go-Live
20.	Diabetes Remission/Reversal Report	A.7.g. and Attachment D	Quarterly after Go-Live
<b>Weight Management</b>			
21.	Program Participation Report	A.10.e. and Attachment D	Monthly after Go-Live
<b>Incentive Oversight, Alternative Standards and Appeals</b>			
22.	Description of Member Appeals Process and Procedures and Sample Decision Letter	A.11.e.(3)	December 1, 2023
23.	Appeals Report	A.11.e.(6) and Attachment D	Quarterly after Go-Live
<b>Member Services and Call Center</b>			
24.	Adherence to Customer Satisfaction Standards Report	A.12.e. and Attachment C	Monthly after Go-Live
25.	Member Inquiries	A.12.f. and Attachment D	Quarterly after Go-Live
26.	Description of Member Complaints Process and Procedures and Sample Determination Letter	A.12.h.(2)	December 1, 2023
27.	Quarterly Complaints Reports	A.12.h.(3) and Attachment D	Quarterly after Go-Live

28.	Member Services Call Center open	A.13.d.	December 1, 2023
29.	Call Center Operation Policies and Procedures	A.13.k.	November 1, 2023
30.	Call Center Statistics and Summary Report	A.13.m., Attachment C, and Attachment D	Monthly starting January 1, 2024
<b>Member Communication/Materials</b>			
31.	Annual Communication Plan	A.14.a.	October 1, 2023, and October 1 of each year thereafter
32.	Annual Mailer (Welcome Mailer)	A.14.b.(2)	Annually, should arrive in Member's home no later than December 15 <sup>th</sup>
33.	Annual Communications and Marketing Analytics Report	A.14.a.(1)	At least annually
34.	Materials for Annual Enrollment Period	A.14.n.	Annually three (3) months before the annual enrollment period (on or before)
<b>Member Splash Page/Website/Mobile Application</b>			
35.	Website/Portal/Splash Page Go-Live	A.15.h.	December 1, 2023 (on or before)
36.	State Review of Website and all Materials on Website	A.15.i.	November 1, 2023 (on or before) and December 1 of each year thereafter
<b>Audits and Quality Assurance</b>			
37.	Chronic Condition Management Program Performance Measures reporting	A.16.q.	Annually
38.	Workplace Screening Survey tool and methodology	A.16.r	October 1, 2023
39.	Workplace Screening Exit Survey Report	A.16.r. and Attachment D	Monthly after Go-Live, during the workplace screening periods.
40.	Program Satisfaction Survey tool and methodology	A.16.s.	October 1, 2023
41.	Program Satisfaction Report	A.16.s. and Attachment D	Ninety (90) days after the end of the calendar year.
42.	Accreditation Schedule (if not accredited)	A.16.t.	January 1, 2025
43.	Quality Assurance Program	A.16.v.	November 1, 2023
<b>Coordination and Collaboration</b>			
44.	Transmission of Electronic Files to Other Contractors of Members Enrolled in lifestyle counseling or chronic condition management	A.17.b, A.21.i. and Attachment D	Date TBD by State
45.	Monthly Operational Meetings	A.17.e.(1)	Monthly after Go-Live
46.	Quarterly meetings with the State	A.17.e. (2)	Quarterly after Go-Live
47.	Seminars	A.17.e.(3)	Date TBD by State
48.	Monthly Calls with ABCs and/or Wellness Councils	A.17.e.(4)	Dates TBD by State

49.	State-Sponsored Contractor Summit	A.17.f.(1)	Date TBD by State
50.	Conference calls (Grand Rounds) with the medical TPAs, PBM, and EAP/BHO	A.17.f.(2)	Date TBD by State
<b>Staffing</b>			
51.	Account Team Satisfaction Survey	A.19.h	Annually in January
<b>Data Integration &amp; Technical Requirements</b>			
52.	Completion of enrollment file testing	A.21.c	November 1, 2023
53.	Edison system interface/enrollment file acceptance	A.21.d.	December 1, 2023 (on or before)
54.	Weekly enrollment update	A.21.e.(2)	Weekly after December 1, 2023
55.	Weekly Enrollment File Error Report	A.21.e.(3) and Attachment D	Within one (1) Business Day of receipt of the Weekly Enrollment Update
56.	State enrollment data match	A.21.f.	Up to two (2) times annually, as requested by the State
57.	Completion of testing files from other contractors	A.21.g.	November 15, 2023 (on or before)
58.	Interface with other contractors/file acceptance	A.21.g.	December 1, 2023
59.	Data transmission to DSS contractor	A.21.h.	Testing two (2) months prior to Go-Live and data delivery on the 15 <sup>th</sup> of each calendar month
60.	Data transmission to third parties	A.21.i.	As described in A.21.i., unless otherwise directed by the State
61.	Incentive Control File, Total File and Incentive Payment Files to Program Integrity	A.21.m.	Monthly by the 8 <sup>th</sup> of every month or the workday prior if the 8 <sup>th</sup> falls on a weekend or State Holiday
62.	Incentive Payment Files to State Payroll, UT, TBR, Offline Agencies	A.21.n.	Monthly by the 15 <sup>th</sup> of every month or the workday prior if the 15 <sup>th</sup> falls on a weekend or State Holiday
63.	Transmission of data and records to State	A.21.o.	Within sixty (60) Business Days of notice of termination
<b>Reporting &amp; Systems Access</b>			
64.	Reports specified in Contract Attachment D	A.22.c. and Contract Attachment D	As specified in Contract Attachment D
65.	State staff systems training	A.22.a.	January 15, 2024 (on or before)

A.24. **Warranty.** Contractor represents and warrants that the term of the warranty (“Warranty Period”) shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a “Defect” and shall be considered “Defective.” If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract. Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in Contractor’s industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services. Any exercise of the State’s rights under this Section shall not prejudice the State’s rights to seek any other remedies available under this Contract or applicable law.

- A.25. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

**B. TERM OF CONTRACT:**

This Contract shall be effective on April 1, 2023 (“Effective Date”) and extend for a period of seventy-five (75) months after the Effective Date (“Term”). This provides for nine (9) months of implementation, sixty (60) months of service delivery to members, and six (6) months for reporting runout. The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date or outside of the sixty (60) month service delivery term.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Twenty-Six Million Dollars (\$26,000,000) (“Maximum Liability”). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor’s compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
  - b. The Contractor shall be compensated based upon the following payment methodology:

Fees	CY 2024	CY 2025	CY 2026	CY 2027	CY 2028
Administration Fee <sup>1</sup>	\$1.00 PEPM	\$1.00 PEPM	\$1.00 PEPM	\$1.05 PEPM	\$1.10 PEPM
<b>Chronic Condition Management</b> (Tiered pricing based on risk level and intensity of interventions). To include at a minimum: asthma, diabetes, COPD, CAD, CHF, hypertension, CKD and diabetes					



reversal/remission.					
High Risk <sup>2</sup>	\$36.00 Per engaged participant per month	\$36.00 Per engaged participant per month	\$36.00 Per engaged participant per month	\$37.80 Per engaged participant per month	\$39.70 Per engaged participant per month
Moderate Risk <sup>2</sup>	\$36.00 Per engaged participant per month	\$36.00 Per engaged participant per month	\$36.00 Per engaged participant per month	\$37.80 Per engaged participant per month	\$39.70 Per engaged participant per month
Low Risk <sup>2</sup>	\$36.00 Per engaged participant per month	\$36.00 Per engaged participant per month	\$36.00 Per engaged participant per month	\$37.80 Per engaged participant per month	\$39.70 Per engaged participant per month
Diabetes Remission/Reversal <sup>3</sup> months 1-12	\$74.00 Per engaged participant per month	\$74.00 Per engaged participant per month	\$74.00 Per engaged participant per month	\$77.70 Per engaged participant per month	\$81.60 Per engaged participant per month
Diabetes Remission/Reversal <sup>3</sup> months 13+	\$74.00 Per engaged participant per month	\$74.00 Per engaged participant per month	\$74.00 Per engaged participant per month	\$77.70 Per engaged participant per month	\$81.60 Per engaged participant per month
Lifestyle Counseling (to include at a minimum tobacco cessation, stress management, sleep, nutrition and physical activity) <sup>2</sup>	\$20.00 Per engaged participant per month	\$20.00 Per engaged participant per month	\$20.00 Per engaged participant per month	\$21.00 Per engaged participant per month	\$22.05 Per engaged participant per month
<b>Weight Management Program</b>					
Weight Management Program <sup>4</sup>	\$650.00 Per enrolled member	\$650.00 Per enrolled member	\$650.00 Per enrolled member	\$680.00 Per enrolled member	\$715.00 Per enrolled member
<b>Biometric Screenings</b>					
Workplace screenings (> 50 participants per location – all-inclusive fee)	\$44.45 Per individual onsite screening	\$44.45 Per individual onsite screening	\$44.45 Per individual onsite screening	\$46.65 Per individual onsite screening	\$49.00 Per individual onsite screening
At-home test kits	\$88.00 Per kit	\$88.00 Per kit	\$88.00 Per kit	\$92.40 Per kit	\$97.00 Per kit
Provider Form	\$10.00 Per returned form	\$10.00 Per returned form	\$10.00 Per returned form	\$10.50 Per returned form	\$11.00 Per returned form
Lab Voucher/Lab site	\$44.45 Per returned voucher	\$44.45 Per returned voucher	\$44.45 Per returned voucher	\$46.65 Per returned voucher	\$49.00 Per returned voucher
<b>In Person Coaching</b>					
Lifestyle Counseling	\$40.00 Per hour	\$40.00 Per hour	\$40.00 Per hour	\$42.00 Per hour	\$44.00 Per hour
Chronic Condition Management	\$72.00 Per hour	\$72.00 Per hour	\$72.00 Per hour	\$75.50 Per hour	\$79.40 Per hour
<b>Digital Health Device</b>					
Blood Pressure Cuff	\$25.00 Per device	\$25.00 Per device	\$25.00 Per device	\$26.00 Per device	\$27.50 Per device

Digital Weight Scale	\$85.00 Per device	\$85.00 Per device	\$85.00 Per device	\$89.00 Per device	\$93.00 Per device
Continuous Glucose Monitor (CGM)	\$850.00 Per device	\$850.00 Per device	\$850.00 Per device	\$850.00 Per device	\$850.00 Per device

<sup>1</sup> The admin fee is a per employee per month (PEPM) fee. The State will pay for all Heads of Contract for the state plan. As of June 2022, total Heads of Contract is 60,540. The State will pay for 25% of the Heads of Contract for local education, local government, and retirees. As of June 2022, the total Heads of Contract for these plans is 77,701. The fee should cover all residual services and deliverables required under the terms of this Contract and which are not specifically and separately identified elsewhere in the table. Such services include, but are not limited to, the online health questionnaire, digital coaching and online tools, website/portal, incentive tracking tool, general member services, member education and outreach, quality assurance, coordination and collaboration, administrative services, communications and marketing, reporting, and information systems.

<sup>2</sup> An “engaged” Member is one with whom the Contractor can document a minimum of one (1) completed interactive contact (meaning the Member was responsive to the Contractor’s outreach) during the month in order to be paid for that month, as defined in Sections A.7.e.(1) for lifestyle counseling, and/or chronic condition management. Engagement is not a series of outbound attempts by the Contractor, regardless of method of outreach, where there is no documented Member response.

<sup>3</sup> An “engaged” participant for diabetes remission/reversal is one with whom the Contractor can document a minimum of one (1) completed interactive contact (meaning the member was responsive to the Contractor’s outreach) during the month in order to be paid for that month, as defined in Sections A.7.e.(1) chronic condition management. Engagement is not a series of outbound attempts by the Contractor, regardless of method of outreach, where there is no documented member response. The cost of the program shall include all equipment provided to the Member.

<sup>4</sup> The State will pay the Contractor for weight management in the following manner: 1/3 of the total fee when a Member enrolls, another 1/3 when Member completes at least 50% of sessions/classes, and the final 1/3 will be made when the Contractor demonstrates that the Member achieved a total weight loss of at least 5%. The cost of the program shall include all equipment provided to the Member.

- c. The Contractor shall submit a Member Billing Detail report along with the monthly invoice to substantiate the invoice. Format to be mutually agreed upon by the State.
  - d. The State will pay for each Member “engaged” in the weight management program in three (3) installments. One third will be paid when a Member enrolls in the program, one third will be paid when the Member completes 50% of the required sessions/classes. The final third will be paid when the Member is documented as losing 5% of his/her weight from the initial reported weight.
  - e. The Contractor’s rates above shall include all costs related to the transmission of data to and the TPAs, EAP/BHO contractor, and the PBM as required under this Contract. This shall include but not be limited to the costs of accessing any claims data for purpose of identifying Member eligibility as described in Section A.8.a.(1) or in the Contractor’s proposal response to RFP #31786-00168.
  - f. Any programs, services, or devices utilized by the State through this contract may be stopped at the State’s discretion. The State will provide the Contractor at least six (6) months’ notice.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.
- C.5 SLA Scorecard.
- a. The Parties shall conduct an assessment (Contract Attachment C), beginning after the Go-Live date, on a quarterly and annual basis during the Term.
  - b. Based on the SLA Scorecard, Contractor shall send the State an At-Risk Performance Payment (if applicable) quarterly (every three months) and annually during the Term in accordance with Contract Attachment C. The Contractor shall also send the State a program performance payment based on the Chronic Condition Management Program Performance

Table B during the Term in accordance with Contract Attachment C. These payments are due within forty-five (45) calendar days of the SLA Scorecard assessment.

- C.6. Purchase Order in lieu of Invoice. The State will generate a purchase order and initiate monthly payments for the administration fee based upon enrollment totals of those eligible as of the first day of the month utilizing the terms and rates in C.3. above.
- C.7. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

Seannalyn Brandmeir, Director of Procurement and Contracts  
Finance and Administration, Division of Benefits Administration  
William R. Snodgrass TN Tower, 19<sup>th</sup> Floor  
312 Rosa L. Parks Ave.  
Nashville, TN 37243  
[seannalyn.brandmeir@tn.gov](mailto:seannalyn.brandmeir@tn.gov)

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all the following information (calculations must be extended and totaled correctly):
- (1) Invoice number (assigned by the Contractor);
  - (2) Invoice date;
  - (3) Contract number (assigned by the State);
  - (4) Customer account name: Department of Finance & Administration, Division of Benefits Administration;
  - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
  - (6) Contractor name;
  - (7) Contractor Tennessee Edison registration ID number;
  - (8) Contractor contact for invoice questions (name, phone, or email);
  - (9) Contractor remittance address;
  - (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
  - (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
  - (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
  - (13) Amount due for each compensable unit of good or service; and
  - (14) Total amount due for the invoice period.
- b. Contractor's invoices shall:
- (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
  - (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
  - (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
  - (4) Include shipping or delivery charges only as authorized in this Contract.
- c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.7.

- C.8. Payment of Purchase Order. A payment by the State shall not prejudice the State's right to object to or question any payment, purchase order, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of

any amount reflected on the purchase order.

- C.9. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.
- C.10. Reconciliation of Payment. The Contractor shall reconcile, within ten (10) business days of receipt, payment information provided by the State. Upon identification of any discrepancies, the Contractor shall immediately advise the State.
- C.11. Payment Reductions. The Contractor's payment shall be subject to reduction for amounts included in any invoice, purchase order, or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.
- C.12. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.
- C.13. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.
- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
  - b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**D. MANDATORY TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be In Writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided In Writing by a Party.

The State:

Seannalyn Brandmeir, Procurement and Contracting Manager  
Finance and Administration, Division of Benefits Administration  
William R. Snodgrass TN Tower, 19<sup>th</sup> Floor  
312 Rosa L. Parks Ave.  
Nashville, TN 37243  
[seannalyn.brandmeir@tn.gov](mailto:seannalyn.brandmeir@tn.gov)  
Telephone #: 615-532-4598  
FAX # 615-253-8556

The Contractor:

Megan Farrell, Sales Lead  
Sharecare Operating Company, Inc.  
255 E. Paces Ferry Rd NE, Suite 700  
Atlanta, GA 30305  
[Megan.farrell@sharecare.com](mailto:Megan.farrell@sharecare.com)  
Telephone #: 843-816-1125

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

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract, except for the list of subcontractors listed in the RFP technical response, without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

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

- D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, In Writing, by submitting to the State a completed and signed copy of the document at Attachment A, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
  - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
  - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
  - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
  - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death. For clarity, except as otherwise expressly set forth in this Section, Contractor's indemnification obligations and other remedies available under this Contract are subject to the limitations on liability set forth in this Section.
- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract.

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

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Health Information Technology for Economic and Clinical Health (“HITECH”) Act and any other relevant laws and regulations regarding privacy (collectively the “Privacy Rules”). The obligations set forth in this Section shall survive the termination of this Contract.
- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
  - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
  - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT “protected health information” as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.
  - d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.
  - e. The Contractor shall not sell Member information or use Member information unless it is aggregated blinded data, which is not identifiable on a Member basis. The State must approve, In Writing, the use of and sale of any of our Member or Plan data, even if being used in an aggregated, blinded data format.
  - f. The Contractor shall not use Plan Member identified or non-aggregated information for advertising, marketing, promotion or any activity intended to influence sales or market share of any product or service except when permitted by the State, such as advertisements of the Program for enrollment purposes.
  - g. The Contractor shall have full financial responsibility for any penalties, fines, or other payments imposed or required as a result of the Contractor’s non-compliance with or violation of HIPAA or HITECH requirements, and the Contractor shall indemnify the State with respect to any such penalties, fines, or payments, including the cost of credit protection. At the request of the State, the Contractor shall offer credit protection for those times in which a Member’s PHI is accidentally or inappropriately disclosed.
- D.21. Tennessee Consolidated Retirement System Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System (“TCRS”), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member’s retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of “employee/employer” and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.



- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

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

- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees for the affected obligations until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.
- D.25. State and Federal Compliance. The Contractor shall comply with all State and federal laws and regulations applicable to Contractor in the Contractor's performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 – 408.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the

Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.

- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
  - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes:
    - (1) Contract Attachment A Attestation;
    - (2) Contract Attachment B Liquidated Damages;
    - (3) Contract Attachment C Service Level Agreement Scorecard
    - (4) Contract Attachment D Reporting Requirements; and
    - (5) Contract Attachment E HIPAA Business Associate Agreement;
  - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
  - e. any technical specifications provided to proposers during the procurement process to award this Contract;
  - f. the Contractor's response seeking this Contract; and
  - g. any Contractor rules or policies contained in insurance policy filings by the Contractor with State regulators.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, and requested by the State, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall promptly notify the State. All insurance companies providing coverage must be: (a) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (b) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without

aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") - "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Upon request, Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3<sup>rd</sup> floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) Business Days prior to the Effective Date and again upon request by the State thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI.

The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

**The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.**

a. Commercial General Liability ("CGL") Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer

liability insurance, the Contractor shall maintain:

- i. Workers' compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.

2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:

- i. The Contractor employs fewer than five (5) employees;
- ii. The Contractor is a sole proprietor;
- iii. The Contractor is in the construction business or trades with no employees;
- iv. The Contractor is in the coal mining industry with no employees;
- v. The Contractor is a state or local government; or
- vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

d. Professional Liability Insurance

- 1) Professional liability insurance shall be written on an occurrence basis or on a claims-made basis. If this coverage is written on a claims-made basis, then:
  - i. The retroactive date must be shown, and must be on or before the earlier of the Effective Date of the Contract or the beginning of Contract work or provision of goods and services;
  - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) full years from the date of the final Contract payment; and
  - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase "extended reporting" or "tail coverage" for a minimum of three (3) full years from the date of the final Contract payment.
- 2) Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate; and
- 3) If the Contract involves the provision of services by medical professionals, a policy limit not less than three million (\$3,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.

e. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance

- 1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor's profession in an amount not less than ten million dollars (\$10,000,000) per occurrence or claim and ten million dollars (\$10,000,000) annual aggregate, covering all acts, claims, errors, omissions, negligence, infringement of intellectual property (including copyright, patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.
- 2) Such coverage shall include data breach response expenses, in an amount not less than ten million dollars (\$10,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder.

f. Crime Insurance

- 1) The Contractor shall maintain crime insurance, which shall be written on a "loss sustained form" or "loss discovered form" providing coverage for third party fidelity, including cyber theft and extortion. The policy must allow for reporting of circumstances or incidents that may give rise to future claims, include an extended reporting period of no less than two (2) years with respect to events which occurred but were not reported during the term of the policy, and not contain a condition requiring an arrest or conviction.
- 2) Any crime insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate. Any crime insurance policy shall contain a Social Engineering Fraud Endorsement with a limit of not less than two hundred and fifty thousand dollars (\$250,000). This insurance may be written on a claims-made basis, but in the event that coverage is cancelled or non-renewed, the Contractor shall purchase an extended reporting or "tail coverage" of at least two (2) years after the Term.

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

D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

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

D.35. Boycott of Israel. The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in

**E. SPECIAL TERMS AND CONDITIONS:**

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

E.2. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding ("MOU"), not an amendment.

- a. After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) Business Days to respond with a written proposal. The Contractor's written proposal shall include:
  - (1) The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
  - (2) Any pricing related to the new lines, items, or options;
  - (3) The expected effective date for the availability of the new lines, items, or options; and
  - (4) Any additional information requested by the State.
- b. The State may negotiate the terms of the Contractor's proposal by requesting revisions to the proposal.
- c. To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
- d. Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options.

E.3. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.

E.4. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to 31786-00168 (Attachment 6.2) and resulting in this Contract.

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

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

E.5. Liquidated Damages. If the Contractor fails to perform in accordance with any term or provision of this contract, only provides partial performance of any term or provision of the Contract, violates any warranty, or any act prohibited or restricted by the Contract occurs, ("Liquidated Damages Event"), the State may assess damages on Contractor ("Liquidated Damages"). The State shall notify the Contractor of amounts to be assessed as Liquidated Damages. The Parties agree that due to the complicated nature of the Contractor's obligations under this Contract it would be difficult to specifically designate a monetary amount for Contractor's failure to fulfill its obligations regarding the Liquidated Damages Event as these amounts are likely to be uncertain and not easily proven. Contractor has carefully reviewed the Liquidated Damages contained in Attachment B and agrees that these amounts represent a reasonable relationship between the amount and what might reasonably be expected in the event of a Liquidated Damages Event, and are a reasonable estimate of the damages that would occur from a Liquidated Damages Event. The Parties agree that the Liquidated Damages represent solely the damages and injuries

sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party. The Contractor agrees that the Liquidated Damages are in addition to any amounts Contractor may owe the State pursuant to the indemnity provision or any other sections of this Contract.

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

- E.6. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Contractor is in full compliance with its obligations under this Contract in relation to PII. In accordance with the timeframe for audits listed in Contract Section D.11 and in consultation with the State, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within two (2) Business Days after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Contract.

E.7. Contractor Hosted Services Confidential Data, Audit, and Other Requirements

- a. "Confidential State Data" is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:
- (1) The Contractor shall ensure that all Confidential State Data is housed in the contiguous United States, inclusive of backup data.
  - (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 validated encryption technologies.

- (3) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. "Processing Environment" shall mean the combination of software and hardware on which the Application runs. "Application" shall mean the computer code that supports and accomplishes the State's requirements as set forth in this Contract. "Penetration Tests" shall be in the form of attacks on the Contractor's computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment's features and data. The "Vulnerability Assessment" shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Processing Environment or the Contractor shall commission an independent third party to perform the risk assessment which must include penetration testing and vulnerability assessments. The Contractor shall provide the results of the third-party testing to the State.
- (4) Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State. The Contractor shall maintain a duplicate set of all records relating to this Contract in electronic medium, usable by the State and the Contractor for the purpose of Disaster recovery. Such duplicate records are to be stored at a secure fire, flood, and theft-protected facility located away from the storage location of the originals. The Contractor shall update duplicate records, at a minimum, on a daily basis and shall retain said records for a period of sixty (60) days from the date of creation.
- (5) The Contractor shall maintain a copy of all Confidential State Data for a period of five (5) years following the termination of this Contract. Following that period, the Contractor shall destroy all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology ("NIST") Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) Business Days after destruction.
- (6) Contractor must enter into a Business Associate Agreement (BAA) with the State.

b. Minimum Requirements

- (1) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State's Enterprise Information Security Policies as amended periodically. The State's Enterprise Information Security Policies document is found at the following URL:  
<https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.
- (2) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- (3) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.

c. Comptroller Audit Requirements

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury,



or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor. Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit.

The information technology control audit may include a review of general controls and application controls. General controls are the policies and procedures that apply to all or a large segment of the Contractor's or Subcontractor's Information Systems and applications and include controls over security management, access controls, configuration management, segregation of duties, and contingency planning. Application controls are directly related to the application and help ensure that transactions are complete, accurate, valid, confidential, and available. The audit shall include the Contractor's and Subcontractor's compliance with the State's Enterprise Information Security Policies and all applicable requirements, laws, regulations or policies.

The audit may include interviews with technical and management personnel, physical inspection of controls, and review of paper or electronic documentation.

For any audit issues identified, the Contractor and Subcontractor(s) shall provide a corrective action plan to the State within 30 days from the Contractor or Subcontractor receiving the audit report.

Each party shall bear its own expenses incurred while conducting the information technology controls audit.

- d. Business Continuity Requirements. The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations ("Business Continuity Requirements"). Business Continuity Requirements shall include:
- (1) "Disaster Recovery Capabilities" refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:
    - i. Recovery Point Objective ("RPO"). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: one (1) hour.
    - ii. Recovery Time Objective ("RTO"). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: seventy-two (72) hours.
  - (2) The Contractor shall perform at least one Disaster Recovery Test every three hundred sixty-five (365) days. A "Disaster Recovery Test" shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The Disaster Recovery Test shall use actual State Data Sets that mirror production data, and success shall be defined as the Contractor verifying that the Contractor can meet the State's RPO and RTO requirements. A "Data Set" is defined as a collection of related sets of information that is composed of separate elements but can be manipulated as a unit by a computer. The Contractor shall provide written confirmation to the State after each Disaster Recovery Test that its Disaster Recovery Capabilities meet the RPO and RTO

requirements.

- e. The Contractor and any Subcontractor used by the Contractor to host State data, including data center contractors, shall be subject to an annual engagement by a CPA firm in accordance with the standards of the American Institute of Certified Public Accountants ("AICPA") for a System and Organization Controls for service organizations ("SOC") 2 Type II audit. The State shall approve the SOC audit control objectives shall include all five trust services principles. The Contractor shall provide the State with the Contractor's and Subcontractor's annual audit report within 30 days from when the CPA firm provides the audit report to the Contractor or Subcontractor in addition to periodic bridge reports as requested by the State, see Contract Attachment D, Item 11. The Contractor shall submit corrective action plans to the State for any issues included in the audit report within 30 days after the CPA firm provides the audit report to the Contractor and Subcontractor.

If the scope of the most recent SOC audit report does not include all of the current State fiscal year, upon request from the State, the Contractor must provide to the State a letter from the Contractor or Subcontractor stating whether the Contractor or Subcontractor made any material changes to their control environment since the prior audit and, if so, whether the changes, in the opinion of the Contractor or Subcontractor, would negatively affect the auditor's opinion in the most recent audit report.

No additional funding shall be allocated for these audits as they are included in the Maximum Liability of this Contract.

- E.8. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.
- E.9. Extraneous Terms and Conditions. Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor.
- E.10. Survival. The terms, provisions, representations, and warranties contained in this Contract which by their sense and context are intended to survive the performance and termination of this Contract, shall so survive the completion of performance and termination of this Contract.

IN WITNESS WHEREOF,

Sharecare Operating Company, Inc.:

*Michael G Ewers*

Mar 10, 2023

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CONTRACTOR SIGNATURE

DATE

Michael G Ewers

SVP Finance

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PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

STATE OF TENNESSEE,  
STATE INSURANCE COMMITTEE,  
LOCAL EDUCATION INSURANCE COMMITTEE,  
LOCAL GOVERNMENT INSURANCE COMMITTEE:

---

James E. Bryson, CHAIRMAN

DATE

**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

<b>SUBJECT CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	Sharecare Operating Company, Inc.
<b>EDISON VENDOR IDENTIFICATION NUMBER:</b>	267633

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

*Michael G Ewers*

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**CONTRACTOR SIGNATURE**

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

Michael G Ewers

SVP Finance

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**PRINTED NAME AND TITLE OF SIGNATORY**

Mar 10, 2023

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**DATE OF ATTESTATION**

**CONTRACT ATTACHMENT B**

**LIQUIDATED DAMAGES**

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

The Parties agree that the Liquidated Damages represent solely the anticipated damages and injuries sustained by the State in losing the benefit of the bargain with Contractor and do not include any injury or damage sustained by a third party or delays caused by the State.

**Payment of Liquidated Damages:** It is agreed by the State and the Contractor that any liquidated damages assessed by the State shall be due and payable to the State within forty-five (45) calendar days after Contractor receipt of the Invoice containing an assessment of Liquidated Damages. If payment is not made by the due date, the Liquidated Damages amount may be withheld from future payments by the State without further notice.

<b>1. Program Go-Live Date</b>	
<b>Guarantee</b>	The Program shall take effect and be fully Operational on the Program Go-Live specified in Contract Section A.2.q. “Operational” is defined as the ability to electronically capture enrollment records accurately for Members, answer Members’ calls, and provide all other services described in the Contract.
<b>Assessment</b>	Ten thousand dollars (\$10,000) for each Business Day beyond Go-Live that the Program is not operational up to thirty (30) Business Days.
<b>Justification</b>	Program Go-Live is an imperative milestone listed in the Contract. If there is a delay, the State is unable to provide the program to our Members. This assessment and amount take into account the State’s increased staff time for Member inquiries, resolution of additional Member issues, and increased legislative inquiries.
<b>Measurement</b>	Measured, reported, and reconciled no later than three (3) months after the Go-Live by the State.
<b>2. Implementation</b>	
<b>Guarantee</b>	The Contractor shall comply with all tasks, deliverables, and milestones included in the project implementation plan, as required in Contract Sections A.3.e.and A.23. necessary to install the Program by Go-Live.
<b>Assessment</b>	One thousand dollars (\$1,000) for each Business Day for each deliverable and/or milestone beyond the due date up to, and including the Program Go-Live date, not to exceed thirty thousand dollars (\$30,000).
<b>Justification</b>	Timely and accurate completion of all tasks, deliverables, and milestones in the project implementation plan and key deliverables table is critical to the successful implementation of a new contract. This assessment calculates the potential impact of missed or inaccurate implementation milestones.
<b>Measurement</b>	Measured and reported no later than three (3) months after the Go-Live date.
<b>3. Operational Readiness</b>	
<b>Guarantee</b>	The Contractor shall resolve all noncompliance with contract terms identified by the State during its operational readiness review as required in Contract Section A.3.g.

<b>Assessment</b>	Ten thousand dollars (\$10,000) for each Business Day per finding that is not resolved after Go-Live.
<b>Justification</b>	Operational readiness review requires the Contractor and the State to investigate and navigate any potential issues, deadlines, and milestones leading up to Go-Live and operations.
<b>Measurement</b>	Measured and reported no later than three (3) months after the Go-Live date.
<b>4. Program Eligibility</b>	
<b>Guarantee</b>	Program eligibility per the Contract will be implemented correctly, as required in Contract Section A.7.a.(2).
<b>Assessment</b>	Five hundred dollars (\$500) per each incorrectly billed member, not to exceed \$25,000 per calendar year.
<b>Justification</b>	Program eligibility must be accurate as to not cause confusion or hardship to Members. This assessment and amount take into account the State's increased staff time for Member inquiries, resolution of additional Member issues, and increased legislative inquiries.
<b>Measurement</b>	Measured and reported no later than three (3) months after the Go-Live date.
<b>5. Authorization of Member Communications</b>	
<b>Guarantee</b>	The Contractor shall obtain the written authorization from the State prior to the distribution of materials as required in Contract Section A.15.h.
<b>Assessment</b>	One Thousand Dollars (\$1,000) per incident, not to exceed ten thousand dollars (\$10,000).
<b>Justification</b>	Member communications must be accurate as to not cause confusion or hardship to Members. This assessment and amount take into account the State's increased staff time for Member inquiries as well as resolution of additional Member issues that might result from the inaccurate information.
<b>Measurement</b>	Assessed, reported, and paid after each occurrence.
<b>6. Website and Splash Page</b>	
<b>Guarantee</b>	The Contractor's website and Splash Page shall be available on the internet, fully operational by the date specified in Contract Section A.15.h. and updated annually prior to the State's annual enrollment period as required in Contract Section A.15.i.
<b>Assessment</b>	One thousand dollars (\$1,000) per Business Day until operational or updated, not to exceed fifteen thousand dollars (\$15,000) per calendar year.
<b>Justification</b>	This assessment and amount take into account the State's increased staff time for Member inquiries, resolution of additional Member issues, and increased legislative inquiries.
<b>Measurement</b>	Assessed, reported, and reconciled annually.
<b>7. Unauthorized Usage of Information</b>	
<b>Guarantee</b>	Unless prior approved In Writing by the State, and in compliance with state and federal law, the Contractor shall not use information gained through this Contract, including but not limited to utilization and pricing information, in marketing or expanding non-State business relationships or for any pecuniary gain as specified in Contract Section A.18.j.
<b>Assessment</b>	Twenty-Five Thousand Dollars (\$25,000) per incident, not to exceed one hundred thousand dollars (\$100,000)
<b>Justification</b>	This assessment and amount take into account the potential harm to the Plan and the program for unapproved disclosure of sensitive information.

<b>Measurement</b>	Assessed, reported, and paid after each occurrence.
<b>8. Timely Notification</b>	
<b>Guarantee</b>	Contractor shall notify the State, within three (3) Business Days of identification, about any situation that appears to negatively impact the administration or delivery of the program, Plan, or Benefits as required in Contract Section A.18.k..
<b>Assessment</b>	Ten Thousand Dollars (\$10,000) per incident until resolved.
<b>Justification</b>	This assessment and amount take into account the State's increased staff time for Member inquiries, resolution of additional Member issues, and increased legislative inquiries.
<b>Measurement</b>	Assessed, reported, and paid after each occurrence.
<b>9. Enrollment File Set-Up</b>	
<b>Guarantee</b>	Enrollment information must be loaded, tested, verified and available online for use as required in Contract Section A.21.
<b>Assessment</b>	Ten thousand dollars (\$10,000) for each Business Day beyond the date specified in Contract Section A.23, not to exceed one hundred fifty thousand dollars (\$150,000)
<b>Justification</b>	Enrollment file set-up is the critical first step in providing Member Benefits. Without the accurate and timely set-up of this file, there is a potential harm to Members financially and in receiving services. This assessment and amount take into account the State's increased staff time for Member inquiries, resolution of additional Member issues, and increased legislative inquiries.
<b>Measurement</b>	Measured and reported no later than three (3) months after the Go-Live date.
<b>10. Privacy and Security of Member Information Impacting 1 to 499 Members</b>	
<b>Guarantee</b>	In accordance with Contract Section E.7., the Contractor shall not release, intentionally or unintentionally, Members' personal information, enrollment information, or claims information to unauthorized parties.
<b>Assessment</b>	<p>Five Thousand Seven Hundred dollars (\$5,700) per incident basis.</p> <p>This assessment is based on the previous experience BA has had in responding to similar incidents impacting less than five hundred (500) Members which includes the following predicted costs to BA:</p> <ol style="list-style-type: none"> <li>1. Compliance Officer time including investigating the breach, monitoring the privacy hotline and email address estimated at seventy-five (75) hours;</li> <li>2. Director of Financial Management and Program Integrity time and work estimated at seven and half (7.5) hours;</li> <li>3. Program Director associated with this contract time and work estimated at fifteen (15) hours;</li> <li>4. Executive Director's time and work estimated at one (1) hour;</li> <li>5. Department attorney time including legal review estimated at one (1) hour; and</li> <li>6. Service Center staff time and work answering Member questions/concerns estimated at fifteen (15) hours.</li> </ol>
<b>Justification</b>	The guarantee and assessment estimate the impact on the State including the unpredictability of the timing of a breach; specifics of the breach's scope; length of time of investigation completion; number of Member calls to the BA service center; and level of legislative inquiries.
<b>Measurement</b>	Assessed, reported, reconciled, and paid after each occurrence.
<b>11. Privacy and Security of Member information impacting 500 or more Members</b>	

<b>Guarantee</b>	In accordance with Contract Section E.7., the Contractor shall not release, intentionally or unintentionally, Members' personal information, enrollment information, or claims information to unauthorized parties.
<b>Assessment</b>	<p>Twenty-One Thousand Two Hundred dollars (\$21,200) per incident basis. This assessment is based on the previous experience BA has had in responding to similar incidents impacting five hundred (500) or more Members which includes the following predicted costs to BA:</p> <ol style="list-style-type: none"> <li>1. Compliance Officer time including investigating the breach, monitoring the privacy hotline and email address estimated at one hundred thirty two (132) hours;</li> <li>2. Director of Financial Management and Program Integrity time and work estimated at thirty (30) hours;</li> <li>3. Program Director associated with this Contract time and work estimated at forty-five (45) hours;</li> <li>4. Executive Director's time and work estimated at eighteen (18) hours;</li> <li>5. Department attorney time including legal review estimated at thirty(30) hours;</li> <li>6. Service Center staff time and work answering Member questions/concerns estimated at one hundred (100) hours;</li> <li>7. Public Information Officer ("PIO")'s time and work estimated at forty-five (45) hours; and</li> <li>8. Communications Director's time and work estimated at thirty (30) hours.</li> </ol>
<b>Justification</b>	The guarantee and assessment estimate the impact on the State including the unpredictability of the timing of a breach; specifics of the breach's scope; length of time of investigation completion; number of Member calls to the BA service center; and level of legislative inquiries.
<b>Measurement</b>	Assessed, reported, reconciled, and paid after each occurrence.



**Service Level Agreement (SLA) Scorecard**

Below is the SLA Scorecard and associated KPIs used to measure the Contractor's performance against the desired outcomes. KPIs shall be evaluated, scored, and reconciled via the SLA Scorecard with relevant documentation. Contractor must submit the SLA Scorecard for each KPI at the frequency listed (e.g., quarterly, annually) documenting the Contractor's outcome for each KPI during that time period. The State will provide the required reporting format during implementation.

Based on the scores, the State will determine, and may assess, any At-Risk Performance Payments. Amounts due will be a percentage of administration fees earned during the time period the KPI was measured. See Table A below.

It is agreed by the State and the Contractor that any At-Risk Performance Payment assessed by the State shall be due and payable to the State within forty-five (45) calendar days after Contractor receipt of the Invoice containing an assessment of fees at risk. If payment is not made by the due date, the At-Risk Performance Payment amount may be withheld from future payments by the State without further notice.

**SLA Scorecard Table A**

<b>KPI</b>	<b>Description</b>	<b>Performance Requirement</b>	<b>Rating Scale</b>	<b>Points Awarded Based on Rating</b>
<b>Quarterly</b>				
1. ASA	The Contractor's call center shall maintain a monthly ASA average of 30 seconds or less, as required in Contract Section A.13.I.(1).	30 seconds or less	30 seconds or less	10
			30.1-35 seconds	8
			35.1-40 seconds	6
			40.1-45	4
			>45 seconds	0
2. First Call Resolution	The Contractor's call center shall maintain an average First Call Resolution rate of eighty-five percent (85%) or greater as required in Contract Section A.13.I.(4).	85% or greater	85% or greater	10
			83% - 84.9%	8
			81%-82.9%	6
			79-80.9%	4
			Less than 79%	0
3.Enrollment Posting	One hundred percent (100%) of electronically retrieved enrollment files processed within two (2) Business Days of receipt of the weekly file as required in Contract Section A.21.e.(2).	100%	100%	10
			98.0-99.9%	8
			96.0-97.9%	6
			94.0-95.9	4
			Less than 94%	0
4. DSS Data Submission	Commencing with the first month after the data is available and each month thereafter, the Contractor shall submit all completed biometric screening information records to the State's DSS contractor no later than fifteen (15) Business Days following the end of each calendar month as required in Contract Section A.21.h.(1).	No later than fifteen (15) Business Days following the end of each calendar month.	On time	10
			1 day late	8
			2 days late	6
			3 days late	4
			More than 3 days late	0
5. DSS Data Quality	As measured by the State's DSS contractor, the Contractor's data submission to said contractor shall meet the following Data Quality Indicators (DQIs). See Contract Section A.21.h.(2).  a. Gender: Data missing for <= (less than or equal to) .5% of records  b. Social Security Number or other personal identifier(s) as directed by the State: Data missing for <= (less than or equal to) .5% of records  c. Date of Birth: Data missing for <= .5% of records  d. Initial Date of Service: Data missing for <= .5% of records  e. Current Date of Service: Data missing for <= .5% of records	100%	100% (5 clean DQIs)	10
			80% (4 clean DQIs)	8
			60% (3 clean DQIs)	6
			40% (2 clean DQIs)	4
			20% (1 clean DQIs)	2
			0% (0 clean DQIs)	0
6. Reporting (which includes weekly, monthly, and quarterly reports)	The Contractor shall distribute to the State all reports required in the Contract within the time frame and in the format specified in the Contract as required in	100%	100%	10
			75-99.9%	8
			62.5-74.9%	6
			50-62.4%	4

	Contract Section A.22.c.		Less than 49.9%	0
<b>Total Quarterly Points Available</b>				60
<b>Total Quarterly Points Achieved</b>				# TBD
<b>Quarterly Score (Total Quarterly Points Achieved / Total Quarterly Points Available)</b>				% TBD
<b>At-Risk Performance Payment Due</b> Quarterly score determines at risk performance payment % (See Table A) Payment due = reporting quarter's total admin. fees * at risk performance payment %				\$TBD
<b>Annual</b>				
7. Annual Reporting	The Contractor shall distribute to the State all reports required in the Contract within the time frame and in the format specified in the Contract as required in Contract Section A.22.c.	100%	100%	10
			83-99.9%	8
			66-82.9%	6
			50-65.9%	4
			Less than 49.9%	0
8. Member Satisfaction Survey	The level of overall member satisfaction, as measured annually through the member satisfaction survey, shall be equal to or greater than eighty-five percent (85%) in the first year of the Contract, and shall be equal to or greater than ninety percent (90%) in all subsequent year(s) within the contract term as required in Contract Section A.16.s	85% year 1 of contract	85% or greater	10
			83-84.9%	8
			81-82.9%	6
			79-80.9%	4
			Less than 79%	0
		90% in years 2-4 of contract	90% or greater	10
			88-89.9%	8
			86-87.9%	6
			84-85.9%	4
			Less than 84%	0
<b>Total Annual Points Available</b>				10
<b>Total Annual Points Achieved</b>				# TBD
<b>Annual Score (Total Annual Points Achieved / Total Annual Points Available)</b>				% TBD
<b>At-Risk Performance Payment Due</b> Annual score determines at risk performance payment % – See Table A Payment due = (total annual admin. fees * at risk performance payment %)*13%				\$TBD

<b>SLA At Risk Performance Payment for Table A</b>	
<b>Score</b>	<b>At Risk Performance Payment %</b>
90% or greater	0% of Administration Fees for the time period measured
85-89.9%	.50% of Administration Fees for the time period measured
80-84.9%	1% of Administration Fees for the time period measured
75-79.9%	1.5% of Administration Fees for the time period measured
71-74.9%	2% of Administration Fees for the time period measured
70% or below	3% of Administration Fees for the time period measured

**Timeline applies to all chronic condition management program KPIs in Table B**

Year 1 - 2024	Year 2 - 2025	Year 3 - 2026	Year 4 - 2027	Year 5 - 2028
No measurement for year 1. Establishing baseline to measure against 2025 program year. Calculated in Q2 2025 using 2024 program data.	Year 2 program measured against 2024 baseline. Calculated in Q2 2026. New baseline established for measurement against year 3.	Year 3 program measured against 2025 baseline. Calculated in Q2 2027. New baseline established for measurement against year 4.	Year 4 program measured against 2026 baseline. Calculated in Q2 2028. New baseline established for measurement against year 5.	Year 5 program measured against 2027 baseline. Calculated in Q2 2029.

a				
KPI	Description	Performance Requirement	Rating Scale	
1.	Kidney Health evaluation for members with diabetes <sup>1</sup>	Percentage of members aged 18+ years with a diagnosis of diabetes (type 1 and type 2) who received a kidney health evaluation defined by an estimated glomerular filtration rate (eGFR) AND a urine albumin-creatinine ratio (uACR).	Maintain or improve from the prior year's baseline.	Met
				Not Met
2.	Hemoglobin A1c control for members with diabetes <sup>1</sup>	Percentage of members aged 18+ years with a diagnosis of diabetes (type 1 and type 2) who had at least one non-zero HbA1c lab result record during the measurement year and the most recent result value was less than eight percent (8%).	Maintain or improve from the prior year's baseline	Met
				Not Met
3.	Diabetes BP control <140/90 <sup>1</sup>	Percentage of members aged 18+ years with a diagnosis of diabetes (type 1 and type 2) who had a blood pressure during the measurement year and the most recent result value was less than <140/90.	Maintain or improve from the prior year's baseline	Met
				Not Met
4.	Controlling High Blood Pressure <140/90 <sup>1</sup>	Percentage of members aged 18+ years who had a diagnosis of hypertension (HTN) and whose blood pressure (BP) was adequately controlled (<140/90 mm Hg) during the measurement year. Note: BP reading must be the latest performed within the measurement year.	Maintain or improve from the prior year's baseline	Met
				Not Met

**Chronic Condition Management Program Performance Table B**

<b>Chronic Condition Management Program Performance Table B</b>			
<b>KPI</b>	<b>Description</b>	<b>Performance Requirement</b>	<b>Rating Scale</b>
5.	Medication Adherence for hypertension <sup>1</sup>	Percentage of members aged 18+ years with a prescription for hypertension (HTN) medications who fill their prescription often enough to cover 80% or more of the time they are supposed to be taking their prescribed drug therapy for Renin-angiotensin system (RAS) antagonists: <ul style="list-style-type: none"> <li>• Angiotensin converting enzyme (ACE) inhibitors</li> <li>• Angiotensin II receptor blockers (ARBs)</li> <li>• Direct renin inhibitors</li> </ul>	Maintain or improve from the prior year's baseline
			Met
			Not Met

<sup>1</sup> If the program participation for any of the above KPIs falls below a statistically valid level, as determined by the State, the program performance payment will not apply in that calendar year.

**Program Performance Payment for Table B**

<b>Annual Score</b>	<b>Program Performance Payment</b>
Missed 1 target measurement	Refund 1% of chronic condition fees for the impacted condition management program for that program year
Missed 2 target measurements	Refund 1.5% of chronic condition fees for the impacted condition management program(s) for that program year
Missed 3 target measurements	Refund 2% of chronic condition fees for the impacted condition management program(s) for that program year
Missed 4 target measurements	Refund 2.5% of chronic condition fees for the impacted condition management program(s) for that program year
Missed 5 target measurements	Refund 3% of chronic condition fees for the impacted condition management program(s) for that program year

**REPORTING REQUIREMENTS**

As required by this Contract, the Contractor shall submit reports to the State. Reports shall be submitted via secure electronic medium, in a format approved or specified by the State, and shall be of the type and at the frequency indicated below. The State reserves the right to modify reporting requirements as deemed necessary. The State will provide the Contractor with at least sixty (60) days' notice prior to implementation of a report modification.

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

1. Weekly reports shall be submitted by Tuesday of the following week;
2. Monthly reports shall be submitted by the 15<sup>th</sup> of the following month;
3. Quarterly reports shall be submitted by the 20<sup>th</sup> of the following month;
4. Semi-Annual Reports shall be submitted by the 20<sup>th</sup> of the following month;
5. Annual reports shall be submitted within ninety (90) days after the end of the calendar year.

Note: Any report due on a State Holiday or weekend will then be due on the following Business Day.

Reports shall include:

1. **Biometric Screening Completion Report**, submitted quarterly using the mutually agreed-upon template prior approved In Writing by the State. The report shall include, at a minimum, the number of members who have completed the health screening since the commencement of the Plan Year by screening type (e.g., workplace, lab collection network, provider/clinic, home kit).
2. **Workplace Screening Event Report**, submitted quarterly during the period that the Contractor holds workplace screening events using the mutually agreed-upon template prior approved In Writing by the State. The report shall include, at a minimum, the number of plan members who have completed the screening at a workplace screening with the number of events and the number of screenings conducted at each screening event.
3. **Biometric Screening Summary Report**, submitted quarterly using the mutually agreed-upon template prior approved In Writing by the State. The report shall include, at a minimum, information and data on the frequency of high values such as high cholesterol, high blood glucose, and high blood pressure; changes in biometric values over time, including improvements in biometric values.
4. **Health Questionnaire Completion Report**, submitted quarterly using the mutually agreed-upon template prior approved In Writing by the State. The report shall include, at a minimum, the numbers and percent of members (by Plan type, e.g., State and plan code) who have completed the health questionnaire since the commencement of the Plan Year.
5. **Health Questionnaire Summary Report**, submitted quarterly using the mutually agreed-upon template prior approved In Writing by the State. The report shall include, at a minimum, information and data on the frequency of lifestyle risks and chronic conditions by type.
6. **Program Participation Report (lifestyle and chronic condition management)**, submitted monthly using the mutually agreed-upon template prior approved In Writing by the State. The report shall include but not be limited to the number and percent of eligible members (by type of plan) who are/are not participants (by the engagement definition) by program (lifestyle counseling and moderate/high risk/low risk chronic condition management, and condition (e.g., weight management, diabetes); the number of remote patient monitoring devices (BP cuff, scale, glucometer) and activation and utilization of devices; number and percent of eligible members that could not be contacted; information on participants who graduated from or completed a program; and a summary of co- morbid conditions by condition.

7. **Diabetes Remission/Reversal Report**, submitted quarterly using the mutually agreed-upon template prior approved In Writing by the State. The report shall include, at a minimum: enrollment count, changes in biomarkers including diabetes clinical markers (A1c or glucose) weight loss/ BMI changes and medication reduction.
8. **Weight Management Program Participation Report**, submitted quarterly using the mutually agreed-upon template prior approved In Writing by the State. The report shall at a minimum include the following: participation rates (percent participating/eligible Members; percent of participant weight loss at 3, 6 and 12 months, (if applicable); percent still enrolled at 3, 6 and 12 months (if applicable); percent weight loss at end of program; percent with weight loss >5% at the end of program; biometric data and the difference at end of program compared to baseline (start of program)); the shift in the participating population's BMI risk profile; cumulative total pounds lost; average weight loss; the number of scales/activity trackers mailed; the number of sessions completed and the number of participants who graduated from the program.
9. **Customer Satisfaction Report**, submitted monthly using the mutually agreed-upon template prior approved In Writing by the State. The report shall, at a minimum, report on compliance with the established customer satisfaction standards as outlined in Contract Section A.12.e.
10. **Appeals Report**, submitted quarterly using the mutually agreed-upon template prior approved In Writing by the State. The report shall, at a minimum, report on the number of members who have filed an appeal to receive the incentive, the reason for the appeal and the appeal resolution.
11. **Call Center Activity Reports**, as detailed in Contract Section A.13.I., submitted monthly.
  - ASA – statistics to support an ASA of thirty (30) seconds or less during each month.
  - First Call Resolution – statistics to support a monthly average rate of eighty-five (85%) or greater for First Call Resolution.
  - Telephone Service Factor (TSF) - percentage of incoming telephone calls answered within 20 seconds.
  - Open call/inquiry closure rate – 90% of Member calls/inquiries resolved within five (5) Business Days.
12. **Quarterly Complaints Report**, submitted quarterly using the mutually agreed-upon template prior approved In Writing by the State. The report shall, at a minimum, summarize the number of grievances, by type, the timeframes for resolving grievances and the resolution.
13. **Chronic Condition Management Program Performance Report**, submitted annually once the calculations have been agreed upon by both the State and the Contractor using the mutually agreed-upon template prior approved In Writing by the State. The report shall, at a minimum, list each program measure, the target outcome, if target was met/not met, if not, why and proposed improvement activities if the target was not met. See Contract Section C.5. and Contract Attachment C, Table B.
14. **Workplace Screening Exit Survey Report**, submitted quarterly during the period that the Contractor holds workplace screening events using the mutually agreed-upon template prior approved In Writing by the State. The report shall, at a minimum, summarize the methodology and results and identify improvement activities.
15. **Workplace Screening Operation and Coordination Survey Report**, submitted annually using the mutually agreed-upon template prior approved In Writing by the State. The report shall, at a minimum, summarize the methodology and results of satisfaction with the workplace screening set up and operation. If needed, address any issues and the corrective actions taken.
16. **Overall Program Satisfaction Survey Report**, submitted annually using the mutually agreed-upon template prior approved In Writing by the State. The report shall, at a minimum, summarize the methodology and results and identify improvement activities.
17. **Pre-Mailing Report**, submitted as requested by the State, using the template prior approved In Writing by the State. The report shall at a minimum summarize the population targeted for a specific mailing so that the state may audit the business logic used to determine if the defined population is

accurate.

18. **BC-DR Results Report**, submitted annually using the mutually agreed-upon template prior approved In Writing by the State.
19. **System and Organization Controls for service organizations (“SOC”) 2 Type II report**, submitted annually beginning with the second year of the contract. If requested, the Contractor shall also provide periodic bridge reports as well as a copy of the report for any applicable subcontractors. See Contract Section E.8.e.
20. **Program Participation Files to medical TPAs and PBM**, when requested, submitted monthly using the mutually agreed-upon template prior approved In Writing by the State. The report shall, at a minimum, include information on the members enrolled in a specific program and be specific to each medical TPA.
21. **Case Management Referrals**, submitted quarterly using the mutually agreed-upon template prior approved In Writing by the State. The report shall, at a minimum, include information about the number of members who have been referred to case management and be specific to each TPA or EAP/BHO contractor.
22. **Accreditation Report**, submitted annually, attesting to full NCQA accreditation Wellness & Health Promotion Accreditation or NCQA disease management accreditation, or URAC disease management accreditation.
23. **Other Reports**, as specified in this Contract and using mutually agreed-upon templates prior approved In Writing by the State.



**HIPAA BUSINESS ASSOCIATE AGREEMENT  
COMPLIANCE WITH PRIVACY AND SECURITY RULES**

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

**BACKGROUND**

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

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

**LIST OF AGREEMENTS AFFECTED BY THIS BUSINESS ASSOCIATE AGREEMENT:**

**Contract Name:**

**Execution Date:**

Population Health and wellness services

April 1, 2023

In the course of executing Service Contracts, Business Associate may come into contact with, use, or disclose Protected Health Information ("PHI"). Said Service Contract(s) are hereby incorporated by reference and shall be taken and considered as a part of this document the same as if fully set out herein.

In accordance with the federal privacy and security regulations set forth at 45 C.F.R. Part 160 and Part 164, Subparts A, C, D and E, which require Covered Entity to have a written memorandum with each of its Business Associates, the Parties wish to establish satisfactory assurances that Business Associate will appropriately safeguard PHI and, therefore, make this Agreement.

**DEFINITIONS**

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

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

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

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

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

2.2 The Health Information Technology for Economic and Clinical Health Act (HITECH) was adopted as part of the American Recovery and Reinvestment Act of 2009. HITECH and its implementing regulations impose new requirements on Business Associates with respect to privacy, security, and breach notification. Business Associate hereby acknowledges and agrees that to the extent it is functioning as a Business Associate of Covered Entity, Business Associate shall comply with HITECH. Business Associate and the Covered Entity further agree that the provisions of HIPAA and HITECH that apply to business associates and that are required to be incorporated by reference in a business associate agreement have been incorporated into this Agreement between Business Associate and Covered Entity. Should any provision not be set forth specifically, it is as if set forth in this Agreement in its entirety and is effective as of the Applicable Effective Date, and as amended.

2.3 Business Associate shall use appropriate administrative, physical, and technical safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement, Services Contract(s), or as Required By Law. This includes the implementation of Administrative, Physical, and Technical Safeguards to reasonably and appropriately protect the Covered Entity's PHI against any reasonably anticipated threats or hazards, utilizing the technology commercially available to the Business Associate. The Business Associate shall maintain appropriate documentation of its compliance with the Privacy Rule, including, but not limited to, its policies, procedures, records of training and sanctions of members of its Workforce.

2.4 Business Associate shall require any agent or Subcontractor, to whom it provides PHI received

from, maintained, created or received by Business Associate on behalf of Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI or other confidential information, to agree, by written contract with Business Associate, in accordance with 164.502(e)(1)(ii), ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of business associate agree to the same restrictions and conditions that apply to the business associate with respect to such information.

2.5 Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

2.6 Business Associate shall require its employees, agents, and subcontractors to promptly (up to two Business Days) report, to Business Associate, immediately upon becoming aware of any use or disclosure of PHI in violation of this Agreement. Business Associate shall report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement. Business Associate will also provide additional information reasonably requested by the Covered Entity related to the breach.

2.7 As required by the Breach Notification Rule, Business Associate shall, and shall require its subcontractor(s) to, maintain systems to monitor and detect a Breach of Unsecured PHI, whether in paper or electronic form.

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

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

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

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

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

2.10 Business Associate shall make its internal practices, books, and records including policies and procedures and PHI, relating to the use and disclosure of PHI received from, created by or received by Business Associate on behalf of, Covered Entity available to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the Secretary, for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule.

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

2.12 Business Associate shall provide Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528, provided that Business Associate shall have at least thirty (30) Business Days from Covered Entity notice to provide access to, or deliver such information which shall include, at minimum, (a) date of the disclosure; (b) name of the third party to whom the PHI was disclosed and, if known, the address of the third party; (c) brief description of the disclosed information; and (d) brief explanation of the purpose and

basis for such disclosure. Business Associate shall provide an accounting of disclosures directly to an individual when required by section 13405(c) of Public Law 111-5 [designated as 42 U.S.C. 17935(c)].

2.13 Business Associate agrees it must limit any use, disclosure, or request for use or disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the Privacy Rule.

2.13.1 Business Associate represents to Covered Entity that all its uses and disclosures of, or requests for, PHI shall be the minimum necessary in accordance with the Privacy Rule requirements.

2.13.2 Covered Entity may, pursuant to the Privacy Rule, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate.

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

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

2.15 If Business Associate receives a request from an Individual for a copy of the individual's PHI, and the PHI is in the sole possession of the Business Associate, Business Associate will provide the requested copies to the individual and notify the Covered Entity of such action. If Business Associate receives a request for PHI in the possession of the Covered Entity, or receives a request to exercise other individual rights as set forth in the Privacy Rule, Business Associate shall notify Covered Entity of such request and forward the request to Covered Entity. Business Associate shall then assist Covered Entity in responding to the request.

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

### **3 OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Security Rule)**

3.1 Business Associate shall fully comply with the requirements under the Security Rule applicable to "business associates," as that term is defined in the Security Rule. In case of any conflict between this Agreement and Service Agreements, this Agreement shall govern.

3.2 Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the covered entity as required by the Security Rule and Public Law 111-5. This includes specifically, but is not limited to, the utilization of technology commercially available at the time to the Business Associate to protect the Covered Entity's PHI against any reasonably anticipated threats or hazards. The Business Associate understands that it has an affirmative duty to perform a regular review or assessment of security risks, conduct active risk management and supply best efforts to assure that only authorized persons and devices access its computing systems and information storage, and that only authorized transactions are allowed. The Business Associate will maintain appropriate documentation to certify its compliance with the Security Rule.

3.3 Business Associate shall ensure that any agent, including a subcontractor, to whom it provides electronic PHI received from or created for Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI supplied by Covered Entity, to agree, by written contract (or the appropriate equivalent if the agent is a government entity) with Business Associate, in accordance with 164.502(e)(1)(ii), ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of business associate agree to the same restrictions and conditions that apply to the business associate with respect to such information.

3.4 Business Associate shall require its employees, agents, and subcontractors to report to Business

Associate within five (5) Business Days, any Security Incident (as that term is defined in 45 CFR § 164.304) of which it becomes aware. 45 CFR 164.314(a)(2)(C) requires that business associate shall report to the covered entity any security incident of which it becomes aware, including breaches of unsecured protected health information as required by 164.410. Business Associate shall promptly (up to 48 hours) report any Security Incident of which it becomes aware to Covered Entity. Provided however, that such reports are not required for attempted, unsuccessful Security Incidents, including trivial and routine incidents such as port scans, attempts to log-in with an invalid password or user name, denial of service attacks that do not result in a server being taken off-line, malware, and pings or other similar types of events.

3.5 Business Associate shall make its internal practices, books, and records including policies and procedures relating to the security of electronic PHI received from, created by or received by Business Associate on behalf of, Covered Entity available to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the Secretary, for purposes of determining Covered Entity's or Business Associate's compliance with the Security Rule.

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

3.7 Notification for the purposes of Sections 2.8 and 3.4 shall be In Writing made by email/fax, certified mail or overnight parcel immediately upon becoming aware of the event, with supplemental notification by facsimile and/or telephone as soon as practicable, to:

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

With a copy to:

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

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

Sharecare Operating Company, Inc.  
Attn: Privacy Officer – Henry M. Jay  
255 E. Paces Ferry Rd NE, Suite 700  
Atlanta, GA 30305  
Telephone: 615-614-4044

Business Associate shall notify Covered Entity of any change in the key contact during the term of this Agreement in writing within ten (10) Business Days.

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

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

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

4.3 Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or provided that, if Business Associate discloses any PHI to a third party for such a purpose, Business Associate shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality, integrity, and availability of PHI and not to use or further disclose such information except as Required By Law or for the purpose for which it was disclosed, and (b) notify Business Associate of any instances in which it becomes aware in which the confidentiality, integrity, and/or availability of the PHI is breached immediately upon becoming aware.

4.4 Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).

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

4.6 Business Associate shall not use or disclose PHI that is Genetic Information for underwriting purposes. Moreover, the sale, marketing or the sharing for commercial use or any purpose construed by Covered Entity as the sale, marketing or commercial use of member's personal or financial information with Affiliates, even if such sharing would be permitted by federal or state laws, is prohibited.

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

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

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

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

5.2 Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses.

5.3 Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use of PHI.

## **6. PERMISSIBLE REQUESTS BY COVERED ENTITY**

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

## **7. TERM AND TERMINATION**

7.1 Term. This Agreement shall be effective as of the date on which it is signed by both parties and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, Section 7.3. below shall apply.

7.2 Termination for Cause.

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

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

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

### 7.3 Effect of Termination.

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

## 8. MISCELLANEOUS

8.1 Regulatory Reference. A reference in this Agreement to a section in the Privacy and or Security Rule means the section as in effect or as amended.

8.2 Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act, Public Law 104-191, including any amendments required by the United States Department of Health and Human Services to implement the Health Information Technology for Economic and Clinical Health and related regulations upon the effective date of such amendment, regardless of whether this Agreement has been formally amended, including, but not limited to changes required by the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

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

8.4 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and the Business Associate to comply with the Privacy and Security Rules.

8.5 Notices and Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by hand, by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below, or to such other party, facsimile number, or address as may be hereafter specified by written notice.



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

BUSINESS ASSOCIATE:  
Sharecare Operating Company, Inc.  
Attn: Privacy Officer – Henry M. Jay  
255 E. Paces Ferry Rd NE, Suite 700  
Atlanta, GA 30305  
Telephone: 615-614-4044

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

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the date of hand delivery; as of the date specified for overnight courier service delivery; as of three (3) Business Days after the date of mailing; or on the day the facsimile transmission is received mechanically by the facsimile machine at the receiving location and receipt is verbally confirmed by the sender.

8.6 Strict Compliance. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect, or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement

8.7 Severability. With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

8.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee except to the extent that Tennessee law has been pre-empted by HIPAA.

8.9 Compensation. There shall be **no** remuneration for performance under this Agreement except as specifically provided by, in, and through, existing administrative requirements of Tennessee State government and services contracts referenced herein.

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

IN WITNESS WHEREOF,

*Michael G Ewers*

Mar 10, 2023

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Sharecare Operating Company, Inc.

Date:

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James E. Bryson, Commissioner of Finance & Administration

Date: