CONTRACT

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

Begin Date	End Date	Agency Tracking #	Edison Record ID
June 1, 2021	June 30, 2028	31786-00157	70164

Contractor Legal Entity Name	Edison Vendor ID
United Behavioral Health d/b/a Optum	70866

Goods or Services Caption (one line only)

EAP and behavioral health benefits

Contractor	CFDA #
☒ Contractor	

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2022			$2,906,000		$2,906,000
2023			$5,956,000		$5,956,000
2024			$6,249,000		$6,249,000
2025			$6,554,000		$6,554,000
2026			$6,882,000		$6,882,000
2027			$3,528,000		$3,528,000
TOTAL:			$32,075,000		$32,075,000

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)

☐ 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.

☐ 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.

Veronica Coleman lvh

Digitally signed by Veronica Coleman lvh
Date: 2021.05.11 11:19:28 -05'00'

Speed Chart (optional)	Account Code (optional)

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
Finance & Administration, Division of Benefits Administration
AND
United Behavioral Health d/b/a Optum

This Contract, by and between the State of Tennessee, Finance & Administration, Division of Benefits Administration ("State") and United Behavioral Health d/b/a Optum ("Contractor"), is for the provision of Employee Assistance Program (EAP) and Behavioral Health Services for the State's Public Sector 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 # 70866

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.2. Definitions.
For purposes of this Contract, definitions shall be as follows and as set forth in the Contract:

a. **Abandoned Call**: A call in which the caller elects an option and is either not permitted access to that option or disconnects from the system.

b. **Account Executive**: Dedicated full-time employee of the Contractor who has primary oversight and management of the Contract and all services, deliverables, and requirements within.

c. **Account Manager**: Dedicated full-time employee of the Contractor who supports the Contract primarily handling member services and issues including claims, benefits, and provider concerns.

d. **Advanced Practice Psychiatric Nurses**: Health care professionals licensed to practice as specialists in psychiatric mental health. The advanced practice psychiatric nurse may be certified in psychiatric mental health (PMH), as a psychiatric mental health clinical nurse specialist (PMHCNS-BC), or as a psychiatric mental health nurse practitioner (PMHNP-BC).

e. **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 with the Contractor.

f. **Agency Benefits Coordinator ("ABC")**: An Agency Benefits Coordinator serves as the liaison between the Plan and Members. There is at least one ABC in every employer agency/entity.

g. **At-Risk Performance Payment:** Contractor's payment based on KPI performance listed on the SLA Scorecard set forth in Contract Attachment D. The payment is calculated based on the SLA Scorecard quarterly score and percentage of the administrative fees at risk.

h. **Average Speed of Answer ("ASA")**: The average waiting time between (a) the moment at which a caller to the Contractor's call center first hears an introductory greeting and enters the queue and (b) the time at which a Member services representative at the call center answers the call. For this definition, the term "answer" shall mean begin an uninterrupted dialogue with the caller. If a member services representative asks the caller to hold during the first sixty (60) seconds of the dialogue, the Contractor shall not consider the call to be

answered for purposes of this definition until the member services representative returns to the caller and begins an uninterrupted dialogue.

i. **Balance Bill or Billing**: Seeking payment from a member for any charged amounts(s) over and above the MAC or contract rates.

j. **Benefits Administration ("BA")**: The division of the Tennessee Department of Finance & Administration that administers the Public Sector Plans.

k. **Behavioral Health Services**: Mental health and substance use services.

l. **BHO**: Behavioral Health Organization.

m. **Business Days**: Traditional workdays, including Monday, Tuesday, Wednesday, Thursday, and Friday. State Holidays are excluded.

n. **CFR**: Code of Federal Regulations.

o. **Clean Claim**: A claim received by the Contractor for adjudication that requires no further information, adjustment, or alteration by the provider in order to be processed and paid by the Contractor. In addition to the provider, this includes information, adjustment, or alteration by the Member, the Subscriber, third-party payers (i.e. – Medicare), and/or Plan Sponsor.

p. **Coinsurance** – The percentage of the MAC for each service provided to the Member that is the responsibility of the Member.

q. **Copayment** - The portion of the MAC (flat dollar amount) for each service provided to the Member that is the responsibility of the Member.

r. **Deductible:** The amount that must be paid by each member prior to payment of any covered benefits by the Contractor.

s. **Denied Claim**: A claim that is not paid for reasons such as eligibility and coverage rules.

t. **Decision Support System ("DSS")**: A database and query tool containing health care information and claims data which allows for analytics and executive decision making.

u. **EAP**: Employee Assistance Program. Up to five (5) counseling sessions (5 visit model), per separate issue, per individual, per year.

v. **Edison**: The State's enterprise resource planning system, which supports human resources, payroll, insurance, contracting, procurement and other agency functions.

w. **Flexible Spending Arrangement ("FSA")**: A health flexible spending arrangement allows employees to be reimbursed for medical expenses. FSAs are usually funded through voluntary salary reduction agreements with employers. No employment or federal income taxes are deducted from employee contributions. The employer may also contribute.

x. **Generic Product Identifier ("GPI")**: The Medi-Span Generic Product Identifier can be comprised of up to a 14-digit code and description or as few as two digits - depending on the level of specific drug product (i.e. drug group, class, subclass, base name, name, dose form, and strength).

y. **Go-Live or Go-Live Date:** January 1, 2022

z. **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 Plans.

aa. **Health Savings Account ("HSA"):** A tax-exempt trust or custodial account set up with a qualified trustee for individuals covered under a qualifying high Deductible health plan to save or pay for certain medical expenses not covered by the health plan.

bb. **HIPAA**: Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and implementing regulations.

cc. **HITECH**: Health Information Technology for Economic and Clinical Health Act Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5 (Feb. 17, 2009) and implementing regulations.

dd. **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.

ee. **Inpatient Care**: Inpatient Behavioral Health Services, including hospital services, residential treatment services, partial hospitalization services and intensive outpatient therapy.

ff. **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.

gg. **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 D.

hh. **Leadership Support Team:** Dedicated team of licensed, Masters level behavioral health professionals devoted to supporting supervisors with coaching related to people management skills, leadership development, and other management duties. The Contractor shall provide all goods or services and deliverables as required, described and detailed and shall meet all service and delivery timelines as specified by this Contract.

ii. **Local Education Agency ("LEA")**: A local education agency pursuant to Tenn. Code Ann. § 49-3-302.

jj. **Local Government Agency ("LGA")**: A local government agency pursuant to Tenn. Code Ann. § 8-27-207.

kk. **Maximum Allowable Charge ("MAC")**: The maximum reimbursement rate the health plan will allow as payment for the cost of services such as procedures, professional fees, technical fees, or prescribed medicines. This amount is established by the Contractor.

ll. **Member**: 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 health plan options sponsored by the State, Local Education, and Local Government Insurance Committees.

mm. **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.

nn. **National Provider Identification Number ("NPI"):** A 10-position, intelligence-free numeric identifier (10-digit number). The numbers do not carry other information about health care providers, such as the state in which they live or their medical specialty.

oo. **Network Provider:** An entity or individual (e.g., hospital, residential treatment facility, home health agency, outpatient therapy, intensive outpatient therapy, hospice, physician, laboratory, durable medical equipment supplier, pharmacy etc.) that has an agreement with the Contractor to provide covered behavioral, EAP, medical, pharmaceutical, or other health care services to Plan Members and submits claims for reimbursement according to specific terms and rates within a specific network.

pp. **Out-of-Network:** The services received and the benefit level available, when delivered by providers that do not have a contractual agreement with the Contractor to provide covered behavioral, medical, or pharmaceutical services according to specific terms and rates within a specific network.

qq. **Out-of-Pocket Maximum**: The sum of any Deductibles, Copayments or Coinsurance required or incurred for any covered benefit up to a limit as defined by the Plan.

rr. **Out-of-Network Provider:** An entity or individual (e.g. hospital, residential treatment facility, home health agency, outpatient therapy, intensive outpatient therapy, hospice, physician, laboratory, durable medical equipment supplier, pharmacy etc.) that does not have an agreement with the Contractor to provide covered behavioral, medical, pharmaceutical, or other health care services to Members and submits claims for reimbursement.

ss. **Paid Claim:** A claim that meets all coverage criteria of the Plans and is paid by the Contractor and submitted to the State for reimbursement.

tt. **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.

uu. **Pharmacy Benefit Manager ("PBM"):** State's Contractor which provides pharmacy benefit management services.

vv. **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).

ww. **Plan Documents**: The legal publications that define eligibility, enrollment, benefits and administrative rules of the Plans.

xx. **Plan Year**: The twelve-month period that commences at the time at which a Member's annual benefits take effect. Currently, the State's plan year is coterminous with the calendar year.

yy. **Population Health and Wellness Contractor ("PH/W"):** The State's contractor responsible for the majority of population health and wellness programs (web portal, disease management, lifestyle counseling, weight management, biometric screenings, challenges, incentive tracking, reporting, etc.).

zz. **Preferred Provider Organization (PPO):** A type of health plan that contracts with health providers, such as hospitals and doctors, to create a network of participating providers, while also offering access to Out-of-Network Providers at an additional cost.

aaa. **Prior Authorization ("PA")**: the process by which a provider requests approval from the Contractor for medically or clinically necessary medical or behavioral health/substance use inpatient admissions, prescriptions, procedures, tests, services, or supplies in advance of extending such treatment or care to a Member. Prior Authorization is designed to encourage the delivery of medically or clinically necessary treatment or care in the most appropriate setting, consistent with the medical needs of the covered person and with patterns of care of an established managed care environment for treatment of a particular illness, injury, or medical condition.

bbb. **Processed Claim:** The action by the Contractor of adjudicating a claim which results in assigning a status to the claim of denied, paid, or externally pended for missing information needed to process a claim.

ccc. **Protected Health Information ("PHI")**: As defined in the HIPAA Privacy Rule, 45 CFR § 160.103.

ddd. **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.

eee. **Public Sector Plans ("Plan(s)"):** Refers to all benefit options sponsored by the State, Local Government, and Local Education Insurance Committees (e.g. health plan options, life insurance, other voluntary benefits). The Plan is available to eligible employees and dependents of participating State (Central State and Higher Education), Local Government, and Local Education agencies.

fff. **RFP:** Request for Proposals

ggg. **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.

hhh. **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.

iii. **Service Level Agreement ("SLA") Scorecard**: Performance management scorecard that contains Contractor's KPIs and desired outcomes in Contract Attachment D. The At-Risk Performance Payments will be based on the Contractor's ability to meet the listed KPIs.

jjj. **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.

kkk. **Splash Page**: Dedicated and customized webpage for this Contract containing program information, specific to the Plan, which does not require a Member to log in.

lll. **State, Local Government, and Local Education Insurance Committees**: Policy making bodies for the State, Local Government, and Local Education Plans established under Tenn. Code Ann. § 8-27-101, 8-27-207, and 8-27-301 respectively.

mmm. **State Holidays**: Days on which official holidays and commemorations as defined in Tenn. Code Ann. § 15-1-101 *et seq*. are observed.

nnn. **Third Party Administrator ("TPA")**: The State's contractor responsible for medical, not including mental health, benefits, claims processing, and related management services.

ooo. **Video/Web Conferencing:** A real-time transmission of audio and video signals between two people in different locations for the purpose of communication.

ppp. **Warm Transfer:** Simultaneous transfer of a telephone call and its associated data from one agent to another agent or supervisor.

qqq. **Work-Life Services:** The services described in Contract Section A.5 and Contract Attachment E, including but not limited to financial counseling, legal consultation, child/elder care assistance, supervisor support, critical incident response services and employed and supervisor education and training services.

rrr. **Workplace Outcome Suite:** A brief, valid and reliable measurement tool available at no cost. The Workplace Outcome Suite Cluster II objectively measures EAP outcomes, health care utilization, alcohol use lifestyle, drug use lifestyle, job satisfaction and emotional stress.

sss. **Virtual Visits:** Use of electronic information and telecommunications technologies to support remote EAP and clinical behavioral health care services.

A.3. General

a. The Contractor acknowledges the following:

(1) Self-funded, non-Federal, governmental plans may elect to "opt out" of the requirements of the Mental Health Parity and Addiction Equity Act of 2008 (Pub. L. 110-343) and certain other benefit mandates.
(2) BA implemented the parity requirements, but it retains all rights to exercise its "opt out" election in subsequent Plan Years in a manner that conforms to the Federal law.

b. The Contractor shall provide EAP, Work-Life Services, and Behavioral Health Services. Except as otherwise specified in the Plan Documents, eligible individuals as noted in the chart below shall have access to a maximum of five EAP counseling sessions, per separate incident, per individual, per year.

Population	**EAP** Five visits, per separate incident, per individual, per year (claims paid as fee for service)	**Work-Life Services** (provided under administrative fees)	**Behavioral Health Services** (claims paid as fee for service)
State and Higher Education employees, retirees, and their enrolled dependents (including COBRA) enrolled in a medical plan	Eligible	Eligible	Eligible

State and Higher Education employees, including eligible dependents (eligible for medical but not enrolled in a medical plan)	Eligible	Eligible	Not eligible
Local Education and Local Government employees, retirees, and their enrolled dependents (including COBRA) enrolled in a medical plan.	Eligible	Eligible	Eligible
Local Education and Local Government dependents, eligible but not enrolled in a medical plan (head of contract must be enrolled in a medical plan)	Eligible	Eligible	Not eligible

A.4. Implementation

a. The Contractor's programs, services, and systems, including but not limited to EAP, Work-Life, and Behavioral Health Services, the Contractor's call center, the Contractor's website, and the Contractor's claims management systems, shall be fully operational on or before the Go-Live Date.

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 satisfies 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 sixty (60) 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 dedicated to this Contract, who will be the main contacts with the State for all the 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, as team members, in the implementation of claims administration services for at least one other large employer (i.e., employer with Behavioral Health 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. 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 Employee Assistance/Work-Life and Behavioral Health 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) Identification and timing for testing and certification of claims processing and payment and the reconciliation process;
(8) Member communications and their timing;
(9) Schedule of in-person meetings and conference calls with the State;
(10) Transition requirements with the incumbent EAP and Behavioral Health Services Contractor.

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., claims processing and payment, 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 and claims processing and payment requirements 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, scanner, printer, copy machine, 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 or onsite at the offices of the State, as determined by the State, and shall include the Dedicated Account Executive, Dedicated 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 success, 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.5. Covered Services

a. The Contractor shall provide EAP, Work-Life, and Behavioral Health Services in accordance with the Plans, Plan Documents, this Contract, and State and Federal law.

b. The Contractor shall provide EAP and Work-Life services to all EAP eligible Members that shall include at a minimum the following:

(1) Financial counseling;
(2) Legal consultation;
(3) Child/Elder care assistance;
(4) Supervisor support;
(5) Critical Incident Response Services (CIRS);
(6) Management Referral for executive branch department employees;
(7) Legal Self-Help Library;
(8) Communication and outreach to executive branch state departments, especially those that deal with secondary trauma; and
(9) Employee and supervisor education and training.

c. Employee education sessions/topical seminars, manager/supervisor training, critical incident response services, employee orientation, and train-the-trainer sessions with State of Tennessee personnel are to be provided via an annual "bank" of 600 hours,

available at the discretion of the State. Any unused hours at the end of the year will roll forward to the next year's bank, up to a maximum of 300 hours.

d. The Contractor shall provide the services in Contract Section A.5.b.(1) through (9) and the Contractor shall ensure these services are provided by qualified, trained EAP and Work-Life consultants who meet, at a minimum, the qualifications and licensure/certification specified for each service in Contract Attachment E.

e. Members shall access EAP and Work-Life services by contacting the Contractor.

f. The Contractor may develop ad hoc trainings, with prior approval In Writing by the State. The Contractor shall indicate how many training hours will be utilized to develop an ad hoc training from the bank of training hours.

g. All trainings provided by the Contractor shall include a training evaluation, printed or electronically distributed handouts, and EAP promotional material to be distributed to each attendee and produced at the Contractor's expense.

h. The Contractor shall provide Work-Life services using, at a minimum, the following modalities:

(1) Financial counseling: Telephone, Video/Web conferencing, Secure Chat
(2) Legal consultation: Telephone, Video/Web conferencing, Secure Chat, and/or in-person at the attorney's office, as selected by the Member;
(3) Personal Legal Documents and Healthcare Directives: Access to state specific legal documents such as complaint letters, living trusts, bill of sale, wills, power or attorney and estate planning, etc.
(4) Child/elder care assistance: Telephone, video, Secure Chat
(5) Supervisor support: Telephone (with direct access to Leadership consultants), video, Secure Chat
(6) CIRS services: Telephone, Video/Web conferencing, and/or in-person at the worksite, as requested; and
(7) Employee and supervisor education and training: Video/Web conferencing, online via the Contractor's website, and/or in-person as specified in the training catalog or, for on-demand training, as requested by the State.

i. The Contractor shall offer a Virtual Visit (telehealth) benefits option for EAP services and Behavioral Health Services that meets or exceeds Tenn. Code Ann. §63-1-155, any other relevant state statute, and State of Tennessee Medical Board requirements and regulations, in addition to the other standard delivery methods.

j. The Contractor shall have available, at the State's request, alternative delivery models for EAP and Behavioral Health Services such as mobile apps (e.g. TalkSpace, Sanvello, meQuilibirium, ReThink, AbleTo etc.), live web chats or interactive websites.

k. The Contractor shall provide quarterly reporting regarding the utilization and outcomes of EAP and Work-Life services by service type including as applicable the delivery modality, topic, date, company/agency, contact, number of attendees, evaluation outcomes, and used/unused hours and the number of rolled over hours (see also Contract Attachment C, Reporting Requirements).

A.6. EAP and Work-Life Consultants

a. The Contractor shall employ or contract for appropriately qualified and trained EAP and Work-Life consultants to provide covered services (see also Contract Attachment D, SLA Scorecard).

b. The Contractor shall have a sufficient number of qualified and trained EAP and Work-Life consultants such that Members are able to speak with/be offered an appointment with a qualified and trained consultant within the following timeframes:

(1) Financial counseling: Intake shall be conducted at the time of the Member's call/request, and the Member shall be offered an appointment with a financial consultant for a time within the next three (3) Business Days. If the Member needs to complete any forms or provide written information prior to talking with a financial consultant, the Member shall be offered an appointment for a time within three (3) Business Days after submitting the required information.
(2) Legal consultation: Intake shall be conducted at the time of the Member's call/request, and the Member shall be offered an appointment with a legal consultant (licensed attorney) for a time within the next three (3) Business Days. If the Member needs to complete any forms or provide written information prior to talking with the attorney, the Member shall be offered an appointment for a time within the next three (3) Business Day after submitting the required information.
(3) Child/Elder care assistance: Intake and assistance shall occur at the time of the Member's call. If the Member needs to complete any forms or provide written information prior to talking with a child/elder care consultant, the Member shall be offered an appointment for the next Business Day after submitting the required information.
(4) Supervisor support/management coaching: Intake and support shall occur at the time of the supervisor's call/request.
(5) Support for Department of Human Resources (DOHR) Management Referral Policy (Policy Number: 17-002). This policy is specific to the executive branch of state government only and includes three types of referrals: informal, management and mandatory.
(6) Critical Incident Response Services (CIRS) services: Intake and services shall occur immediately upon request.
(7) Employee and supervisor education and training: Education and training shall be provided in accordance with the education and training catalog (see Contract Section A.18.m.). Education/training provided from the Contractor's training catalog shall be provided on the date requested, with reasonable notice.

c. The Contractor shall, within the timeframe specified by the State, provide In Writing a corrective action plan to mitigate any deficiencies in access to EAP and Work-Life services identified by the State.

d. The Contractor shall exercise due diligence and reasonable care in its selection, training, monitoring, and retention of EAP and Work-Life consultants.

e. If the Contractor contracts with any person or organization to provide EAP and Work-Life services, the Contractor shall comply with the requirements in Contract Section A.22.

A.7. Behavioral Health and EAP Provider Network

a. The Contractor shall provide and maintain a national provider network for this Contract that provides high quality behavioral health and employee assistance services and includes a full spectrum and adequate number of Behavioral Health Network Providers that provides the required geographic and service access to Members primarily located

throughout the State of Tennessee, see also Contract Attachment B, Liquidated Damages.

b. The Contractor's Behavioral Health Provider Network shall include appropriately licensed and credentialed behavioral health practitioners, including, but not limited to, psychiatrists, including addiction psychiatrists, Advanced Practice Psychiatric Nurses - board certified, licensed psychologists, licensed clinical social workers (LCSWs), licensed marital and family therapists (LMFTs), licensed professional counselors (LPCs), licensed and/or board certified applied behavioral analysts, substance abuse professionals (SAPs), and drug and alcohol counselors representative of the culture, race, sex and age of the population to be served. The Contractor's network shall also include a sufficient selection of licensed and credentialed programs and facilities (acute, residential, intensive outpatient, detoxification facilities and other necessary programs and services) in the network to provide access to Behavioral Health Services. The Contractor's network shall include providers with expertise related to domestic violence, eating disorders/body image disorders, applied behavioral analysis, and gambling addiction, as well as substance abuse providers that provide detoxification for adolescents. A combined ninety percent (90%) of all the Contractor's psychiatrist and Advanced Practice Psychiatric Nurses shall be board certified and reported during the quarterly administrative review meetings.

c. The Contractor shall include the onsite employee ParTNers Health & Wellness Center behavioral health provider in its provider network, subject to the center's/provider's compliance with the Contractor's Network Provider requirements, which shall be no more stringent than the requirements for a comparable provider. The State shall not require the Contractor to provide or arrange for a behavioral health practitioner to provide services at a state employee onsite clinic.

d. The Contractor shall ensure that all Employee Assistance Network Providers have knowledge of and training in short term, solution focused therapeutic modalities.

e. The Contractor shall offer all Network Providers additional training in advanced suicide risk management and prevention at no cost to the provider or the State.

f. The Contractor's Behavioral Health Provider Network shall meet, at minimum, the geographic access standards specified in Contract Attachment B, Liquidated Damages.

g. The Contractor shall provide the State with geographic access reports on a quarterly basis showing service and geographic access (refer also to Contract Attachment B, Liquidated Damages and Attachment C, Reporting Requirements). The State shall inform the Contractor of acceptable geographic access report companies and shall provide the approved data analysis, report format, and an updated Tennessee ZIP code list for each report delivery period. At the State's request, the Contractor shall also submit an access report of Network Providers that are accepting Members as new patients. At the State's request, the Contractor shall also submit an access report following a network change. The State shall review the reports and inform the Contractor In Writing of any deficiencies. The Contractor shall develop and implement an action plan to correct deficiencies. The State reserves the right to review the action plan and require changes, where appropriate.

h. The Contractor shall maintain a sufficiently extensive and accessible Behavioral Health Provider Network such that Members are able to schedule and receive appointments from a geographically-accessible provider within the following appointment standards Monday through Friday, 7:00 A.M. to 7:00 P.M. Central Time:

(1) Emergency/crisis service: four (4) hours
(2) Urgent visit: twenty-four (24) hours
(3) Routine/Initial visit: seventy two (72) hours

i. The Contractor shall maintain a current record of compliance with appointment access standards, including monitoring activities, findings, and corrective actions and shall provide a report upon request by the State.

j. The Contractor shall maintain a network of Centers of Excellence for treatment interventions including but not limited to: substance use, medication assisted treatment (e.g. methadone, buprenorphine, naltrexone, etc.) and eating disorders. The criteria for Centers of Excellence shall be developed by the Contractor and limited to facilities that adhere to the highest standards of patient safety and quality care. As directed by the State, the Contractor may only authorize and pay for procedures performed at Centers of Excellence and/or may provide incentives to Members to use Centers of Excellence for the specified services (including but not limited to lower member cost sharing for treatment at such facilities).

k. The Contractor shall notify the State of any operations or plans to implement value oriented payments where provider payments are differentiated based on quality and/or efficiency. Examples of such payments include, but are not limited to, incentive payments (e.g. pay for performance), enhanced or reduced reimbursement, capitation, and reference pricing. The Contactor shall not implement such value oriented provider payments without prior approval In Writing from the State.

l. The Contractor shall report descriptive information and data about its value oriented provider payments in sufficient detail to enable the State to make an approval determination as well as adequately monitor the Contractor's program and billings following approval. The information that may be requested shall include, but not be limited to, the following:

(1) The type(s) of arrangements, such as, withholds, bonus, capitation;
(2) The percent of any withhold or bonus the plan uses;
(3) The patient panel size and, if the plan uses pooling, the pooling method;
(4) The projected financial impact to the plan as a result of the program; and
(5) If approved, quarterly reporting (refer also to Contract Attachment C, Reporting Requirements) on the number of members served, program specific outcomes, and financial impact of the program.

m. The Contractor shall ensure that no specific payment be made directly or indirectly to a provider or behavioral health organization as an inducement to reduce or limit medically necessary services furnished to an individual.

n. The Contractor shall maintain a record of network voluntary and involuntary changes including any additions, deletions, terminations, provider type and reason for the change, in the Contractor's Behavioral Health Provider Network, including whether a provider is accepting Members as new patients and shall provide a report of said changes upon request by the State. The report shall include behavioral health provider turnover, both the Contractor's voluntary and involuntary turnover rate by provider type. (see Contract Attachment C, Reporting Requirements).

o. Unless otherwise directed by the State, the Contractor shall notify the State In Writing of any termination of any Network Provider of Inpatient Care, any network psychiatrist, or any other provider if termination of that provider jeopardizes the Contractor's compliance with the access standards (e.g., geographic access and appointment standards), regardless of whether the termination was initiated by the Contractor or the provider, within one (1) Business Day of becoming aware of the termination.

p. For any provider termination, regardless of the type of provider, the Contractor shall provide written notice to the State and Members who received treatment from the provider within the previous six (6) months. The notice shall include the provider's name

and the effective date of the termination and shall offer assistance with finding a new provider, including the option to call the Contractor's toll-free number or access the provider directory on the Contractor's website, as well as with transitioning to a new provider. The Contractor shall mail the notice to Members no less than thirty (30) calendar days prior to the effective date of the termination. The contractor shall notify Members upon becoming aware of the provider termination, as soon as possible and within a timeline agreed upon by the State, if the termination date is fewer than thirty (30) days away. For provider terminations impacting twenty-five (25) or more Members, refer also to Contract Attachment D, SLA Scorecard.

q. The Contractor shall exercise due diligence and reasonable care in its selection, credentialing, re-credentialing, monitoring, and retention of each Network Provider. The Contractor shall contract only with providers who are duly licensed to provide applicable Behavioral Health Services and shall require that all providers maintain all licenses and accreditations in existence at the time of selection as a Network Provider in order to continue their status as a Network Provider. The Contractor shall perform, on a continuous basis, appropriate provider credentialing that assures the quality of Network Providers. The Contractor's credentialing policies shall include clearly defined and documented procedures for assessing providers' qualifications and practice history. The Contractor shall complete processes necessary to reconfirm the licensure, accreditations, credentials, and standing of Network Providers no less frequently than every three (3) years. The Contractor's re-credentialing process shall take into consideration the review of historical information on Member complaints and satisfaction, participation and adherence to utilization management criteria and procedures, and performance in relation to applicable protocols. The Contractor shall initiate a corrective action plan to address any performance deficiencies.

r. The Contractor shall maintain face-to-face, telephonic, electronic, and written communication with Network Providers to ensure a high degree of continuity in the provider network and ensure that the providers are familiar with applicable requirements.

s. The Contractor shall maintain a provider Denied Claim appeals policy and process and shall provide the State with a copy of said process thirty (30) days prior to Go-Live. The Contractor shall provide the State with a list of provider Denied Claim appeals every quarter (refer also to Contract Attachment C, Reporting Requirements). The State shall select a random sample of Denied Claim appeals from the report for further review and explanation. The Contractor shall complete a question log based upon the Contractor's documented process regarding the selected Denied Claim appeals. The completed log shall be maintained by the State on record as verification of contractor compliance with internal policy.

t. The Contractor shall require all Network Providers to file claims associated with their services directly with the Contractor on behalf of Members.

u. In no case shall Network Providers Balance Bill for covered services. Rather, the Member's liability shall be limited to the allowable Member cost-sharing.

v. The Contractor shall notify all Network Providers of, and enforce compliance with, all provisions relating to utilization management and other procedures as required for participation in the Contractor's provider network.

w. The Contractor shall notify the State In Writing, at least thirty (30) days prior to any material adjustments in any Network Provider's payment terms, including but not limited to provider fee schedules, contract rates, other provider payment arrangements, discounts, rebates, refunds, or credits negotiated with the provider, and the manner in which such adjustments are reasonably likely to affect the cost of claims payments by the State. The notice shall include the name of the provider, the provider type, the amount of

the adjustments, and the projected impact of the adjustments on annual claims payments by the State.

x. If a Member is undergoing active treatment with an Out-of-Network Provider for a serious chronic or acute Behavioral Health condition at Go-Live or upon newly enrolling in the Plans, the Contractor shall arrange for a transition of care agreement with the Out-of-Network Provider. Members or their authorized representative have the greater of thirty (30) days from Go-Live or benefit effective date to request a transition of care exception. The Member's financial liability shall be limited to any cost-sharing (e.g., in-network Copayment, Coinsurance and Deductible amounts) that would have applied if the treating provider was a Network Provider. The Out-of-Network Provider shall be reimbursed at the MAC or other negotiated amount throughout the approved transition of care period with an agreement to accept said rate as payment in full.

y. If a Member is undergoing active treatment for a serious chronic or acute behavioral health condition when a provider leaves the network, the Contractor shall arrange for a continuity of care agreement with the terminating provider if that provider is continuing to practice and is capable of treating the member. Members or their authorized representative have the greater of thirty (30) days from the date of provider termination or thirty days from notification of the termination (either by written notice, EOB, or other means) to request a continuity of care exception. The Member's financial liability shall be limited to any cost-sharing (*e.g.*, in-network Copayment, Coinsurance and Deductible amounts) that would have applied prior to the provider leaving the network and the terminating provider shall be reimbursed at their terminated contracted rate throughout the approved continuity of care period with an agreement to accept said rate as payment in full.

z. If the Contractor is unable to deliver covered EAP, Behavioral Health Services, and medically necessary care through Network Providers, the Contractor shall arrange and pay for such services to be rendered by Out-Of-Network Providers. Unique care exceptions due to network adequacy should be requested and reviewed prior to a Member receiving services. A unique care exception may be approved by the Contractor or the State In Writing, retroactively in a critical care situation if the carrier would have otherwise approved the care. When the Contractor arranges for covered services to be provided through an Out-Of-Network Provider, the Member's financial liability shall be limited to any cost-sharing that would have applied had the service been rendered by a Network Provider (e.g., in-network Coinsurance percentage and in-network Deductible amount) except expenses determined not to be medically necessary and expenses that exceed the MAC, unless otherwise directed by the State.

aa. The Contractor shall report to the State on a monthly basis all transition of care, continuity of care, and unique care exception requests, whether they were granted or denied, and any reason for approval or denial (refer also to Contract Attachment C, Reporting Requirements).

A.8. Utilization Management for Mental Health Services

a. Unless otherwise directed by the State, the Contractor shall maintain a utilization management function designed to help individual Members secure the most appropriate level of care consistent with their behavioral health condition and needs. In carrying out this function, the Contractor shall provide a system for reviewing the appropriateness and medical necessity of inpatient and certain outpatient Behavioral Health Services and for prior authorizing these services.

b. The Contractor's utilization management program for this Contract shall be fully accredited by URAC. If the Contractor meets this requirement as of the start date of this Contract, the Contractor shall maintain such accreditation throughout the period of this

Contract. If the Contractor does not currently meet this requirement, the Contractor shall obtain such accreditation by December 31, 2022 (or a later date as specified by the State) and shall maintain it thereafter throughout the period of this Contract. See also Contract Attachment B, Liquidated Damages and Contract Attachment C, Reporting Requirements.

c. The Contractor shall provide both short and long term utilization management services based on evidence-based formal written clinical guidelines utilized by experienced mental health and substance abuse clinicians for the entire term of the contract. The Contractor shall maintain an online publicly accessible library of medical necessity coverage policies and ensure that submitted claims are processed in accordance with published policies. Should these clinical guidelines be revised, the Contractor shall notify the State thirty (30) days prior to the implementation of any major guideline revisions. In addition, the Contractor shall provide an impact analysis of the proposed changes on the program. Utilization management shall further consist of the following, when appropriate as determined on a case by case basis:

(1) Discussions between the Contractor's clinical staff and appropriate combination(s) of: the patient, the patient's family and/or their health care proxy, and the attending provider(s);
(2) Development of alternative treatment plans when benefit coverage is no longer available;
(3) Development of alternative treatment plans for complex or unusual cases where standard treatment guidelines may not meet the needs of the patient i.e. cases involving trauma, multiple diagnosis, transitional age from pediatric to adult, and gender specific programs, and other circumstances that may need additional consideration;
(4) Consultation and review of all records by board certified specialty matched psychiatric advisors, in cases where peer-to-peer review leads to disagreements regarding medical necessity or appropriateness of care;
(5) Provisions for periodic onsite visits by utilization and case management clinical staff to high volume and non-compliant providers, in order to continually improve the efficiency and effectiveness of these services.

d. The Contractor shall use appropriately licensed behavioral health professionals to supervise all medical necessity decisions and specify the type of personnel responsible for each level of UM, including PA and decision making, and who are familiar with the Plan Documents.

e. The Contractor shall have in place an effective process that identifies and manages Members in need of Inpatient Care. This shall include:

(1) Identification of patients in need of Inpatient Care for the purpose of reviewing the level of care requested, determining the extent of care required, and identifying appropriate additional or alternative services as needed; this shall include admission review, or the pre-certification/authorization of Inpatient Care.
(2) Concurrent review during the course of a patient's Inpatient Care stay, where qualified utilization management staff coordinates care with the facility's staff and patients' providers; this shall include review of the continued stay and identification of medical necessity for stays as well as available alternatives.
(3) Discharge planning, providing a process by which the Contractor's utilization management staff work with the facility, patient's providers, patient's family, appropriate State contractors, and appropriate community resources to coordinate discharge and post-discharge needs of the patient and reduce the likelihood of readmission.
(4) Retrospective review of emergency Inpatient Care admissions within twenty-four (24) hours in order to determine medical necessity for the service.

f. The Contractor shall require prior authorization for certain outpatient Behavioral Health Services including, but not limited to, applied behavioral analysis, transcranial magnetic stimulation, electroconvulsive therapy, psychological testing, and other Behavioral Health Services as determined by the Contractor's clinical staff and in agreement with the State In Writing.

g. If the Contractor determines that a service to be provided to a Member is not medically necessary, but the Network Provider proceeds with rendering the service: (a) The Contractor shall develop an advanced beneficiary notice (ABN) template, which shall be prior approved by the State, and shall provide copies of the template to Network Providers; and (b) Network Providers shall require the Member to sign and date such ABNs acknowledging that the Contractor will not cover the cost of services not authorized by the Contractor, prior to rendering non covered services, should the Member choose to receive said services.

h. The Contractor shall provide retrospective utilization review to identify provider practice patterns that are inconsistent with accepted clinical protocols, practice and standards. The Contractor shall take corrective action to address identified issues.

i. The Contractor shall collaborate with the State and its contractors to develop a discharge planning and notification protocol. Consistent with this protocol, the Contractor shall ensure that Network Providers complete a written discharge plan (including, for example, the dates of admission and discharge, follow-up care required, secured appointment date and time with outpatient behavioral health Network Provider, and current medications) prior to the discharge of any Member who is being discharged from, at a minimum, Inpatient Care.

j. Unless otherwise directed by the State, the Contractor complete ninety-seven percent (97%) of all PAs within the following standards for timeliness of PA and UM decision making. Failure to do so may result in At-Risk Performance Payments as specified in Contract Attachment D, SLA Scorecard:

   (1) For non-urgent pre-certification or prior authorization decisions, the Contractor shall make the decision within fifteen (15) calendar days of receipt of the request;
   (2) For urgent pre-certification or prior authorization decisions, the Contractor shall make the decision within seventy-two (72) hours of receipt of the request;
   (3) For urgent concurrent review decisions, the Contractor shall make the decision within twenty-four (24) hours of receipt of the request; and
   (4) For retroactive decisions, the Contractor shall make the decision within thirty (30) calendar days of receipt of the request.

k. The Contractor shall submit quarterly PA and utilization management reports with information regarding each decision outcome and associated timeline filed with the Contractor (refer also to Contract Attachment C, Reporting Requirements).

l. If the Contractor is missing any information necessary to make a pre-certification, prior authorization, or concurrent review decision, the Contractor shall immediately contact the provider by phone or email to obtain the missing information. If the information is still missing one (1) Business Day after contacting the provider, the Contractor shall make at least one follow-up contact by phone or email to obtain the missing information.

m. The Contractor shall have an electronic utilization management system that contains complete (i.e., sufficient to accurately portray the events of the review during an independent medical audit of the utilization management record) documentation of the review process by capturing administrative and clinical data as well as clinical notes by the UM staff.

n. The Contractor shall use protocols that are diagnosis/procedure-specific, consistent with efficient medical practices, and that provide qualified reviewers with guidelines regarding the type of care that is indicated during each day of treatment. Psychiatrists and other behavioral health professionals shall be actively involved in the review process in accordance with industry standards. Any provision of the Plan Documents and any protocol adopted by BA shall take precedence over any protocol used by the Contractor.

o. The Contractor shall maintain a comprehensive internal audit program for utilization management services and shall take prompt corrective action to correct any deficiencies or quality of care issues.

p. The Contractor shall submit to the State, at least two (2) months prior to Go-Live, a copy of all documents describing its utilization management program, evaluation methodology, and audit plan. The Contractor shall notify the State, In Writing, within thirty (30) days of any significant changes to its utilization management program.

q. The Contractor shall provide a written report to the State upon request, regarding the demonstrated effectiveness of its utilization management program. Any significant changes or findings of its utilization management program are to be provided at the quarterly review meetings.

r. If applicable based on contract award, the Contractor shall transition Members receiving services from the incumbent EAP/BHO Contractor, as follows:

(1) For Members receiving Inpatient Care as of midnight on December 31, 2021, the incumbent EAP/BHO contractor shall be responsible for payment of claims and continuation of coverage until the patient is discharged to a different level of care. The Contractor shall coordinate with the incumbent contractor in identifying these patients and developing a discharge plan.

(2) For Members authorized to receive inpatient or outpatient Behavioral Health Services on or after January 1, 2022, the Contractor shall be responsible for payments of claims and continuation of coverage for the authorized services, regardless of whether the services are provided by Network Providers or Out-of-Network Providers, for the period authorized by the incumbent EAP/BHO or ninety (90) days, whichever is less. However, the Contractor may require prior authorization or concurrent review (as applicable) for continuation of services beyond thirty (30) days. The Contractor shall coordinate with the incumbent contractor in identifying these Members and receiving authorization information.

(3) The Contractor shall provide inpatient coverage, including payment of claims and continuation of coverage, upon termination of this contract for Members receiving Inpatient Care as of midnight on December 31, 2026 until the patient is discharged to a different level of care.

A.9. Specialized Case Management

a. The Contractor shall provide specialized case management services through its staff who are experienced Master's or PhD level clinicians with a minimum of five (5) years of experience in mental health and/or substance abuse treatment, including two (2) years with mental health and/or substance abuse case management. The Contractor shall provide appropriate clinical supervision of case managers, including medical review of all alternative treatment plans for specific patients.

b. The Contractor shall provide two specialized case managers acceptable to the State and dedicated to the Plans. The State's expectation is for the case managers to be highly knowledgeable about both behavioral health services and resources.

c. Case managers shall provide the following services:

(1) Patient advocacy, including but not limited to assistance gathering clinical history to ensure appropriate level of care approvals and placement (through provider outreach calls) with a provider and/or facility with the best quality and fit for the Member's clinical needs;
(2) Twice monthly meetings with the medical TPA case managers in order to facilitate behavioral health integration, additional referrals, and overall collaboration, unless otherwise directed.
(3) Clinical coordination of care and services for high risk Members requiring or admitted to facility-based care;
(4) Telephonic, electronic, and onsite visits, when necessary in order to ensure the quality, effectiveness, and appropriateness of treatment and discharge planning;
(5) Consultations with the patient (if clinically appropriate), family and attending provider;
(6) Development of alternative treatment plans, where benefit coverage allows flexibility in determining the most clinically appropriate, cost-effective alternative treatment for the Member;
(7) Participation, as necessary, in the appeals process; and
(8) Coordination of care with TPAs, PBM, PH/W, and other appropriate State contractors.

d. Unless otherwise directed by the State, the Contractor shall identify Members for specialized case management through referral (including self-referral), prior authorization, review of medical, behavioral, and pharmacy claims data, and review of other data maintained by the Contractor.

e. The Contractor shall develop criteria to identify Members appropriate for specialized case management, which may include Members who have a serious or persistent mental illness, who have had an inpatient admission for a behavioral health condition within the past two (2) years, frequent emergency room utilization for behavioral health, and/or meet additional criteria, which may include, but is not limited to, the following:

(1) The Member is an adolescent;
(2) The Member has co-occurring (physical health and mental health or substance use) disorders;
(3) The Member is at risk of or had an inpatient readmission within ninety (90) days of discharge;
(4) The Member had a mental health or substance use admission during the previous twelve (12) months;
(5) The Member has inpatient discharge without subsequent lower levels of care follow up;
(6) The Member is at risk for future suicide or injury;
(7) The Member has Medication safety-adherence concerns such as lack of adherence to dispensed quantity of medication, contraindicated medications or multiple concurrent medications within the same drug class dispensed;
(8) The Member is expected to generate $15,000 or more in claims; or
(9) The Member is over sixty (60) years of age.

f. The Contractor's specialized case managers shall outreach to the identified Member via case management invitation letter, prior approved by the State, and a direct to Member follow up phone call.

g. The Contractor shall provide expanded case management specifically for families with a Member diagnosed with autism, an autism spectrum disorder, or a developmental disorder. The case manager shall work with the family as a whole to ensure engagement with all EAP, Work-Life services, and Behavioral Health Services for the diagnosed Member as well as additional family members. The case manager shall also assist the

family with any community resources that may be of assistance to support the diagnosed Member and the family.

h. The Contractor's specialized case managers shall work with the Member, TPAs, primary caregivers, PH/W, and other State contractors to coordinate the most appropriate, cost-effective care settings.

i. The Contractor shall submit a description of its case management program to the State no later than two (2) months prior to Go-Live. The State reserves the right to review the description and request changes. The Contractor shall notify the State, In Writing, thirty (30) days prior to any significant changes to the program. The State reserves the right to review the proposed change(s) and request revisions.

j. The Contractor shall update the State, at the quarterly review meetings, regarding the utilization of case management services, including but not limited to the number of hours of case management provided and the number of Members receiving case management along with any significant changes or findings.

A.10. Quality Assurance Program

a. The Contractor shall maintain a comprehensive quality assurance program that prospectively, concurrently and retrospectively ensures the quality of care provided by Network Providers as well as the quality of services provided by both Network Providers and the Contractor.

b. The Contractor shall adopt and implement evidence-based clinical practice guidelines, protocols or pathways incorporating national criteria and local provider input as appropriate. 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.

c. Psychotropic Medication Guidelines.

(1) The Contractor shall adopt and implement evidence-based clinical practice guidelines for prescribing and monitoring psychotropic medications and shall review these guidelines at least annually.
(2) The guidelines shall address, at a minimum, drug-drug interactions, excessive/sub-therapeutic dosing, and over/under utilization.
(3) The Contractor shall adopt and implement standardized measurement and reporting on Network Provider prescribing patterns and compliance with the Contractor's guidelines.
(4) The Contractor shall conduct an annual performance assessment of its Network Providers' performance measured against the guidelines.
(5) The Contractor shall provide the State with an annual report summarizing the Contractor's monitoring activity, findings, best practices, and any corrective action to improve Network Provider compliance with the guidelines (see Contract Attachment C, Reporting Requirements).

d. Substance Use Outreach Program

(1) Unless otherwise directed by the State, the Contractor shall implement a project to monitor and identify areas of potential risks with our Members' opioid prescription activity. The Contractor shall analyze claims data from the PBM, provider network information from each TPA, as well as other relevant data (i.e. dental providers) on a monthly basis to identify Members who may be dealing with untreated opioid addiction. This program shall provide medical providers

with prescription, behavioral health, and substance use information as applicable for their patients who are prescribed opioids and/or benzodiazepines and who may be at risk for adverse reactions due to high doses, combinations of medications, or doctor shopping behavior. The Contractor shall provide the information to the prescriber directly and issue outreach calls and/or office consultations, allowing for frequent, crucial data sharing and clinical interventions as needed. Additionally, the Contractor shall offer the provider access to the BHO's educational information and clinical services to assist the provider in providing safe and effective treatment.

(2) The Contractor's program shall, at a minimum, include telephonic based consultations and education information for prescribers. The Contractor shall, upon written direction from the State, work in coordination with the State's PBM substance use program to ensure that provider outreach is not duplicated. A minimum of eighty-five percent (85%) of identified providers are to receive an outreach call and/or in-office consultations each month. The Contractor shall update the identified provider list monthly for the duration of the contract.

(3) The Contractor shall also track Member medication modifications, EAP, and Behavioral Health Services utilization as a result of the provider Substance Use Outreach program.

(4) The Contractor shall report quarterly provider outreach and Member results to the State (see Contract Attachment C, Reporting Requirements).

e. The Contractor shall maintain standards and protocols for tracking all incidents/potential issues with Network Providers (e.g., Member complaints, irregular billing practices, and quality of care issues). In addition to responding to each incident/issue, the Contractor shall initiate a provider review when the number of incidents/issues reaches a threshold defined in advance by the Contractor. The Contractor shall specify the content of this review, which may range from medical chart audits to an outcomes analysis. The Contractor shall submit to the State at least two (2) months prior to Go-Live, a summary of its standards, protocols, and thresholds for tracking incidents and issues with Network Providers and shall provide a report of the Network Provider tracking results upon request with any significant changes or findings to be provided during the quarterly review meetings. The Contractor shall notify the State, In Writing, within thirty (30) days of any significant changes to its Network Provider tracking standards and protocols.

f. Whenever the Contractor identifies a potential quality of service or quality of care issue, the Contractor shall conduct appropriate follow-up, including taking corrective action as necessary to remedy a deficiency.

g. The Contractor's quality assurance program shall, at a minimum, meet National Committee for Quality Assurance (NCQA)'s quality management and quality assurance (QA) standards as specified in the most recent "Standards and Guidelines for the Accreditation of Managed Behavioral Health Organizations (MBHOs)". The Contractor shall be fully accredited by NCQA as a Managed Behavioral Healthcare Organization. If the Contractor meets this requirement as of the start date of this Contract, the Contractor shall maintain such accreditation throughout the period of this Contract. If the Contractor does not currently meet this requirement, the Contractor shall obtain such accreditation by December 31, 2022 (or a later date as specified by the State) and shall maintain it thereafter throughout the period of this Contract. See Contract Attachment C, Reporting Requirements and Contract Attachment B, Liquidated Damages.

h. The Contractor shall submit to the State, at least two (2) months prior to Go-Live, a summary report of its quality assurance program. 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 change and request changes, where appropriate.

i. The Contractor shall use the Workplace Outcome Suite Cluster II measurement tool, or another valid and reliable measurement tool approved by the State In Writing, to demonstrate the impact and outcomes of all EAP interventions. Unless otherwise directed by the State, the Contractor shall report quarterly results to the State (see Contract Attachment C, Reporting Requirements).

j. Depression in the Workplace. Unless otherwise directed by the State, the Contractor shall implement a depression care program focused on Members who screen positive for depression utilizing a standard depression screening tool and are working full or part time. The Contractor shall implement a depression intervention program to address this population. The program will supplement any primary care or other behavioral health care services with a brief web-based screening and, for employees who are qualified for the program, a series of telephonic mental health and functional improvement interventions. The intervention shall be provided by a master's level, licensed mental health professional. If successful, the program will increase screening rates for depression and, for those who screen-in for depression care, improve both their clinical outcomes and their subjective experience of care. The goal of the program is to: 1) improve the quality of primary care for employees with clinical depression, some of whom may not be diagnosed and/or treated; and 2) reduce the costs of unnecessary medical care. Key program components include evidenced based care, cognitive behavioral interventions, using technology to screen and interact with Members in the program, and keeping primary care and other behavioral health providers informed of referred Members' progress in the program. Unless otherwise directed by the State, the Contractor shall report quarterly results to the State (see Contract Attachment C, Reporting Requirements).

A.11. Claims Processing, Payment and Reconciliation

a. The Contractor shall process all claims for covered benefits provided to Members in strict accordance with the Plan Documents, applicable Contractor medical coverage policies and procedures, in compliance with all applicable state and federal laws, rules and regulations and the terms of this contract including, but not limited to, timely filing. The Contractor shall not modify the Plans' covered benefits or apply their standard book of business changes to benefits set up, procedures, or claims processing guidelines during the term of this Contract without the prior notification to and approval In Writing from the State. The Contractor shall retain records of all State approvals for benefit set up that do not align with the Contractor's standard book of business. The Contractor may be assessed liquidated damages as set forth in Attachment B, Liquidated Damages for any claims that are not processed according to State approved covered benefits.

b. The Contractor shall operate a claims management system that tracks accumulations toward Deductibles and Out-of-Pocket Maximums, tracks Copayments and Coinsurance amounts and appropriately links claim history, enrollment information, member services, provider network, and utilization management information. This shall include the daily electronic exchange of Member-level Deductible and Out-of-Pocket Maximum accumulator data with the PBM, TPAs, and any other State contractors as needed.

c. The Contractor shall process claims, either filed directly by Members and/or provider(s), in an accurate and timely manner and in accordance with the following claim processing standards.

(1) Unless otherwise specified by the State, the claims management system shall automatically adjudicate no less than eighty percent (80%) of Clean Claims, i.e., without recourse to manual or other calculation methods external to the system. The Contractor shall report Clean Claim automatic adjudication on a quarterly basis as outlined in Contract Attachment D, SLA scorecard.

(2) The Contractor shall reimburse Network Providers within fourteen (14) calendar days for ninety-two percent (92%) of Clean Claims and within thirty (30) calendar days for ninety-eight percent (98%) or higher of all claims (refer also to Contract Attachment D, SLA scorecard).

(3) Financial accuracy shall be ninety-nine percent (99%) or higher. Financial accuracy shall be calculated and reported by taking the total benefit dollars paid in the population, minus the sum of the weighted absolute value of overpayments and underpayments, divided by the total dollars paid in the population. The Contractor shall report financial accuracy on a quarterly basis in a report format specified by the State (refer also to Contract Attachment D, SLA scorecard and Contract Attachment C, Reporting Requirements).

(4) Claims processing accuracy shall be ninety-six percent (96%) or higher (refer also to Contract Attachment D, SLA scorecard).

(5) Claims payment accuracy shall be ninety-seven point five percent (97.5%) or higher (refer also to Contract Attachment D, SLA scorecard).

(6) The Contractor shall complete ninety-five percent (95%) of all claim adjustments within seven (7) calendar days. The Contractor shall report claim adjustment processing on a quarterly basis as outlined in Contract Attachment D, SLA scorecard.

(7) An incomplete claim may be resubmitted with the information necessary to complete the claim. This resubmission shall constitute a new claim only for the purpose of establishing a timeframe for claims processing and payment.

(8) The Contractor shall select at random, one hundred and seventy-five (175) incurred date claims and one hundred and seventy-five (175), different, paid date claims and provide the selected claims data to the State on a quarterly basis (refer also to Contract Attachment C, Reporting Requirements). The State will analyze the claims data provided to validate the Contractor's compliance with standards 2, 4, and 5 above. Should the State identify a Contractor deficiency, the State shall provide substantiation of said deficiency to the Contractor who shall have thirty (30) days to provide substantiation to the contrary. Should the Contractor be unable to successfully provide substantiation of compliance with the above claim processing standards, the Contractor may be assessed at risk performance payments as set forth in Contract Attachment D, SLA Scorecard.

d. The Contractor’s claims management system shall be able to receive and process (i.e., without subsequent data entry) practitioner and facility claim submissions electronically.

e. The Contractor’s claims management system shall retain claim history on-line for at least three (3) years and it must be made available either online or upon request. (This does not limit the Contractor’s obligations to retain all records in accordance with Contract Section D.11., Records).

f. The Contractor shall test the accuracy of automated features of the claims management system (e.g., Deductible calculation) at least annually as part of its internal audit program policies and procedures.

g. The Contractor shall use a clinical edit software program that automatically evaluates all claims for medical bills involving the use of current ICD and CPT/HCPCS codes. Clinical claim review software shall be updated no less than once every year, and all changes and new codes shall be incorporated by the Contractor within thirty (30) days of the change becoming effective.

h. The Contractor's claims management system shall automatically price network claims using current Network Provider rate information. The claims management system shall store Network Provider information to determine provider status and reimbursement for claims from Network Providers. Network Provider rate information shall be updated in the claims management system according to the Contractor's documented standards.

i. The Contractor's call center staff shall have access to claims management and other systems as necessary to respond to calls.

j. Upon request by the State, the Contractor shall modify its systems and processes to reflect approved plan design changes, including but not limited to changes in covered services, scope of covered services, and cost-sharing, to the Plan(s) annually prior to the start of the benefit Plan Year or within sixty (60) days of notification by the State. Should said change(s) not be effective within sixty (60) days, the Contractor shall have until the effective date of the change to modify its systems and processes. Refer also to Contract Attachment B, Liquidated Damages.

k. The Contractor shall ensure claims submitted by Providers are paperless for the Members. The Contractor's agreement with providers shall require Network Providers to submit claims directly to the Contractor.

l. The Contractor shall submit to the State, at least one (1) month prior to Go-Live, a summary of its methodology for conducting internal claims audits, including audits to determine claims payment and processing accuracy and claims payment turnaround. The State reserves the right to review the methodology and request changes, where appropriate. The Contractor shall notify the State In Writing at least thirty (30) days in advance of any significant changes to its methodology. The State reserves the right to review the change and request changes, where appropriate.

m. The Contractor shall confirm eligibility of each Member as claims are submitted, on the basis of the enrollment information provided by the State, which applies to the period during which the charges were incurred.

n. In concert with its claims payment cycle, the Contractor shall provide an electronic remittance advice (RA) to the provider indicating the disposition of every adjudicated claim submitted by providers. The remittance advice shall contain appropriate explanatory remarks related to payment or denial of each claim. If a claim is partially or totally denied due to insufficient information and/or documentation, then the remittance advice shall specify all such information and/or documentation. Providers that do not have the capability of receiving an RA electronically may have one mailed to them.

o. Explanation of Benefits (EOB). The Contractor shall generate and mail an EOB to the Member each time the Contractor processes a claim submitted by the provider. The Contractor shall mail the EOB within five (5) Business Days of processing the claim. The Contractor shall have a process in place to accept an alternative mailing address from the Member for the EOB should the Member have a safety or confidentiality concern. The EOB format and text shall be prior approved In Writing by the State and shall include but not be limited to the identification number of the head-of-contract (if applicable), the patient name, and for each claim: the date the Contractor received the claim, the date the Contractor adjudicated the claim, the claim number, the date of service, the provider name, the Contractor's contact information, submitted charges, total amount paid by the Contractor to the provider, the amount paid by another insurance carrier, the amount the Member owes the provider by cost-sharing category (Copayment, Coinsurance), any non-covered amount, the Out-of-Pocket Maximum amounts paid for the year, how to file an appeal, and a notice that if the Member receives a provider bill for any amount, other than applicable cost-sharing, for emergency or urgent care services received from an Out-of-Network Provider, the Member should contact the Contractor. The Contractor may substitute electronic EOB statements if requested or approved by the Member.

p. The Contractor shall also generate and mail an EOB to the Member each time the Contractor processes a claim submitted by the Member. The Contractor shall mail the EOB within five (5) Business Days of processing the claim. The EOB format and text shall be prior approved In Writing by the State and shall include information similar to the EOB for provider-submitted claims but tailored to Member-submitted claims. The Contractor may substitute electronic EOB statements if requested by the Member.

q. If a Member receives a covered benefit from a Network Provider, the provider's contract rate shall be used to determine the Member's applicable cost-sharing amount, and the Member shall not be responsible for payment in excess of that amount. In addition, if a Member receives a behavioral health service from a Network Provider but the claim for the service is denied as ineligible for payment (e.g., the service exceeded the applicable service limitation, was not medically necessary, was experimental or investigational, or the service was subject to prior authorization and was not approved by the Contractor) the Member shall not be responsible for payment to the provider unless the Network Provider can provide a copy of an advance beneficiary notice (waiver) for the specific services rendered and the date of the service, signed by the Member prior to the service being rendered.

r. The Contractor shall only pay claims for covered Behavioral Health Services provided to eligible Members and provided in accordance with the Contractor's utilization management and other applicable requirements within the Plan Documents.

s. The Contractor shall not pay for services that result from a referral prohibited by Section 1877 of the Social Security Act (Limitation on Certain Physician Referrals).

t. The Contractor shall not pay for preventable events and conditions, e.g., hospital-acquired conditions, identified as non-payable by Medicare. In addition, as directed by the State, the Contractor shall not pay for other preventable events and conditions identified as non-payable by other Federal or state payers. At the State's request, the Contractor shall provide a report of these Denied Claims and the avoided charges to the State.

u. The Contractor shall pay claims for services from Out-of-Network Providers submitted by Members by directly reimbursing the provider. However, if the Member has already paid said claim, then the Contractor shall reimburse the Member directly. In either case the Contractor shall send the Member an EOB.

v. The Contractor shall pass directly to the State the payment terms the Contractor has negotiated with providers. The Contractor shall not receive any differential between the provider contract rate and the payment funded by the State; the Contractor shall ensure that the State and the Member receives the full benefit of any provider payment terms including, but not limited to, provider fee schedules, contract rates, other payment arrangements, discounts, rebates, refunds, or credits negotiated by the Contractor. All special pricing considerations and financial incentives shall accrue to the State and Members.

w. The Contractor shall ensure any payments funded by the State are accurate and in compliance with the terms of this Contract; agreements between the Contractor and providers; and State and Federal laws and regulations.

x. The State shall have the sole responsibility for and authority to clarify and/or revise the benefits available under the Plans. Should the Contractor have a question on policy determinations, benefits, or operating guidelines required for proper performance of the Contractor's responsibilities, the Contractor shall request a determination In Writing. The State will then respond In Writing making a determination within thirty (30) calendar days.

The Contractor shall then act in accordance with such policy determinations and/or operating guidelines.

y. The Contractor understands that the Plans cannot and do not cover all behavioral health situations. In a case where the benefits are not referenced in the Plan Documents or are not clear, the Contractor shall comply with any applicable policy issued by BA to interpret the Plan Documents. If the benefits are not referenced in any policy or are not clear, the Contractor shall utilize its standard policies in adjudicating claims, and the Contractor shall advise BA In Writing, as to the difference along with the Contractor's recommendation. Such matters as determined by the State to have a significant impact on administration of plan benefits shall be resolved by the State.

z. The Contractor shall identify and pursue claims that may be subject to coordination of benefits (COB) in accordance with the regulations promulgated by the Plan Document and Tennessee Department of Commerce and Insurance, Chapter 0780-1-53 Tenn. Comp. R. & Regs. The Contractor shall provide a report of said activities to the State upon request (see Contract Attachment C, Reporting Requirements).

aa. The Contractor shall notify the State on a weekly basis of receipt of any notices from Medicare that Medicare may have made primary payments for services when it should have been the secondary payer (a Medicare Secondary Payer demand letter) from Go-Live through the claims runout period. Refer also to Contract Attachment C, Reporting Requirements. The Contractor shall resolve issues as to whether Medicare is the primary or secondary payer within thirty-one (31) days of receiving the demand letter.

bb. The Contractor shall determine whether eligible expenses are medically necessary.

cc. The Contractor shall have a process in place based on the most appropriate up to date clinical information for determining those procedures and services that are considered experimental/investigative. Unless otherwise directed by the State, the Contractor shall submit to the State, at least one (1) month prior to Go-Live, detailed information on the Contractor's process for determining experimental/investigational procedures and services. The Contractor shall notify the State, In Writing, within thirty (30) days of any significant changes to its process.

dd. Unless otherwise directed by the State, the Contractor shall respond to all claims/data requests from the State within seventy-two (72) hours of receiving the request and shall present the information in the format requested by the State.

ee. The Contractor shall implement a process to carry out recoveries, including but not limited to subrogation, and report recovery activities to the State. The Contractor shall submit to the State a monthly recoveries report of all recoveries including, but not limited to, subrogation in a format prior approved by the State (refer also to Contract Attachment C, Reporting Requirements).

ff. Reconciliation

(1) The Contractor shall submit claims and bank draft reports to the State in sufficient detail for the State to record and reconcile claims. The format of the claims reports shall include at a minimum: each bank draft amount; date of bank draft; number, date range, and amount of associated claims adjudicated per draft; account number; fund code; any non-claim based payments which shall be separate and identified; etc. The report format shall be prior approved by the State and the frequency of report delivery shall match the frequency of the Contractor's bank drafts (refer also to Contract Attachment C, Reporting Requirements).

(2) The Contractor shall submit to the State a monthly reconciliation report which shall include the total paid amounts for all claims by agency (State/Higher Ed,

LEA, LGA), Active or Retiree, and plan in a format prior approved by the State (refer also to Contract Attachment C, Reporting Requirements).

(3) 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.

(4) The Contractor shall provide authorized State users with access to its internal client financial reporting system for use in the State's reconciliation process. The financial reporting system shall provide State users with the ability to access claim level detail.

gg. The Contractor's provider agreements shall include the maximum recoupment periods permitted under Tenn. Code Ann. §56-7-110.

hh. For the payment of all claims under this Contract, the Contractor shall issue payments in the form of checks and/or Automated Clearing House (ACH) electronic funds transfer against the Contractor's own bank account. The Contractor shall maintain security and quality controls over the design, printing and mailing of checks, as well as any fraud prevention feature of checks.

ii. The State will only pay for approved and correctly Paid Claims, not for rejected, reversed, duplicate claims, claims processed but not paid, or claims paid in error.

jj. The Contractor shall reimburse the State for one hundred percent (100%) of claims paid in error. If the Contractor is unable to withhold the amount from the provider's next payment then the Contractor shall reimburse the State within thirty (30) days of identification of the overpayment, or within a time frame agreed to by the State.

kk. The Contractor shall provide a list of Denied Claims every quarter for the previous quarter (refer also to Contract Attachment C, Reporting Requirements). The State shall conduct a review of a random sample of twenty-five (25) Denied Claims per quarter and shall send said claims to the Contractor for review and comment. The Contractor shall review the reason for the denial and confirm that the claim was appropriately denied within thirty (30) days of receipt. Any claims found to be inappropriately denied shall be reprocessed for payment by the Contractor.

ll. The State shall conduct a monthly review of Pended Claims. The Contractor shall provide a current list of Pended Claims every month including the current status of prior and newly pended claims and the top reasons claims are pended (refer also to Contract Attachment C, Reporting Requirements).

mm. The Contractor shall provide a quarterly incurred but not reported (IBNR) report of monthly claims and enrollment data by the following splits for the forty-eight (48) months leading up to and including the most recent month to the State actuarial contractor. Claims should be summarized by both the month of service and payment (standard lag/triangle data summary) for the following:

(1) Active/Retired (claims and enrollment),
(2) Medical/Pharmacy (claims only), and
(3) State/Local Education/Local Government (claims and enrollment).

nn. The Contractor shall issue all related U.S. Internal Revenue Service (IRS) Form 1099 reports, submit required 1099 information directly to the IRS utilizing the Contractor's tax ID number, and shall maintain responsibility in matters relating to such information provided to payees and to the IRS, including the payment of any penalties or fees related to such 1099 reporting.

oo. Upon conclusion of the service delivery period (1/1/2022-12/31/2026) of this Contract, or in the event of its termination or cancellation for any reason, the Contractor shall be

responsible for the processing of all claims incurred for EAP and Behavioral Health Services rendered during the service delivery period of this Contract with no additional administrative cost to the State. The claims runout period shall extend through the final day of the eighteenth (18th) month following 12/31/2026. The Contractor shall continue to comply with the audit provisions contained in Contract Section A.13.

pp. Upon termination of this Contract, the Contractor shall continue to provide and pay claims for services to any Member who is receiving Inpatient Care on the effective date of termination. Said coverage shall discontinue when the Member is discharged from Inpatient Care.

A.12. Fraud and Abuse

a. The Contractor shall implement procedures to prevent and detect fraud or abuse by providers or Members and shall perform fraud investigations of Members and providers, in consultation with the State, for the purpose of recovery of overpayments due to fraud.

b. The Contractor's procedures for preventing and detecting fraud and abuse shall include, at a minimum, claims edits, post-processing review of claims, utilization management, provider profiling and credentialing, and provisions in the Contractor's provider agreement and/or provider manual. The Contractor's claim edits shall include, at a minimum, edits to identify upcoding and duplicate claims. The Contractor shall report to the State any provider who violates the Medicare and/or Medicaid fraud and abuse policy, as well as any disciplinary actions taken.

c. The State shall perform a quarterly review for potential duplicate claims payments to ensure the Contractor's claim edits are identifying duplicate claims and correcting any overpayments. Any duplicate claims identified as questionable by the State shall be submitted to the Contractor for further research. The Contractor shall respond within thirty (30) days of notification with additional claim detail to confirm or deny duplicate claims. Any confirmed duplicate claims shall be reprocessed to reimburse the State.

d. The Contractor shall perform a hospital/facility and professional claims review audit including elements not submitted on the claim such as medical record, itemized bill and manufacturer invoices for each claim with a total allowed amount equal to or greater than twenty-five thousand dollars ($25,000) including but not limited to appropriate level of care coding and billing for miscellaneous items already included in the daily reimbursement grouper. The Contractor shall report the results of all hospital/facility and professional claims review audits at the quarterly administration program review meetings.

e. In the event the Contractor discovers evidence that an unusual transaction has occurred that merits further investigation, the Contractor shall simultaneously inform BA and the Division of State Audit, in the Office of the Comptroller of the Treasury. The State will review the information and inform the Contractor whether it wishes the Contractor to:

(1) Discontinue further investigation if there is insufficient justification; or
(2) Continue the investigation and report back to BA and the Division of State Audit; or
(3) Continue the investigation with the assistance of the Division of State Audit; or
(4) Discontinue the investigation and turn the Contractor's findings over to the Division of State Audit for its investigation.

f. The Contractor shall submit to the State, at least two (2) months prior to Go-Live, a description of its fraud and abuse program. The State reserves the right to review the documents and request changes, where appropriate. The Contractor shall notify the State, In Writing, within thirty (30) days of any significant changes to its programs related

to insurance or provider fraud, abuse, and waste. The State reserves the right to review the change and request changes, where appropriate.

g. The Contractor shall update the State on a quarterly basis, during the quarterly review meetings, regarding the effectiveness of the Contractor's fraud and abuse program, including its fraud and abuse detection activities, findings from those activities, follow-up on findings, proposed improvement activities, and any estimated savings to the Plans associated with the Contractor's detection of such fraudulent or wasteful activities.

A.13. Audit Authority

a. 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.

b. 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.

c. 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, claims processing, customer service, or any other provision of this contract by whomever the State in its sole authority deems appropriate.

d. 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 a set of claims, providers, 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.

e. 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.

f. 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 protected health information, and particularly psychotherapy notes as described in 45 CFR 164.501 and substance use data regarding employees and other users of the Services.

g. 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.

h. 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, whether the Contractor's adjudication system is configured according to the State's benefit design;
   (2) An operational audit focusing on, at a minimum, staffing, customer service capabilities, TPA audit programs, and claims administration; and
   (3) Any follow-up audits if significant deficiencies, as determined by the State, are noted.

i. 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.

j. 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.

A.14. Member Services

a. All Member services representatives handling calls related to this Contract shall be familiar with the terms and provisions of this Contract and the Plan Documents, including without limitation, eligibility, benefits, covered services, excluded services and procedures, Deductibles, applicable cost-sharing, including Copayments and Coinsurance, Out-of-Pocket Maximums, instructions for completing a claim form, determining the status of claims, how to handle a complaint, and the Member appeals process.

b. The Contractor's member services representatives shall be dedicated to this Contract. If the Contractor receives prior, written approval from the State, then the Contractor may use non-dedicated staff to handle call overflow during peak periods, after hours to provide 24/7 assistance, or in the event of unexpected call volume provided the staff members meet the requirements of this Contract.

c. The Contractor shall have sufficient member services representatives to respond to inquiries, correspondence, complaints, and problems related to all aspects of the services required in this contract such as network development or changes, claims processing, appeals, sufficient numbers of providers meeting the Member's needs from area of expertise to provider demographics, provider participation and use of the Contractor's online tools. Member services representatives shall connect or Warm Transfer Members to other State contractors for benefit services as needed based upon the Member's inquiry or issue. The Contractor shall not answer technical questions regarding the State's eligibility and enrollment policy or systems issues and shall refer these questions to BA Service Center staff.

d. In addition to providing the Member with a list of Network Providers who meet the Member's requested provider demographics and condition specialty area, the Contractor shall provide appointment scheduling assistance to all Members who call for a referral to an EAP or behavioral health Network Provider.

e. Additionally, member services representatives shall provide Member advocacy and navigation assistance to Members who call in for EAP and Behavioral Health Services. Services which may include, but are not limited to:
   (1) finding and scheduling appointments with high performing quality providers and facilities;
   (2) website navigation to all services available to the Member;
   (3) encouraging participation in value based programs with enhanced benefits such as treatment centers of excellence;
   (4) maximizing benefits such as encouraging the use of EAP before transitioning to ongoing behavioral health care, Virtual Visits, mobile app services, etc.;
   (5) recommending case management;
   (6) navigating denials and appeals;
   (7) working with Members and providers on claims and billing resolution;
   (8) educating Members on how to understand their EOBs and provider bills; and
   (9) connecting or Warm Transfer to other State contractors for benefit services.

f. Unless otherwise specified by the State, the Contractor shall inform the Member of the availability of the "Take This to Your Behavioral Health Visit" checklists (see Contract Section A.18.n.) on the Contractor's website and offer to email the Member the appropriate checklist for his/her appointment(s).

g. 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.

h. 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.

i. 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, including the status of claims submitted and covered services, 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.

j. The Contractor's Dedicated Account Manager shall 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.

k. The Contractor shall maintain a procedure for resolving complaints informally by phone including reconsiderations and peer to peer reviews. 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.

l. Unless otherwise directed by the State, the Contractor shall conduct an annual Member satisfaction survey using the Consumer Assessment of Healthcare Providers and Systems (CAHPS) adult survey or other survey approved by the State In Writing. The Contractor shall contract with a contractor that is certified by NCQA to perform CAHPS surveys, and the contractor shall perform the CAHPS adult commercial survey. The Contractor shall report the results of the survey to the State by July 20 of each calendar year (refer also to Contract Attachment C, Reporting Requirements and Contract Attachment D, SLA Scorecard). The level of overall customer 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. Based upon the results of the survey, the Contractor shall develop an action plan to correct problems or deficiencies identified through this activity. The Contractor shall submit the action plan to the State by August 1st. The State reserves the right to review the action plan and require changes, where appropriate.

A.15. Member Appeals Process

a. The Contractor shall maintain an appeals process in compliance with Section 2719 of PPACA (42 U.S.C. 300gg-19) and 45 CFR 147.136 and the Plan Documents, including all minimum consumer protection standards, by which Members may appeal adverse benefit determination decisions. If any part of section A.15. conflicts with the Federal review and appeal requirements of Section 2719 of PPACA (42 U.S.C. 300gg-19) or 45 CFR 147.136, the Contractor shall follow the federal requirements.

b. The Contractor shall maintain formal appeal procedures affording two (2) internal reviews as well as an external independent review which allows claimants to review their file, to present evidence and testimony as part of the appeals process. The internal reviews shall be conducted by committees designated by the Contractor that is designed to ensure the independence and impartiality of the persons involved in making the decision. The external review shall be conducted by an Independent Review Organization (IRO).

c. The Contractor must assign an IRO that is accredited by URAC or a similar nationally-recognized accrediting organization to conduct the external review. The Contractor must contract with at least three (3) IROs and rotate assignments among the IROs to prevent bias and ensure independence. The IRO cannot be eligible for any financial incentives based on the likelihood that the IRO will support a denial of benefits.

d. The Contractor shall include notification of the Member's right to appeal in any Member communication regarding benefit coverage decisions, including but not limited to, letters to Members and providers, member handbooks, and Explanation of Benefit (EOB) statements. The notices must be provided in a culturally and linguistically appropriate manner and are subject to prior written approval from the State.

e. At a minimum, the Contractor shall provide a description of available internal appeals and external review processes, including information on how to initiate an appeal, in Member handbooks, on the state specific website and any other documents as requested by the State.

f. The Contractor must provide notification of decisions within the following time frames and all decision notices shall advise of any further appeal options. Failure to do so may result in At-Risk Performance Payments as specified in Contract Attachment D, SLA Scorecard:

(1) One hundred percent (100%) of all expedited appeals for urgent care (not involving a third party review) shall be decided no later than 72 hours after receipt of the request for an expedited review for urgent care.
(2) Ninety-five percent (95%) of denied non-urgent pre-service (care not yet received) appeals shall be decided within thirty (30) days after receipt of the request.
(3) Ninety-five (95%) of denied non-urgent post-service (care already received) appeals shall be decided within sixty (60) days for after receipt of the request.

g. The Contractor shall submit quarterly appeals reports with information regarding each appeal and associated timeline filed with the Contractor and the IROs (refer also to Contract Attachment C, Reporting Requirements).

h. The Contractor must provide continued coverage pending the outcome of an appeal. Benefits for an ongoing course of treatment cannot be reduced or terminated without providing advance notice and an opportunity for advance review.

i. The Contractor must disclose the availability of, and contact information for, any applicable office of health insurance consumer assistance established to assist individuals with the internal claims and appeals and external review processes.

j. Any appeals of denied requests for continued hospitalization shall be promptly processed and shall involve physician-to-physician consultation between the Contractor's staff and attending physician.

k. At least one (1) month prior to Go-Live, the Contractor shall provide the State information describing in detail the Contractor's appeals process and procedures along with copies of sample determination letters for internal and external appeals. The State reserves the right to review the appeals process and procedures and letters and require changes, where appropriate.

l. The Contractor shall ensure that all records and information related to appeals are preserved as required by other provisions of this Contract or state or federal law.

m. The Contractor shall allow a Member or their authorized representative one hundred and eighty (180) calendar days to initiate an internal appeal following notice of an adverse determination. The Contractor shall provide notice to the Member of all unfavorable internal appeal determinations and advise them of their right to initiate an external appeal within four (4) months of receiving said notice.

A.16. Call Center

a. The Contractor shall operate a call center that uses the toll-free telephone number, 855.437.3486 (855.HERE4TN) dedicated to the Plans 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 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 EAP, Work-Life, and Behavioral Health Services after the termination of this Contract.

d. The Contractor's call center shall be open and staffed with dedicated trained and qualified member service representatives, who are, at minimum, licensed behavioral health professionals (master's level or higher), preferably Certified Employee Assistance Professionals, no later than one 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 crisis calls twenty-four hours a day, every day of the year. The Contractor's call center shall accept all other 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 seeking EAP, Work-Life, and Behavioral Health Services shall be transferred via "warm" transfer to qualified and trained consultants as follows:

(6) Calls from Members requesting Financial Counseling or Legal Consultation (see Contract Section A.5. and Contract Attachment E) shall be transferred to consultants who are appropriately qualified and trained in the Contractor's protocols for intake and referral for the applicable Work-Life service. These consultants shall conduct intake and schedule appointments with Work-Life consultants who meet, at a minimum, the qualifications specified in Contract Attachment E for financial counseling or legal consultation (as applicable).

(7) Calls from Members seeking child/elder care assistance shall be transferred to a Work-Life consultant who meets, at a minimum, the qualifications specified in Contract Attachment E for child/elder care assistance.

(8) Calls from supervisors seeking supervisor support services shall be transferred to the Leadership Support Team, which shall be a dedicated team of Work-Life consultants who meet, at a minimum, the qualifications specified in Contract Attachment E for supervisor support. Supervisors shall have the ability to speak with the same Leadership Support Team consultant for ongoing and follow up support.

(9) Calls seeking Critical Incident Stress Management (CIRS) services shall be transferred to consultants who meet, at a minimum, the qualifications specified in Contract Attachment E for CIRS Services.

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. A substance use assessment and suicide risk assessment shall be administered for every primary telephone contact with a Member. 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. These services shall be available twenty-four (24) hours a day, every day of the year.

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.

l. The Contractor's call center shall meet each of the following performance standards (refer also to Contract Attachment D, SLA Scorecard):

(1) The Contractor shall maintain an ASA of thirty (30) seconds. 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 of 85% 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 C, Reporting Requirements.)

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. The Contractor shall be able to provide a full recording of each call to the State upon request, using only the Member's name or identifier to locate the call(s).

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., TPA, PBM, or PH/W).

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, and the first option shall be for crisis/emergency calls. The Contractor's decision tree and menu are subject to State review and prior written approval.

u. For non-crisis calls 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. Note that calls receiving a call back pursuant to this provision are not counted as an "Abandoned Call." All crisis calls shall be answered within sixty (60) seconds.

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. Additionally, 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.17. Member Communications/Materials

a. The Contractor, in collaboration with the State, shall develop a detailed written annual enrollment Member engagement plan for Member education no later than two (2) months prior to annual enrollment (generally October 1). This plan shall include the overall goals, methods, tools, technology, and timelines for Member engagement during implementation and annual enrollment including but not limited to benefit fair materials, ABC materials, enrollment emails, Splash Page (see Contract Section A.19), member welcome kits (EAP and Behavioral Health and EAP only) and Behavioral Health ID cards (see Contract Section A.18). Going forward, the Contractor shall update this plan on an annual basis, no later than two (2) months prior to annual enrollment, to reflect any changes in marketing strategy and updated methods, tools or technology to engage with Members.

b. The Contractor, in collaboration with the State, shall develop an annual detailed written marketing and communications plan for ongoing Member education by November 30. This plan shall include the overall goals, methods, tools, technology, and timelines for Member engagement including 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 to drive engagement and utilization of applicable work life services, EAP, Behavioral Health services, and programs. The Contractor is encouraged to relay resources they have that will support marketing and communications. All marketing and communication plan updates shall be approved In Writing by the State.

(1) The annual marketing and communications plan shall include at a minimum:

i. Welcome kits (EAP and Behavioral Health and EAP only) and Behavioral Health ID cards including a tear away card, magnet, cling, or other engagement item (see Contract Section A.18) (initial and ongoing);

ii. Annual mailers (EAP and Behavioral Health and EAP only);

iii. Monthly employee newsletter emails on a topic(s) related to a specific EAP and/or Behavioral Health benefit; and

iv. Quarterly supervisor emails on specific EAP and supervisor resources.

(2) The Contractor shall collaborate with other contractors, especially PH/W, as needed to generally promote EAP and Behavioral Health benefits, wellness program initiatives, and other health, wellness and benefit programs, if applicable.

(3) The Contractor will provide a semi-annual analytics report of marketing and communications efforts that could include email, website or other communications statistics. Contractor shall use the State's template or the Contractor's template with prior approval In Writing by the State (refer also to Contract Attachment C, Reporting Requirements).

(4) The Contractor covenants that all materials distributed and prepared or produced by the Contractor shall be accurate in all material respects.

c. The Contractor shall, in consultation with the State, develop and disseminate Member information and communication materials. All materials must have approval In Writing by the State prior to distribution (refer also to Contract Attachment D, 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 kit, identification (ID) cards, letters, brochures, fliers, webinars, website copy, website images, mobile app and app content, social media content, PowerPoints, training materials, marketing materials specific to Plan or agency and videos.

(2) Marketing/segmenting: Contractor may offer or suggest marketing and communications based on segmentation of population (e.g., demographics, geography, etc.). Contractor may provide data to address paths and barriers to engagement.

(3) The Contractor shall, upon request by the State, personalize materials and digital communications.

(4) Contractor shall provide, upon request by the State, marketing and communications samples of how they introduce services to Members and continually drive engagement and utilization of preferred services.

(5) The Contractor shall use graphics to communicate key messages to populations with limited literacy, limited health plan literacy or limited English proficiency. The Contractor shall also prominently display the call center's telephone number in large, bolded typeface and hours of operation on all materials.

(6) The Contractor shall provide text and graphics, if applicable, for the State's communication to Members.

(7) As part of its submission to the State, the Contractor in consultation with the State, shall specify how the materials will be distributed.

d. On an annual basis, at least two (2) months prior to the State's annual enrollment period, the Contractor shall provide to the State, in electronic format, any annual enrollment material included in the annual enrollment plan that may be helpful to potential Members. Items may include, but not be limited to, informational fliers, program specific information, toll-free call center number, website address, website logon information, a confidentiality statement, procedures for accessing services, and other pertinent updates, changes and/or materials. Annual enrollment materials shall be finalized (including State review and sign-off) and ready for distribution one (1) month prior to the first day of annual enrollment or as otherwise agreed upon by the State.

e. In addition to the Member information and communications referenced above in Contract Section A.17.c., the Contractor shall assist the State, if requested, in the education and dissemination of information regarding the program. This assistance may include but 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, ABCs, Members and other persons on Contractor's administrative and benefits procedures. Specifically, when a new agency joins the Plan, Contractor may be asked to attend onsite enrollment and benefits educational events.
ii. Educating Members and ABCs 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 shall require prior notification In Writing to the State. The State also reserves the right to request Contractor's attendance at specific events.

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 the terms of this contract.

g. Upon the State's request, the Contractor shall provide fliers and other relevant materials to specified parties, e.g., ABCs, within fourteen (14) days Business Days of the State's request to provide copies.

h. 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 alternative rates.

i. Contractor shall comply with the Federal Register Nondiscrimination in Health Programs and Activities (81 FR 31375, 45 CFR 92).

j. 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 (refer also to Attachment D, SLA scorecard). 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 and "Here4TN" logo be included on any Member letters or correspondence. The Contractor shall ensure communications are specific to the Plan 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.

k. The Contractor shall work in conjunction with the State's staff to ensure continuity of branding across all program and materials, fliers (including digital), 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 Here4TN logo, 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, including contact information for any Members, shall become property of the State.

l. 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.

m. The Contractor shall distribute materials that are culturally sensitive and professional in content, appearance and design with prior approval In Writing by the State.

n. The Contractor shall provide electronic templates of all finalized materials in a format that the State can easily alter, edit, revise and update.

o. The Contractor shall provide the text for EAP and Behavioral Health messages that will be sent via email to the State in HTML and plain text or build the email in the State contracted email server. The State shall have exclusive responsibility for sending mass-distribution emails and determining the frequency and scheduling, unless otherwise directed.

p. 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.

q. At any time and at the State's request, the Contractor shall notify Members, In Writing, of any benefit, Plan or program changes no less than thirty (30) Business Days prior to the implementation of the change.

r. 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.

s. 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.

t. The Contractor shall update web-based versions of all materials as Plan changes are made and correct errors. The Contractor shall update web-based versions at the request of the State, within five (5) Business Days. New Plan Year information must be added no later than one (1) month prior to annual enrollment.

u. 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 deminimus value (e.g., magnets, pens, etc.).

v. Postage and production 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.

A.18. Welcome Kits, ID Cards, and Member Mailings

a. The welcome kit shall include but is not limited to: a welcome letter (one for EAP and Behavioral Health and one for EAP only), a Behavioral Health ID card (if applicable and can be mailed separately), a flier with additional benefit information directing them to the customized Splash Page maintained by the Contractor, the Contractor's toll-free call center number, and informational program fliers. Unless otherwise directed by the State, the Contractor shall mail ninety-five percent (95%) of annual welcome kits to Members no later than fourteen (14) Business Days prior to Go-Live. (Refer also to Attachment D, SLA Scorecard)

b. As a new Member(s) join the program they shall receive the corresponding welcome kit and Behavioral Health ID card (can be mailed separately) no later than ten (10) Business Days from the date of initial enrollment passed to the Contractor on the enrollment file. (Refer also to Attachment D, SLA Scorecard)

c. The Contractor shall provide enrolled Members with Behavioral Health ID cards and shall establish a process that allows Members to request replacement or duplicate cards by phone, online, mobile app (if applicable) and/or other possible future methods or technology upon request. ID cards shall be mailed to Members no later than ten (10) Business Days from receipt of the Member's request for a replacement card.

d. The cost of creating and mailing ID cards are the responsibility of the Contractor.

e. Ninety-five percent (95%) of initial Member ID cards must be mailed to all Members no later than fourteen (14) Business Days prior to Go-Live as long as all implementation milestones have been met. (Refer also to Attachment D, SLA Scorecard)

f. The ID card shall include the State's "Here4TN" color logo, on the top front of the card, as directed by the State and the Contractor's logo may appear on the front in a corner.
   (1) The words "Administered by CONTRACTOR NAME: may appear beneath this in a smaller font size.
   (2) The front of the card shall also include the following information: Member name, Member number (Edison ID), Member Plan Group name and/or number, and benefit option (e.g., Premier PPO), as requested.
   (3) The back of the card shall include the following information: disclaimers regarding PA, card effective date (may appear on the front of the card), and the Contractor's member services phone number and hours of operation. The State has final approval of the ID card appearance and language/copy.
   (4) ID cards shall contain a unique Member number for each Member, which shall be the employee's unique Edison ID, the full eight (8) digit number (with leading zeroes), provided on the monthly enrollment file. Such identifier shall NOT be the Member's federal Social Security Number. Contractor may add additional identifiers if prior approved by the State In Writing.

g. As directed by the State, the Contractor shall re-issue ID cards to reflect approved Plan design changes, included but not limited to, changes in cost sharing, within the timeframe specified by the State

h. The Contractor shall collaborate with the State to create a letter that will be mailed by first class mail to a Member based on identified life events. The cost of designing, printing, and distributing these communication materials, shall be the responsibility of the Contractor. The State will supply the Contractor with a list of Members who fall into each category on a monthly basis. Letters shall be mailed to identified Members within five (5) Business Days of receiving the file. These life events include but are not limited to;
   (1) The birth or adoption of a child
   (2) The death of a dependent or spouse
   (3) Marriage or divorce
   (4) And other life events identified by the State

i. The Contractor shall provide subsequent utilization of EAP and Behavioral Health Services following the life event letter mailing compared to pre letter utilization at the quarterly review meetings.

j. Using claims data provided by the PBM, the Contractor shall implement a process of sending a customized communication piece intended to inform Members of their EAP and Behavioral Health benefits. The Contractor shall receive bi-weekly claim files from the PBM and identify plan Members with certain first fill behavioral health medications. In order to reduce duplicate mailings to the same Member, the Contractor shall analyze the prescription data for the previous six (6) months and only send one (1) letter per six (6) month period. The Contractor shall send via first class mail at the contractor's expense and within ten (10) days, a preapproved customized communications piece to identified plan Members with a first fill for the following medication groups;
   (1) Depression - The following GPI codes apply to depression medications in the Plans pharmacy benefit: 5803, 5810, 5812, 5816, 5818, 5820, 5830, and 6299;
   (2) Anxiety - The following GPI codes apply to anti-anxiety medications in the Plans pharmacy benefit: 5720, 5710;
   (3) Sleep Aid - The following GPI codes apply to sleep aid medications in the Plans pharmacy benefit: 6020, 6025; and
   (4) Other medication groups as requested by the State.

k. Member Newsletter
   (1) The Contractor shall develop twelve (12) monthly customized electronic member newsletters beginning in January 2022. 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 communications plan (see Contract Section A..17.b), news, and upcoming events. At the State's direction, the Contractor shall substitute other marketing pieces for the newsletters.
   (2) The Contractor shall work collaboratively with the State and its contractors (e.g., TPAs, PH/W, and PBM) to identify key topics for the newsletters or marketing pieces to be prepared by the Contractor.
   (3) Upon State approval of the newsletter or marketing pieces, the Contractor shall provide the final email newsletters or marketing pieces in the requested format to the State for distribution. The Contractor shall post the final newsletters on its Splash Page.

i. Awareness and Support Materials for Supervisors.
   (1) Unless otherwise directed by the State, the Contractor shall develop and produce a quarterly customized electronic newsletter for supervisors that focuses on tools and resources available to organizational leaders. At the State's direction, the Contractor shall substitute another marketing piece for the newsletter.

(2) Upon State approval of the newsletter or marketing pieces, the Contractor shall provide the final email newsletters or marketing pieces in the requested format to the State for distribution. The Contractor shall post the final newsletters on its Splash Page.

l. Supervisor Manual. The Contractor shall develop and produce a customized supervisor manual that references the State's Department of Human Resources policies. The Contractor shall develop another supervisor manual for the LEA, LGA, and Higher Education groups. The supervisor manual shall be a support tool for supervisors to manage performance and behavior and mitigate risk. The manual shall include: information on the Work-Life services available from the Contractor and how Members can access them; tips for identifying when an employee may be having a Work-Life problem and how the Leadership Support Team can help the supervisor address the potential problem; guidelines for documenting potential problems; tips for addressing the potential problem directly with the employee; how to refer employees to the Contractor and the types of referrals available; how to access Critical Incident Response Services (CIRS); guidance on preventing workplace violence; guidance on suicide prevention; the types of training available for both Members and supervisors and how to request training. The Contractor shall review and revise the Supervisor Manual as necessary, but no less frequently than annually. Upon State approval of the supervisor manual, including updates, the Contractor shall post the supervisor manual on its website. The Contractor shall submit the initial supervisor manual to the State, for review and approval, at least two (2) months prior to Go-Live.

m. Training Catalog. The Contractor shall develop and maintain a training catalog that lists the courses provided by the Contractor and that are available to the State upon request. The catalog shall include at least fifty (50) courses on various topics. Note: Some trainings could be marked as not available to the Executive Branch of State Government. The Contractor shall include a course on suicide prevention using the "Question, Persuade, and Refer" (QPR) suicide prevention training curriculum. The Contractor shall offer the courses in-person, via telephone/web conferencing, on demand webinar and live online. The Contractor shall review and revise the training catalog as necessary, but no less frequently than annually. The Contractor shall submit the initial training catalog to the State, for review and approval In Writing, no later than one month prior to Go-Live.

n. The Contractor shall develop "Take This to Your Behavioral Health Visit" checklists for Members to use for appointments with behavioral health practitioners. These checklists shall vary by age group, sex, and general type of visit (e.g., medication monitoring, addiction counseling) and shall include, but not be limited, to items to bring to the appointment, what to expect during the appointment, and questions to ask the provider. These checklists shall be available on the Contractor's Splash Page. The Contractor shall submit draft checklists, for review and approval by the State, at least two (2) months prior to Go-Live.

o. 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 EAP and Behavioral Health program. The Contractor shall place specific focus on departments with high stress and secondary trauma (Children's Services, Human Services, Correction, Transportation, etc.) and the resources that will help them better manage stressors associated with their roles. Resources may include regularly scheduled Critical Incident Response Services (CIRS) with an individual specifically trained in the type of trauma experienced by employees in these departments. The Contractor may work directly with the departments, with prior state approval, to schedule trainings and onsite educational support using the bank of hours outlined in Contract Section A.5.c.

p. The Contractor shall work with the State and the PH/W 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. The Contractor shall pull from the bank of hours outlined in Contract Section A.5.c to deliver the webinars.

q. In conjunction with the State and other State contractors, the Contractor shall provide support for the wellness council program for the executive branch of state government. It shall include but not be limited to:
   (1) Awareness campaigns for EAP and Behavioral Health resources and programs;
   (2) Develop and distribute educational materials and employee resources that foster a positive culture of health;
   (3) Attend monthly wellness council conference calls, when requested, to promote EAP and Behavioral Health programs and resources; and
   (4) Attend annual wellness council meetings, when requested.

r. Member mailings:

PRODUCT	TARGET GROUP(S)	QUANTITY
Two Distinct Welcome Kits	One for Members of the health plan who qualify for both employee assistance and Behavioral Health Services and a second piece created for those who only qualify for employee assistance services	Approximately 142,000 Members with both employee assistance and Behavioral Health Services Approximately 8,000 who only qualify for employee assistance services
Behavioral Health ID Cards	For Members of the health plan who qualify for Behavioral Health Services.	Approximately 142,000 Members with both employee assistance and Behavioral Health Services
Two Distinct Annual Mailers	One for Members of the health plan who qualify for both EAP and Behavioral Health Services and a second piece created for those who only qualify for EAP services	Approximately 142,000 Members with both EAP and Behavioral Health Services Approximately 8,000 who only qualify for EAP services
First Fill Letters	Member receiving first fill for anti-depressant, anti-anxiety, or sleep assistance medication	Approximately 25,000 annually
Life Event Letters	Any State employee who experienced the following life events; • The birth or adoption of a child • The death of a dependent or spouse • Marriage or divorce • Any other life events identified by the State	Approximately 5,000 annually

A.19. Splash Page, Contractor Website, and Mobile Application

a. The Contractor shall maintain a Splash Page Dedicated to and customized to 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 including “Here4TN”, 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 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) Plan benefits;
   (3) Provider directory as a PDF (if requested by the State);
   (4) Up-to-date searchable internet-based directory (specific to the Plan if applicable);
   (5) Member tools and information;
   (6) Supervisor tools and information, including supervisor manual, training catalog, and information on how to reach the Leadership Support Team;
   (7) Newsletters and other marketing pieces;
   (8) Written tips to help Members select a provider, including potential questions to ask the provider and how to evaluate the provider's responses;
   (9) "Take This to Your Behavioral Health Visit" checklists, see Contract Section A.18.n.;
   (10) Provide links to other State contractors' websites; and
   (11) Other information as requested by the State.

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 so Members can view Member-specific documents, including but not limited to claims information, Plan documents and other material pertaining to benefits.

f. The Contractor shall work with the incumbent Contractor to transfer the domain name (www.HERE4TN.com) for the website. The Contractor shall pay the cost of the transfer of ownership of the domain name and shall transfer ownership to the State or a designee upon termination of this Contract without delay and at no cost to the State.

g. 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;
   (2) General information and resources about EAP and Behavioral Health Services;
   (3) Member specific benefits;
   (4) Member claims history and information on how to understand an EOB with a sample;
   (5) Have an intuitive user interface, including a frequently asked questions (FAQs) section and other resources;
   (6) Up-to-date searchable internet-based directory (specific to the Plan if applicable) with filter ability by condition and provider preferences;
   (7) Provider quality comparative information;
   (8) Online secure messaging or Secure Chat capabilities to answer questions from Members;
   (9) Access to temporary Member ID cards;
   (10) Any applicable Member forms (e.g., claim forms, appeal forms, etc.);
   (11) Legal forms (including but not limited to wills, advance directives, and durable power of attorney for health care) that are legally valid in Tennessee. Members shall be allowed to complete, save, and print the completed forms an unlimited number of times;
   (12) Links to public and private child/elder care online resources;
   (13) Self-assessments and tests related to EAP or Behavioral Health Services, including personal results;

(14) Community forums and other social networking features;
(15) Contain Contractor medical coverage policies, evidence based practice guidelines, protocols, or pathways;
(16) Contain condition specific information to educate Members about their diagnosis or upcoming treatments and procedures;
(17) Provide links to other State contractors' websites;
(18) Include up-to-date information on a Member's Out-of-Pocket costs; and
(19) Include up-to-date information on a Member's HSA and FSA balance (if applicable and requested by the State);

h. Upon request by the State, the Contractor's website shall also contain consumer cost transparency and quality tools which allow Members to research the price and quality of health care services. At a minimum the tools must:
(1) Allow Members to search and compare information easily, using a variety of parameters including but not limited to provider, facility, location, service, quality measures, procedure, price and condition;
(2) Present price information based on how a current claim would process based on the Member's benefits, and shall not be limited to historical claims data. Transparency tools should be updated at least quarterly to ensure most accurate pricing is presented;
(3) Alert Members about opportunities for savings;
(4) Provide quality information based on outcome measures when available; otherwise it should be based on nationally-endorsed, consensus-based process measures proven to lead to improved clinical outcomes (e.g., URAC, NCQA, CMS quality measures, etc.);
(5) Allow for a Member shared savings payment, as directed by the State;
(6) Include at a minimum, the following information in a quarterly transparency tool report (see Contract Attachment C, Reporting Requirements):
i. Track the number of Members accessing the transparency tool;
ii. Track the number of Members who are return users of the tool;
iii. Track the most frequent cost and quality searches made by Members; and
iv. Identify those Members who searched for a service within ninety (90) calendar days of purchasing such service.

i. The Contractor shall have the capability to suppress information on the website that is not applicable to the State's Members. For example, an online health risk assessment that Members could confuse with the State's PH/W health risk assessment.

j. The Contractor website shall be fully operational with the exception of Member data/PHI at least thirty (30) days prior to the first day of annual enrollment (generally October 1). The Splash Page shall be fully transitioned from the current contractor and operational by the Go-Live date. Refer also to Contract Attachment B, Liquidated Damages.

k. 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 annual enrollment (generally October 1).

l. 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.

m. 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.

n. Contractor shall obtain prior approval In Writing from the State for any links from the site to a non-governmental website or webpage.

o. 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.

p. 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 option and/or include text scripting to comply with Section 508 for these products.

q. The Contractor's internet-based, searchable EAP and Behavioral Health Network Provider directory shall include provider name, areas of expertise, sex, race, ethnicity, languages spoken, address and phone number and in order to ensure accuracy, shall be updated within 10 (ten) Business Days of a provider's network effective or termination date and whether or not the provider is accepting Members as new patients. The Contractor shall provide the internet-based provider directory on its Contractor website and a link on the Splash Page at least thirty (30) days prior to the first date of annual enrollment (generally October 1).

r. 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.

s. At the State's request, the Contractor's mobile application(s) shall be linked with other web applications to allow for seamless data linkage (this may include, but is not limited to, single sign-on) of Member information including the ability for Members to, as applicable, access claims and EOB information, view ID cards, upload information (through a mobile device), or link to other technology or information that is helpful to the Member. The Contractor must work with any and all State contractors on data updates and shall send and/or receive files as needed.

t. 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.20. Coordination and Collaboration

a. The Contractor shall coordinate with all other approved State contractors, including but not limited to the PBM, TPAs, and PH/W 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. The Contractor shall engage the TPAs in an annual non-quantitative treatment limitation review, prior to each plan year benefit implementation, to ensure compliance with the Mental Health Parity and Addiction Equity Act and any other federal and state laws.

c. The Contractor is responsible for coordinating with the PBM and the State as necessary to ensure that Members receive appropriate outpatient behavioral health pharmacy services. Coordination by the Contractor shall include the following:

(1) Accepting and maintaining prescription drug data from the PBM in a manner and format and at a frequency specified by the State.

(2) Intervening with individual Network Providers, as identified by the Contractor, the PBM, PH/W, or State, (1) whose prescribing practices appear to be operating outside industry or peer norms as defined by the State, (2) are non-compliant as it relates to adherence to the State's formulary and/or generic prescribing patterns, and/or (3) who are failing to follow required prior authorization processes and procedures. The goal of these interventions shall be to improve prescribing practices by the identified Network Provider. Interventions shall be individualized and face-to-face, as practical. As appropriate, the intervention may be a team effort that involves representatives from the Contractor, PBM, TPAs, and/or PH/W.

d. The Contractor is responsible for working directly with the TPAs. 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 EAP, Work-Life, and Behavioral Health Services information, the Contractor's toll-free telephone number, hours of operation, and website address.

(2) Coordinating benefits with each TPA in order to ensure the proper determination of responsibility as well as the efficient and timely processing of claims, the adequate capture of data, and timely medical record request responses. The Contractor shall work with each TPA in order to appropriately manage split claims.

(3) Provision of claims data on a daily basis, or other schedule if requested by the State, using the agreed upon format and methodology. The TPAs will use this information to, among other functions, track a Member's Deductible and Out-of-Pocket expenses and subrogate behavioral health claims.

(4) Accepting and maintaining data, including claims data, from each TPA in a manner and format and at a frequency specified by the State.

(5) Working with each TPA in order to appropriately manage patients with co-occurring behavioral health and medical conditions, including co-management to include consultations when necessary between the clinical staff of the Contractor and the TPAs.

(6) Analyzing claims data from the TPAs and PBM and using other information to identify providers in each TPA's network that need additional education regarding prescribing patterns and clinical interventions/treatment for behavioral health conditions. Each TPA shall be responsible for educating its providers.

(7) Participating as applicable in the TPA's discharge activities for individual Members who have both medical and behavioral health needs.

(8) Collaborating with the State and other stakeholders to identify the appropriate depression screening and referral protocols in primary care environments. This includes providing flyers and other resources upon request to the TPA patient centered medical homes for care coordination and referrals.

(9) Other activities necessary for the appropriate coordination of benefits and claims payment of medical and behavioral health benefits.

e. The Contractor is not responsible for providing population health and wellness services; however, the Contractor shall coordinate with the PH/W contractor. Coordination by the Contractor shall include the following:

(1) Consistent with Contract Section A.24., The Contractor shall transmit electronic files to the PH/W 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 PH/W contractor.

(2) As directed by the State, the Contractor shall implement 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 disease management and other programs as reported to the Contractor by the State or the PH/W contractor.

f. Meetings with Other Contractors

(1) If requested by the State, the Contractor shall attend State-sponsored contractor summits with representatives from the State, TPAs, PBM, and PH/W contractor. 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, PBM, and PH/W contractor 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, PH/W contractor, 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, PH/W contractor, and/or PBM, and/or other State contractors to improve coordination of their services to Members.

g. Transition of Services at Conclusion of Contract to Other Contractors

The Contractor shall provide the service of transitioning all existing services awarded under this contract to the next awarded contract holder at no additional cost to the State. A written transition plan shall be provided to the State no later than six (6) months prior to the end of the current Contract.

A.21. 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) Compliance with Mental Health Parity laws;
(3) The overall cost impact to the Plans;
(4) Any potential cost impact to the Contractor's fee;
(5) Impact upon utilization management performance standards;
(6) Impact upon the Contractor's performance;
(7) Necessary changes in the Contractor's reporting requirements; and/or
(8) System changes.

b. The Contractor shall provide advice and assistance with regard to questions regarding effective dates, covered services, cost-sharing and cessation of coverage as requested by the State, Members, and providers.

c. The Contractor shall serve as a subject-matter resource by responding to specific inquiries from and by providing information to the State on emerging best practices and applicable existing and proposed Federal and State laws and regulations that affect EAP, Work-Life, and/or Behavioral Health Services under the Plans. The Contractor shall advise the State on any recommended actions in order to comply with such laws, rules or policies.

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 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.

f. The Contractor, at the request of either party, shall meet with representatives of the State periodically, 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.

g. No less than quarterly, the Contractor shall meet with the State to review and provide information concerning its efforts to develop cost containment mechanisms and improve administrative activities, as well as trends in the provision of benefits. The Contractor shall provide advice, assistance and information to the State regarding applicable existing and proposed Federal and State laws and regulations affecting the Plans. The Contractor shall also provide information to the State regarding the administration of the benefit, cost and utilization trends, utilization management, internal procedures for billing and reconciliation of transactions, the provision of behavioral health treatment, fraud and abuse activities, network developments, and other administrative matters. These meetings will typically occur in person at the State of Tennessee offices in Nashville, TN, however, at its discretion, the State may request 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. At the State's request, the Contractor shall be responsible for conducting two (2) seminars per year, each of which shall be approximately one (1)-hour in length, on topics to be determined in collaboration with the State. The audience shall be other Plan representatives, State staff, and other appropriate individuals as determined and requested by the State.

j. 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.

k. 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.

l. 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, plan, 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 D, SLA Scorecard. The situation shall be researched and resolved in a timeframe mutually agreed upon with the State.

A.22. 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 on staff sufficient qualified, licensed and trained behavioral health professionals, whose primary duties are to conduct medical necessity reviews of claims, including review of complex or questionable claims.

e. The Contractor shall have on staff sufficient qualified, licensed and trained behavioral health professionals whose primary duties are to perform utilization management services. The Contractor shall exercise due diligence and care in its selection and retention of staff that perform UM services. The Contractor shall offer providers uninterrupted telephone access to UM reviewers continuously during the Contractor's normal business hours.

f. 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 EAP, Work-Life, or Behavioral Health 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.

g. The Contractor shall dedicate a full time Account Executive and Account Manager as members of the Account Team. Unless otherwise directed by the State, the dedicated Account Executive shall have had at least three (3) years of experience as an Account Executive for an EAP/BHO 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, changes in claims processing procedures, or general administrative problems identified by the State. The Account Manager shall have the responsibility and authority to respond promptly to Member, claims, and provider issues or inquiries as identified by the State. Unless otherwise approved by the State, the Account Manager shall reside in the greater Nashville, TN area. 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 by teleconference.

h. The Contractor shall have at least one Certified Employee Assistance Professional consultant designated to coordinating services to Members who are in safety sensitive jobs and violated an applicable drug and alcohol policy. The consultant(s) shall be appropriately qualified, licensed, and trained and shall be familiar with and shall comply with applicable Federal and State law and policy regarding alcohol and substance abuse by individuals in safety sensitive jobs. The consultant(s) shall ensure that Members have access to Substance Abuse Professionals (SAPs) for services that must be provided by a SAP, as specified in State or Federal law or policy (e.g., evaluating the employee and making recommendations for treatment, follow-up drug and/or alcohol testing, whether the employee can return to safety-sensitive duties, and aftercare (continuing education and/or treatment needed after return to safety-sensitive duties). These consultants shall also facilitate the Member's access to appropriate Network Providers to receive the treatment recommended by the SAP and shall monitor Members for one year after they return to work. This monitoring shall include entering into a verbal agreement with the Member to call the EAP consultant at a specified frequency (once or twice a month) for a thirty (30) minute "check in" session. If the Member does not comply with the verbal agreement, the consultant shall notify the Member's supervisor.

i. 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. 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.

j. The State shall perform an account satisfaction survey of the Contractor's performance annually during the contract period to determine the State's satisfaction with the ongoing account team 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.

k. 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.

l. 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. The decision of the State on these matters shall not be subject to appeal.

m. 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.23. 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) Provider reimbursement terms;
(3) Changes in service authorization and utilization management criteria;
(4) Changes in program management rules, e.g. eligibility for certain services; and
(5) 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, the Contractor shall be able to generate a listing of all Members and providers 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 providers 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 three (3) years and six (6) years old, and seventy-two (72) hour turnaround or better on requests for access to information in machine readable form that is between six (6) and ten (10) 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 is 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 written consent of 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.19., 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, Members and providers; (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 three (3), 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 State and Federal 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.

(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 F. The first report shall be provided one (1) month prior to Go-Live and annually thereafter (refer also to Contract Attachment C, 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.24. Data Integration and Technical Requirements

a. The Contractor shall establish and maintain an electronic data interface with the State's Edison System for the purpose of processing State Member enrollment information at least three (3) months prior to Go-Live. 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 of Tennessee, the State requires the use of second level authentication. This is accomplished using the State's standard software product, which supports PKI. The Contractor shall design a solution, in coordination with the State, to connect to the State's Secure File Transfer Protocol (SFTP) server using a combination of the password and the authentication certificate. The initial sign-on and transmission testing will use a password. Certificate testing may also be performed during the test cycle. Subsequent production sign-on will be done using the authentication certificate. The Contractor will then download the file and decrypt the file in its secure environment. The State of Tennessee uses PKI encryption with Advanced Encryption Standard (AES) to encrypt PHI. If the State adopts a different or additional encryption standard or tool in the future, the Contractor shall, with adequate notice, cooperate with the State to maintain the security of protected information according to all applicable State and Federal standards. 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. 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 available online for use (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 four (4) Business Days of receipt of the weekly file.

(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 C, Report Requirements).

(4) The Contractor and/or its subcontractors shall resolve all additional enrollment discrepancies, not identified during processing, as identified by the State or Contractor within one (1) Business Day of identification (also refer to Attachment D, SLA Scorecard).

(5) The Contractor and/or its subcontractors, with collaboration from the State, shall resolve associated system 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, TPAs, HSA/FSA, and PH/W) 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 all behavioral health claims data to the State's current health care DSS contractor and, if directed by the State, to the Department of Finance and Administration, Office for Information Resources in the format detailed in RFP 31786-00157 Appendix 7.9 "Decision Support System File Layout" or in a mutually agreed upon format. The data feed(s) shall be provided at no additional charge to the State. The Contractor shall transmit all the processed behavioral health claims 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, until all claims incurred during the term of this Contract have been paid. (Refer to Contract Attachment B, Liquidated Damages)

(2) The Contractor shall transmit all processed EAP counseling session claims data to the State's current health care DSS contractor and, if directed by the State, to the Department of Finance and Administration, Office for Information Resources in the format detailed in RFP 31786-00157 Appendix 7.9 "Decision Support System File Layout" or in a mutually agreed upon format. The data feed(s) shall be provided at no additional charge to the State. The Contractor shall transmit all the processed EAP claims 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, until all claims incurred during the period of this Contract have been paid. (Refer to Contract Attachment B, Liquidated Damages)

(3) The Contractor shall ensure that all behavioral health and EAP counseling session claims processed for payment have financial fields, valid NPIs, the most recent complete International Classification of Diseases codes and Current Procedural Terminology-4/Healthcare Common Procedure Coding System codes (and when applicable, updated versions of each). The file submitted to the

State's current health care DSS contractor should contain data elements consistent with industry standards, such as those contained on the Uniform Bill-04, Center for Medicare and Medicaid Services 1450 and Center for Medicare and Medicaid Services 1500 forms and their successors. The Contractor shall add data as required by the State's DSS contractor and/or the State for the purpose of processing claims data. The State has final approval for all file layouts.

(4) Claims data provided to the DSS contractor shall meet the quality standards detailed in Contract Attachment D, SLA Scorecard as determined by the State's DSS contractor. Contractor shall not withhold any behavioral health and/or EAP counseling session Processed Claims data from the file submission.

(5) The Contractor is responsible for the fee charged by the DSS contractor to develop, test and implement conversion programs for the Contractor's claims data. Furthermore, the Contractor shall pay during the term of this contract all applicable fees as assessed by the State's DSS contractor related to any data format changes or additions, which are Contractor-initiated or are due to meeting compliance with new regulations. The Contractor shall also pay all applicable fees related to any DSS contractor efforts to correct Contractor data quality errors that occur during the term of this contract.

(6) To the extent that the Contractor receives electronic lab results for laboratory tests performed by contract providers, the Contractor shall transmit these lab results to the State's DSS contractor in a mutually agreed upon format. 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.

(7) The Contractor shall recognize that the claims data transmitted pursuant to the provision of this Contract is owned by the State of Tennessee.

i. The Contractor shall provide transmittal of claims data via secure medium at a frequency and format determine by the State to any additional third parties including the State's PH/W contractor, TPAs, PBM or others as identified by the State at no additional cost to the State.

j. Unless otherwise directed by the State, the Contractor shall accept and load at least one (1) year of historical data from the incumbent EAP/BHO Contractor no later than one (1) month prior to Go-Live and update/refresh the data until Go-Live. This includes, but is not limited to, claims history (with proprietary pricing and discount information redacted), provider data, Member data, and prior authorization data.

k. The Contractor's systems shall conform to future Federal and State standards for data exchange by the standard's effective date.

l. 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 effort.

m. The Contractor's system(s) shall possess mailing address standardization functionality in accordance with U.S. Postal Service conventions.

n. 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.25. Reporting and System Access

a. Unless otherwise agreed upon by the State In Writing, the Contractor shall provide at least one (1) State employee with access and update capability to the Contractor's enrollment system no later than two (2) weeks prior to Go-Live. Additional or replacement users may be added at any time at the State's request. Access shall include the ability to do real-time updates to the Contractor's enrollment records. State access is limited to only enrollment data.

b. Unless otherwise agreed upon by the State in Writing, the Contractor shall provide the State access to its internal client financial reporting system, including program and fiscal information regarding members served, payable amounts, services rendered, claim level data etc. and the ability for said personnel to develop and 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.

c. 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.

d. 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 C, Reporting Requirements. Reporting shall continue for the eighteen (18) month claims run out period. Refer also to Contract Attachment D, SLA Scorecard.

e. 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 C, Reporting Requirements).

f. The Contractor is a holder as defined by Tenn. Code Ann. § 66-29-102 for purposes of unclaimed property arising from the performance of this Contract. The Contractor shall comply with all applicable escheat state laws and regulations including but not limited to the Uniform Unclaimed Property Act, Tenn. Code Ann. § 66-29-101 et. seq. Contractor shall be responsible for compiling reports which meet National Association of Unclaimed Property Administrators (NAUPA) specifications and filing any required reports with the State through the ReportItTN.gov online portal. The Contractor shall provide notice In Writing to Benefits Administration when a report has been filed through the ReportItTN.gov online portal. Upon request In Writing by the State, the Contractor shall provide copies of all escheat reports and supporting documentation to Benefits Administration.

g. 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 D, 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.

A.26. 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.27. 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 June 1, 2021 ("Effective Date") and extend for a period of eighty-five (85) months after the Effective Date ("Term"). This provides for seven (7) months of implementation, sixty (60) months of service delivery to members, and eighteen (18) months for claims run out. The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Thirty Two Million Seventy Five Thousand Dollars ($32,075,000) ("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:

	TOTAL FEE PER EMPLOYEE PER MONTH (PEPM) BY CONTRACT PERIOD				
	1/1/2022 – 12/31/2022	**1/1/2023 – 12/31/2023**	**1/1/2024 – 12/31/2024**	**1/1/2025 – 12/31/2025**	**1/1/2026 – 12/31/2026**
BH ASO fees (PEPM)	$2.22	$2.26	$2.31	$2.35	$2.40
EAP ASO fees (PEPM)	$0.89	$0.91	$0.92	$0.94	$0.96

c. Claims Payments. The State will fund the Contractor for the total issue amount of the claims payments, net of cancellations, voids or other payment credit adjustments. Unless otherwise mutually agreed In Writing by the parties, the Contractor shall notify the State of the funding amount required and the State will fund the Contractor at least weekly, provided that the Contractor's payment process includes timely settlement of ACH transactions. As the parties shall mutually agree In Writing, the transfer of said funding to the Contractor for claims payments shall be effected at least weekly by ACH debit from the Contractor to a designated State bank account.

(1) The Contractor acknowledges and agrees that since the State intends to fund payments at the time of issuance, the State will not maintain a separate bank account or an escrow account with the Contractor or to otherwise pre-fund an account.

(2) The State reserves the right to review documentation either before or after the transfer of funding for claims payments and, as the State may deem appropriate, to adjust the funding amount to be transferred or withhold the amount of any overpaid funding from another funding transfer.

(3) The Contractor acknowledges that funding for Claims Payments shall be adjusted in full consideration of the Contract Scope of Service requirement that the Contractor shall identify and pursue claims that may be subject to coordination of benefits (COB); see Contract Section A.11.

d. The State shall reimburse the Contractor for the actual cost of the following in the performance of this Contract, provided that the Contractor provides documentation of actual costs incurred as required by the State.

(1) Postage. In a situation where unanticipated plan modifications would require notification to plan Members that is not detailed in the terms and conditions of this Contract, the State may request that the Contractor produce and mail such notification to plan Members. In such extreme situations, the State shall reimburse the Contractor only for the actual cost of postage for mailing materials produced at the specific direction of the State and authorized by the State.

(2) Printing / Production. The State shall reimburse the Contractor an amount equal to the actual net cost of document printing / production as required and authorized by the State as described in Contract Section C.3.c above. Additionally, if error(s) in member materials, approved by the State In Writing, are detected after the materials have been mailed, the State will reimburse the Contractor for the production and postage cost of mailing the corrected version.

Notwithstanding the foregoing, the State retains the right to authorize the Contractor to deliver a product to be printed, approved and accepted but not use the Contractor to print the material. In those situations, the State shall have the discretion to use other printing and production services at its disposal.

e. The State authorizes the Contractor to retain monies received through subrogation, on a per patient basis, of no more than 5% of the gross recoveries received. The Contractor may retain an additional 20% of the gross recoveries, when such recoveries are made by subrogation subcontractor(s). The Contractor's subrogation processes shall include the recovery of claims paid as a result of work related illnesses or injuries relative to worker's compensation claims.

f. Value Based Payments. The State shall reimburse the Contractor for approved costs resulting from any State approved value based initiatives.

g. Amounts due the State. The Contractor will remit amounts due the State that cannot be properly offset against recent claims no less than quarterly (e.g. funds received during run out period for subrogation cases or fraud repayments). Amounts owed the State of more than $25,000 are payable within 30 days.

C.4. At-Risk Performance Payments and SLA Scorecard. The Parties shall conduct a scorecard assessment (Contract Attachment D), beginning after Go-Live, on a quarterly basis (every three months) during the Term. Based on the SLA Scorecard, Contractor shall send the State an At-Risk Performance Payment (if applicable) quarterly (every three months) during the Term in accordance with Contract Attachment D. This payment is due within forty-five (45) calendar days of the quarterly SLA scorecard assessment.

C.5. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

C.6. Purchase Order in lieu of Invoice. The State will generate a monthly purchase order and initiate payment of the purchase order for the administration fees, based upon the State's record of enrolled Members as of the first day of the month, utilizing the rates listed in C.3. above.

C.7. 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.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 Reductions. The Contractor's payment shall be subject to reduction for amounts included in any 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.10. 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
Tennessee Department of Finance & Administration
Division of Benefits Administration
312 Rosa L. Parks Avenue, Suite 1900
Nashville, Tennessee 37243

a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of 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.10.

C.11. 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.12. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice 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.13. 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.14. 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, Director of Procurement and Contracts
Tennessee Department of Finance & Administration
Division of Benefits Administration
312 Rosa L. Parks Avenue, Suite 1900
Nashville, Tennessee 37243
Seannalyn.Brandmeir@tn.gov
Telephone: 615.532.4598
Fax: 615.253.8556

The Contractor:

Vanessa Clark, Senior Client Executive
Optum
11000 Optum Circle
Eden Prairie, MN 55344
Vanessa.Clark@optum.com
Telephone: 757.291.1470

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 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. The Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to one times the total Paid Claims, as defined in Contract Section A.2., that have processed throughout the one year of contract performance immediately preceding the breach. If the breach occurs in the first year of the contract, the calculation will be based on processed claims from the beginning of contract performance until the date of the breach, prorated to equal one year 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.

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 Public Sector Plan 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 Public Sector 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:

i. Contract Attachment A Attestation;

ii. Contract Attachment B Liquidated Damages;

iii. Contract Attachment C Reporting Requirements;

iv. Contract Attachment D Service Level Agreement Scorecard;

v. Contract Attachment E Qualifications and Service Definitions; and

vi. Contract Attachment F 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, 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 immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best, with the exception of medical malpractice. 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.

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., 3rd 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 at least ten (10) Business Days prior to renewal or replacement of coverage. Contractor shall require all subcontractors working under the context of this agreement to maintain appropriate levels of insurance based on the specific services that they're providing. 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. In the event of a claim or lawsuit, the State reserves the right to request complete copies of all required insurance policies, including all endorsements required by these specifications.

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. 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 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 minimum insurance obligations under this Contract shall be maintained as outlined in this Agreement: Any insurance proceeds for policies where the State is listed as an Additional Insured 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. 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 five (5) 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.

d. 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.

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.

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. Software Support and Maintenance Warranty. Contractor shall provide to the State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.

E.4. 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.5. 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 RFP 31786-00157 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.6. 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.7. 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 twenty-four (24) hours 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.8. 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 continental 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.

(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) In accordance with the timeframe for audits listed in Contract Section D.11 and in consultation with the State, 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. See Contract Attachment F.

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) The BC-DR plan shall encompass all Information Systems supporting this Contract. At a minimum the Contractor's BC-DR plan shall address and provide the results for the following scenarios:

i. Central and/or satellite data processing, telecommunications, print and mailing facilities and functions therein, hardware and software are destroyed or damaged;
ii. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of transactions that are active in a live system at the time of the outage;
iii. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of data maintained in a live or archival system; and
iv. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that does not compromise the integrity of transactions or data maintained in a live or archival system but does prevent access to the system.

(2) "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.

(3) 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. The Contractor shall submit a written summary of its annual BC-DR test results to the State (see Contract Attachment C, Reporting Requirements).

e. The Contractor and any Subcontractor used by the Contractor to host State data, including data center vendors, 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 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 and in addition to periodic bridge reports as requested by the State, see Contract Attachment C, Reporting Requirements. 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.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,

UNITED BEHAVIORAL HEALTHd/b/a OPTUM:

Sachin Shah (May 11, 2021 15:30 CDT)

05/11/2021

CONTRACTOR SIGNATURE	**DATE**
Sachin Shah	CFO Optum Behavioral Health

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

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

Howard H. Eley by BL

Digitally signed by Howard H. Eley by BL
Date: 2021.05.11 12:09:59 -05'00'

Howard H. Eley, CHAIRMAN	**DATE**

ATTACHMENT A

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	70164
CONTRACTOR LEGAL ENTITY NAME:	OPTUM
EDISON VENDOR IDENTIFICATION NUMBER:	70866

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.

Sachin Shah (May 11, 2021 15:30 CDT)

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.

Sachin Shah CFO Optum Behavioral Health

PRINTED NAME AND TITLE OF SIGNATORY

05/11/2021

DATE OF ATTESTATION

CONTRACT ATTACHMENT B

PERFORMANCE GUARANTEES AND 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. The list of Performance Guarantees and associated Liquidated 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.

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.

1. **Edison System Interface**	
Guarantee	The Contractor's interface with the Edison System shall be fully operational by the date specified in Contract Section A.24.
Assessment	Ten thousand dollars ($10,000) per Business Day beyond the deadline that the interface is not fully operational.
Justification	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.
Measurement	Measured, reported, reconciled and assessed no later than three (3) months after Go-Live.
2. **Implementation**	
Guarantee	The Contractor shall complete all tasks, deliverables, and milestones included in the project implementation plan, as required in Contract Section A.3.e. necessary to install the program by Go-Live.
Assessment	One thousand dollars ($1,000) for each Business Day for each late deliverable and/or milestone leading up to and by Go-Live.
Justification	This is a critical portion of the implementation of a new contract and needed before starting implementation to ensure all aspects of implementation are enacted accurately and timely. This assessment calculates the potential impact of missed or inaccurate implementation milestones.
Measurement	Measured, reported, reconciled and assessed no later than three (3) months after Go-Live.
3. **Operational Readiness**	
Guarantee	The Contractor shall resolve all findings identified by the State during its operational readiness review, as required in Contract Section A.3.g., prior to Go-Live.
Assessment	Ten thousand dollars ($10,000) per finding if the issue is not resolved prior to Go-Live.
Justification	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.
Measurement	Measured, reported, and paid no later than three (3) months after Go-Live.

4. **Call Center Operational**	
Guarantee	The Contractor's call center shall be fully operational no later than the date specified in Contract Section A.16.
Assessment	Ten thousand dollars ($10,000) for every Business Day beyond the deadline that the call center or other system is not operational.
Justification	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.
Measurement	Measured, reported, reconciled and assessed no later than three (3) months after Go-Live.
5. **Program Go-Live Date**	
Guarantee	All medical claims administrative services for the Public Sector Plans shall take effect (*i.e.*, "go-live") and be fully operational on or before Go-Live as required in Contract Section A.4.a.
Assessment	Twenty-five thousand dollars ($25,000) for each Business Day beyond Go-Live that medical claims administrative services are not fully operational.
Justification	Program go-live is an imperative performance guarantee listed in the Contract. If there is a delay in this, the State is unable to provide medical benefits coverage 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.
Measurement	Measured, reported, reconciled and assessed no later than three (3) months Go-Live.
6. **Enrollment Set-Up**	
Guarantee	As required in Contract Section A.24.d., enrollment information shall be loaded, tested, verified and available online for use no later than thirty (30) days prior to Go-Live.
Assessment	Ten thousand ($10,000) for each Business Day beyond the date specified in Contract Section A.24.d.
Justification	Enrollment file set-up is a critical step in providing Members behavioral health benefits. Without the accurate and timely set-up of this file, there is a potential harm to Members financially and in receiving behavioral health 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.
Measurement	Measured, reported, reconciled and assessed no later than three (3) months after Go-Live.
7. **Plan Design**	
Guarantee	The Contractor shall correctly adjudicate claims in accordance with the plan design and State approved covered benefits, per Contract Section A.11.a.
Assessment	One hundred dollars ($100) per occurrence (defined as an individual claim) plus the actual costs incurred of the incorrectly processed claim. This includes any administrative costs incurred by the Contractor or State to correctly reprocess claims or reimburse members and the plan for any overpayment.
Justification	Plan design information must be accurate as to not cause confusion or financial 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.
Measurement	Reported after each occurrence. Measured, reconciled and assessed quarterly.
8. **Plan Changes**	
Guarantee	Unless otherwise directed by the State, the Contractor shall correctly implement any plan design changes annually no later than January 1st of the benefit plan year or within sixty (60)

	days of written notification from the State for mid-year changes as required in Contract Section A.11.j.	
Assessment	Twenty-five thousand dollars ($25,000) per incorrect plan design setup such as, but not limited to, incorrect member cost share, incorrect covered services or excluded services.	
Justification	Plan changes must be timely and accurately implemented as to not cause confusion or financial 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.	
Measurement	Reported after each occurrence. Measured, reconciled and assessed quarterly.	
9. **Website and Splash Page**		
Guarantee	The Contractor's website for the Public Sector Plans shall be available on the internet and fully operational, with the exception of member data/Protected Health Information at least thirty (30) days prior to the first day of annual enrollment (generally October 1) and the Splash Page shall be fully transitioned from the current Contractor and operational by the Go-Live date as specified in Contract Section A.19.j.	
Assessment	One thousand dollars ($1,000) per Business Day, per site until operational or updated.	
Justification	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.	
Measurement	Measured, reported, reconciled and assessed no later than three (3) months after Go-Live and annually thereafter.	
10. **Provider Network Accessibility**		
Guarantee	As measured by the Geographic Access Provider & Facility Network Accessibility Analysis, the Contractor's efficient provider and facility network shall assure that 95% of all State, Local Education, and Local Government Plan enrolled members residing in Tennessee shall have the Access Standard indicated, as required in Contract Section A.7.f. and A.7.g. Should there be a deficiency in the network due to the unavailability of licensed providers in a specific area, the Contractor shall provide sufficient documentation with their access analysis report to request reconsideration of the access standard for that provider type for the reporting period in question.	
Definition	**Provider Type**	**Access Standard (Urban, Suburban, and Rural)**
	Psychiatrists and Advanced Practice Psychiatric Nurses	2 providers within 10 miles 2 providers within 15 miles 2 providers within 30 miles
	Psychologists	2 providers within 10 miles 2 providers within 15 miles 2 providers within 30 miles
	Child/Adolescent Providers	2 providers within 10 miles 2 providers within 15 miles 2 providers within 30 miles
	All other Master's Level Providers	2 providers within 10 miles 2 providers within 15 miles 2 providers within 30 miles
	Medication Assisted Treatment Providers	1 provider within 10 miles 1 provider within 15 miles

		1 provider within 30 miles
	Inpatient Acute Care Facilities	1 facility within 20 miles 1 facility within 30 miles 1 facility within 40 miles
	Intermediate Care Facilities (Residential and Partial)	1 facility within 20 miles 1 facility within 30 miles 1 facility within 40 miles
	Intensive Outpatient Facilities	1 facility within 20 miles 1 facility within 30 miles 1 facility within 40 miles
Assessment	Seventy-five thousand dollars ($75,000) if any of the above listed standards is not met, either individually or in combination. For purposes of measuring compliance with the access standards delineated in this liquidated damage, the Contractor shall provide the State with a Geographic Access report of provider access for urban, suburban, and rural areas. Unless otherwise directed by the State, the Contractor shall use the default definitions for urban, suburban, and rural areas. Unless otherwise directed by the State, the Contractor shall use the approved data analysis, report format, and Tennessee zip code list provided by the State prior to each reporting period.	
Justification	The Contract requires minimum access standards and without those, Members do not have access to providers within the access standards and therefore the potential to go without behavioral health services and increased financial hardship. 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.	
Measurement	Compliance report is the semi-annual Geographic Access Analysis submitted by the Contractor. Measured, reported, reconciled, and assessed quarterly.	
11. **Claims Data Submission**		
Guarantee	The Contractor shall submit all behavioral health and EAP counseling session claims data to the State's DSS contractor no later than fifteen (15) days following the end of each calendar month, or more frequently as directed by the State (see Contract Section A.24.h.(1) and Section A.24.h.(2)).	
Assessment	Five thousand dollars ($5,000) per Business Day up to the twentieth (20th) Business Day.	
Justification	Timely submission of claims data ensures that the State and Members have accurate and timely information. The State relies on the claims data information for reporting and planning purposes. Members rely on this data for Plan information such as deducible and out of pocket maximum amounts. 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.	
Measurement	Measured, reported, reconciled and assessed quarterly.	
12. **Accreditation**		
Guarantee	The Contractor shall be fully accredited by NCQA as a Managed Behavioral Healthcare Organization **and** URAC accredited for its UM program as specified in Contract Section A.10.g. and A.8.b. respectively.	
Assessment	Twenty thousand dollars ($20,000) per guarantee that is not met.	
Justification	This accreditation sets out minimum standards that a Contractor must utilize in a utilization management program to receive NCQA accreditation. This assessment and amount take into account the State's increased oversite and management of the Contractor without this accreditation.	

Measurement	Measured, reported, and paid annually.
13. **Privacy and Security of Protected Health Information Impacting 1 to 499 Members**	
Guarantee	In accordance with Contract Section D.20 and Contract Attachment F, the Contractor shall not violate 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). Pursuant to 45 CFR 164.402, breach is defined as the acquisition, access, use, or disclosure of protected health information in a manner not permitted under subpart E of the Privacy Rule which compromises the security or privacy of the PHI.
Assessment	Four Thousand Eight Hundred dollars ($4,800) per violation until resolved. 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. ***In the event Contractor is responsible for Federal Penalties related to a Privacy or HIPAA violation, the State may, at their discretion waive any Liquidated Damages due the State in association with the same violation.***
Justification	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: 1. HIPAA Compliance Officer time including investigating the breach, monitoring the HIPAA privacy hotline and email address estimated at seventy-five (75) hours; 2. Director of Financial Management and Program Integrity time and work estimated at seven and half (7.5) hours; 3. Program Director associated with this contract time and work estimated at fifteen (15) hours; 4. Executive Director's time and work estimated at one (1) hour; 5. Department attorney time including legal review estimated at one (1) hour; and 6. Service Center staff time and work answering Member questions/concerns estimated at fifteen (15) hours
Measurement	Reported after each occurrence. Measured, reconciled and assessed quarterly.
14. **Privacy and Security of Protected Health Information Impacting 500 or more Members**	
Guarantee	In accordance with Contract Section D.20 and Contract Attachment F, the Contractor shall not violate 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). Pursuant to 45 CFR 164.402, breach is defined as the acquisition, access, use, or disclosure of protected health information in a manner not permitted under subpart E of the Privacy Rule which compromises the security or privacy of the PHI.
Assessment	Nineteen Thousand dollars ($19,000) per incident basis violation until resolved. 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:

	1. HIPAA Compliance Officer time including investigating the breach, monitoring the HIPAA privacy hotline and email address estimated at one hundred thirty (130) hours; 2. Director of Financial Management and Program Integrity time and work estimated at thirty (30) hours; 3. Program Director associated with this Contract time and work estimated at forty-five (45) hours; 4. Executive Director's time and work estimated at eighteen (18) hours; 5. Department attorney time including legal review estimated at thirty (30) hours; 6. Service Center staff time and work answering Member questions/concerns estimated at one-hundred (100) hours; 7. Public Information Officer ("PIO")'s time and work estimated at forty-five (45) hours; and 8. Communications Director's time and work estimated at thirty (30) hours.
Justification	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. A breach impacting five hundred (500) or more Members has additional required steps and procedures including notification to the Office of Civil Rights ("OCR") with the U.S. Department of Health & Human Services ("HSS"); documentation to OCR for a required investigation; the drafting and mailing of Member notification letters; and a federally-required media release to media outlets across the State.
Measurement	Reported after each occurrence. Measured, reconciled and assessed quarterly.

CONTRACT ATTACHMENT C

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 15th of the following month;
3. Quarterly reports shall be submitted by the 20th of the month following the end of the quarter;
4. Semi-Annual Reports shall be submitted by January 20th and July 20th;
5. Annual reports shall be submitted within sixty (60) days after the end of the calendar year or as otherwise specified.

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

Reports shall include:

1. **EAP/Work-Life Utilization and Outcomes Report**, submitted quarterly in compliance with contract section A.5.k.
2. **Geographic Access Report**, submitted quarterly in compliance with contract section A.7.g.
3. **Appointment Access Report,** submitted upon request in compliance with contract section A.7.i.
4. **Value Based Payments Report** (if applicable), submitted in compliance with contract section A.7.l.(5).
5. **Quarterly Network Changes Update Report**, submitted quarterly in compliance with contract section A.7.n.
6. **Provider Denied Claim Appeals Report,** submitted quarterly in compliance with contract section A.7.s.
7. **Continuity of Care and Unique Care Exception Report**, submitted monthly in compliance with contract section A.7.aa.
8. **URAC Utilization Management Accreditation Report**, submitted annually in compliance with contract section A.8.b.
9. **Prior Authorization and Utilization Management Report**, submitted quarterly in compliance with contract section A.8.k.
10. **Utilization Management Effectiveness Report,** submitted upon request in compliance with contract section A.8.q.
11. **Psychotropic Medication Guidelines Report**, annually in compliance with A.10.c.
12. **Substance Abuse Outreach Program Report**, submitted quarterly in compliance with contract section A.10.d.
13. **Network Provider Issues Report,** submitted upon request in compliance with contract section A.10.e.
14. **NCQA MBHO Accreditation Report,** submitted annually in compliance with contract section A.10.g.
15. **Workplace Outcome Suite Cluster II Report** (or other approved tool), submitted quarterly in compliance with contract section A.10.i,

16. **Depression in the Workplace Report,** submitted quarterly in compliance with contract section A.10.j.
17. **Claims Financial Accuracy Report,** submitted quarterly in compliance with contract section A.11.c.(3).
18. **Processed Claims Report,** submitted quarterly in compliance with contract section A.11.c.(8).
19. **Coordination of Benefits Report,** submitted upon request in compliance with contract section A.11.z.
20. **Medicare Secondary Payer Report**, submitted weekly in compliance with contract section A.11.aa.
21. **Recoveries Report(s),** submitted monthly in compliance with contract section A.11.ee
22. **Bank Draft Report,** submitted at the same frequency as Contractor's bank drafts in compliance with contract section A.11.ff.(1).
23. **Reconciliation Report,** submitted monthly in a format prior approved by the State in compliance with contract section A.11.ff.(2).
24. **Denied Claims Report,** submitted quarterly in compliance with contract section A.11.kk.
25. **Pended Claims Report,** submitted monthly in compliance with contract section A.11.ll.
26. **IBNR Report,** submitted quarterly to the state's actuarial consultant in compliance with contract section A.11.mm.
27. **CAHPS Report,** survey results submitted annually by July 20th followed by the associated corrective action plan in compliance with contract section A.14.l.
28. **Appeals Report,** submitted quarterly in compliance with contract section A.15.g.
29. **Call Center Statistics,** submitted monthly in compliance with contract section A.16.m.
30. **Marketing and Communications Report,** submitted semi-annually in compliance with contract section A.17.b.(3).
31. **Transparency Tool Report** (if applicable), submitted quarterly in compliance with contract section A.19.h.(6).
32. **Security Risk Assessment Results Report,** submitted one (1) month prior to Go-Live and, thereafter, annually in compliance with contract section A.23.i.(10).
33. **Weekly Enrollment File Error Report**, submitted within one (1) Business Day of receipt of the weekly enrollment file in compliance with contract section A.24.e.(3).
34. **Ad-Hoc Reports**, in compliance with contract section A.25.e.
35. **BC-DR Test Results Summary,** annually in compliance with contract section E.8.d.(3).
36. **SOC 2 Type 2 Report,** submitted annually after Go-Live in compliance with contract section E.8.e.
37. **Other Reports**, as specified in this Contract.

CONTRACT ATTACHMENT D

Service Level Agreement 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 quarterly via the SLA Scorecard with relevant documentation. Contractor must submit the SLA Scorecard each calendar quarter documenting the Contractor's outcome for each of the KPI for the previous quarter, in which services were delivered, as well as any At-Risk Performance Payment due (if applicable).

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.

Use the following for the quarterly calculations – the Contractor will fill in the Quarterly Score column for each individual KPI. If the individual KPI does not apply for the reported quarter, place 'n/a' in the Quarterly Score column. The total possible score will be adjusted accordingly. The State will calculate the Total Quarterly Score using the following formula: Quarterly Score divided by total possible quarterly score multiplied by 100%. The At Risk Performance Payment will be determined by this percentage (see table below).

KPI		Description	Performance Requirement	Vendor Performance	Score if Met	Quarterly Score
1.	PA and UM Evaluation	The Contractor shall complete ninety-seven percent (97%) of all prior authorizations and utilization management decisions within the timeframes specified in Section A.8.j.	97%	97% or greater 95.0-96.9% 93.0-94.9% Less than 93%	10 8 6 0	
2.	Eligibility Discrepancies	Resolve all eligibility discrepancies (any difference of values between the State's database and the Contractor's database), not identified during processing, as identified by the State or Contractor within one (1) business day of notification by the State or identification by the Contractor, as required in Contract Section A.24.e.(4).	100%	100% 98.0-99.9% 96.0-97.9% Less than 96%	10 8 6 0	
3.	Expedited Appeals	One hundred percent (100%) of expedited appeals for urgent care, not involving a third-party review, shall be decided within seventy-two (72) hours, as required in Contract Section A.15.f.(1).	100%	100% 98.0-99.9% 96.0-97.9% Less than 96%	10 8 6 0	
4.	Non-Urgent Pre-Service Appeals	Ninety-five percent (95%) of non-urgent pre-service appeals shall be decided within thirty (30) days, as required in Contract Section A.15.f.(2).	95%	95% or greater 93.0-94.9% 91.0-92.9% Less than 91%	8 6 4 0	

5.	Non-Urgent Post-Service Appeals	Ninety-five percent (95%) of non-urgent post-service appeals within sixty (60) days, as required in Contract Section A.15.f.(3).	95%	95% or greater 93.0-94.9% 91.0-92.9% Less than 91%	8 6 4 0	
6.	Claims Auto-Adjudication	The claims management system shall automatically adjudicate no less than eighty percent (80%) of clean claims, i.e., without recourse to manual or other calculation methods external to the system, as required in Contract Section A.11.c.(1).	80%	80% or greater 75.0-79.9% 70.0-74.9% Less than 70%	8 6 4 0	
7.	Claim Adjustment Completion	The Contractor shall complete ninety-five percent (95%) of all claim adjustments within seven (7) calendar days, as required in Contract Section A.11.c.(6).	95%	95% or greater 93.0-94.9% 91.0-92.9% Less than 91%	8 6 4 0	
8.	Average Speed of Answer	The Contractor shall maintain an average daily ASA of thirty (30) seconds and callers may not be placed on hold after the call is answered, as required in Contract Section A.16.l.(1).	30 second average	30 Sec Avg 29-29.9 Sec Avg 28-28.9 Sec Avg Less than 28 Sec Avg	8 6 4 0	
9.	First Call Resolution	The Contractor shall maintain a first call resolution rate of 85%, as required in Contract Section A.16.l.(4).	85%	85% or greater 83.0-84.9% 81.0-82.9% Less than 81%	8 6 4 0	
10.	Distribution of Ongoing Member ID Cards/Welcome Kits	Ninety-five percent (95%) of new member welcome packets and ID cards shall be produced and mailed within ten (10) days of receipt of complete and accurate eligibility information, as required in Contract Section A.18.a., A.18.b., and A.18.e.	95%	95% or greater 93.0-94.9% 91.0-92.9% Less than 91%	10 8 6 0	
Total Sum Available Quarterly Scores						
Total Sum Achieved Quarterly Scores						
Quarterly Calculated Performance Percentage (Total Sum Achieved Quarterly Scores/ Total Sum of Available Quarterly Scores for all applicable KPIs) *100						

Quarterly Score	At Risk Performance Payment
>=95%	0% of previous quarter Administrative Fees
90.1-94.9%	.50% of previous quarter Administrative Fees
85-90%	1% of previous quarter Administrative Fees
80-84.9%	1.5% of previous quarter Administrative Fees
75-79.9%	2% of previous quarter Administrative Fees
74.9% or below	3% of previous quarter Administrative Fees

KPI	Description	Performance Requirement	At Risk Performance Payment
Unauthorized Usage of Information	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 required in Contract Section A.21.k.	If the Contractor uses data without prior approval	$50,000 per incident.
Reporting	The Contractor shall distribute to the State all reports required in the Contract within the time frame specified in the Contract as required in Contract Section A.25.d. and A.25.g.(7)., and Contract Attachment C, Reporting Requirements.	If the Contractor fails to deliver any report on time.	$1,000 per late or undelivered report.
Claims Payment Accuracy	Claims payment accuracy shall be ninety-seven point five percent (97.5%) or higher as required in Contract Section A.11.c.(5). • Quarterly internal audit performed by the State on a sample of 175 incurred date claims and 175 different paid date claims selected at random and provided by the Contractor. • Measures the frequency of payment errors by dividing the weighted number of correct benefit payments by the total number of payments in the population.	If the Contractor fails to meet the requirement.	$5,000 per missed requirement.
Claims Payment Turnaround	The Contractor shall reimburse network providers within fourteen (14) calendar days for ninety-two percent (92%) of clean claims and within thirty (30) calendar days for ninety-eight percent (98%) of all claims as required in Contract Section A.11.c.(2). • Quarterly internal audit performed by the State on a sample of 175 incurred date claims and 175 different paid date claims selected at random and provided by the Contractor. • Measures the time elapsed from the date a claim is received to the date the claim is processed. Only the received date, not the processed date is included in the calculation.	If the Contractor fails to meet either requirement.	$5,000 per each missed requirement.

Claims Processing Accuracy	Claims processing accuracy shall be ninety-six percent (96%) or higher as required in Contract Section A.11.c.(4). • Quarterly internal audit performed by the State on a sample of 175 incurred date claims and 175 different paid date claims selected at random and provided by the Contractor. • Measured by dividing the weighted number of claims processed without any type of error by the total number of claims in the population.	If the Contractor fails to meet the requirement.	$5,000 per missed requirement.
Financial Accuracy	Financial accuracy shall be ninety-nine percent (99%) or higher as required in Contract Section A.11.c.(3). • Quarterly internal audit performed by the Contractor on a statistically valid sample. • Calculated by taking the total benefit dollars paid in the population, minus the sum of the weighted absolute value of overpayments and underpayments identified from the sample, divided by the total dollars paid in the population.	If the Contractor fails to meet the requirement.	$5,000 per missed requirement.
Claims Data Quality	As assessed by the State's DSS contractor, the Contractor's data submission to the DSS contractor shall meet the following measures as required in Contract Section A.24.h.(4). Measures and Benchmarks: • Gender Data missing for </= (less than or equal to) 3% of claims • Date of birth Data missing for </= 3% of claims • Outpatient diagnosis coding Data invalid or missing for </= 5% of outpatient claims • Outpatient provider type missing Data missing for </= 1.5% of outpatient claims • Provider ID missing Data missing for </= 1.5% of claims	If the Contractor fails to meet any requirement.	$5,000 if any requirement is missed.
Member Notice of Provider Termination	The Contractor shall provide written notice to members regarding terminated providers, as specified in Contract Section A.7.p. • occurrence is defined as a provider termination impacting twenty-five (25) members or more	If the Contractor fails to meet the requirement.	$10,000 per occurrence.
Member Satisfaction Survey	The level of overall customer satisfaction, as measured annually by the CAHPS Member Satisfaction survey(s) required by Contract Section A.14.l., 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.	If the Contractor fails to meet the requirement.	$20,000 for each instance.

Authorization of Member Communications	The Contactor shall not distribute any materials to members prior to receiving the express, written authorization by the State for the use of such materials as required in Contract Section A.17.c and A.17.j.	If the Contractor distributes materials without prior State approval, In Writing.	$25,000 for each instance.
Timely Notification	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, plan, or benefits including but not limited to file and data sharing between contractors, as required in Contract Section A.21.l.	If the Contractor fails to notify the State within three (3) Business Days	$10,000 per incident

CONTRACT ATTACHMENT E

QUALIFICATIONS AND SERVICE DEFINITIONS FOR

EAP and WORK-LIFE SERVICES

Work-Life Service	Minimum Consultant Qualifications	Service Definition	Additional Requirements, Limits, or Exclusions
Financial Counseling	Appropriately certified as prior approved In Writing by the State	Assistance and advice regarding financial issues such as budget planning, debt management, credit counseling, and limited assistance and advice regarding tax issues	Financial consultants shall make members aware of the State's resources through RetireReadyTN (e.g., college funding, retirement planning: TCRS, 401(K), and 457);
Legal Consultation	Attorney licensed in the State of Tennessee who is a member of his/her local bar association, has been in practice for at least five (5) years, is in good standing with any applicable state or local authority, and has professional liability insurance in the amount of at least $200,000	Consultation on any legal issue except as otherwise excluded	Limit: One free hour per separate subject, per calendar year; twenty-five percent (25%) discount for ongoing legal services Exclusions: Advice on issues relating to the member's job or business concerns or any matter that is frivolous, harassing, or otherwise would be a violation of ethical rules
Child/Elder Care Assistance	Certified geriatric case manager or licensed behavioral health professional	Assistance with child and elder care issues, including but not limited to identification of child/elder care needs, assistance formulating a strategy to move forward, assistance in locating child/elder care contractors, referral to a local certified case manager for elder issues, ensuring that the member receives a timely appointment with a local certified case manager, and working with the case manager to ensure a seamless integration of services	
Supervisor Support and Referrals	Licensed behavioral health professional with a master's level or above behavioral health license	Consultation and support regarding a specific employee or general workplace performance issues including strategies for performance improvement and risk management	Department of Human Resources (DOHR) Management Referral Policy (Policy Number: 17-002) for Executive Branch of State Government.

Work-Life Service	Minimum Consultant Qualifications	Service Definition	Additional Requirements, Limits, or Exclusions
Critical Incident Response Services (CIRS)	Licensed behavioral health professional with a master's level or above behavioral health license with a current certificate of critical incident training.	A comprehensive, integrative, multi component crisis intervention system that provides interventions from the pre-crisis phase through the acute crisis phase and into the post-crisis phase that can be applied to individuals, small groups, large groups, families, organizations, and even communities. The core components of CIRS are: 1. Defusing. This is a 3-phase, structured small group discussion provided within hours of a crisis for purposes of assessment, triaging, and acute symptom mitigation; 2. Critical Incident Stress Debriefing (CISD). A structured group discussion, usually provided 1 to 10 days post crisis, and designed to mitigate acute symptoms, assess the need for follow-up, and if possible provide a sense of post-crisis psychological closure; 3. One-on-one crisis intervention/counseling or psychological first aid support throughout the full range of the crisis spectrum; and 4. Follow-up and referral mechanisms for assessment and treatment, if necessary	N/A
Employee and Supervisor Education, Awareness and Training	For education and training related to behavioral health, a licensed behavioral health professional with a master's level or above behavioral health license; for education and training regarding financial issues, appropriately certified as prior approved In Writing by the State; for education and training regarding legal issues, meeting the requirements for legal consultation	Training to promote employee and supervisor awareness and utilization of Work-Life services, including seminars on promotion and prevention, supervisor training, employee orientations, and workshops	The Contractor shall provide training as specified in the annual training plan prior approved In Writing by the State and shall also provide, upon State request, any training listed in the Contractor's EAP training catalog (see Contract Section A.18.m.) 600 hours of training and/or other like services as requested by the State

CONTRACT ATTACHMENT F

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 **United Behavioral Health d/b/a Optum** (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:**
Optum	**June 1, 2021**

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, including a 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 48 hours) 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 timely providing 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, to PHI in a Designated Record Set to Covered Entity, in order to meet the requirements under 45 CFR § 164.524, provided that Business Associate shall have at least 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 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 and accounting of disclosures of PHI in accordance with 45 CFR § 164.528, provided that Business Associate shall have at least 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 is 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 2.7.1 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
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
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:

United Behavioral Health
425 Market Street
San Francisco, CA 94105
Contact Name: Legal

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. The Term of this Agreement shall be effective as of [Insert effective date] and shall terminate on [Insert event 5-year data retention and protection contract clause(s) and reference the contract section clause] or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

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 Upon termination of this Agreement for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:

1. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;

2. Return to covered entity [or, if agreed to by covered entity, destroy and provide a Certificate of Destruction] the remaining protected health information that the business associate still maintains in any form;

3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;

4. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at [Insert section number related to paragraphs under "Permitted Uses and Disclosures By Business Associate"] which applied prior to termination; and

5. Return to covered entity [or, if agreed to by covered entity, destroy and provide Certificate of Destruction] the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.

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

With a copy to:

BUSINESS ASSOCIATE:
United Behavioral Health
425 Market Street
San Francisco, CA 94105
Contact Name: Legal

ATTN: Seannalyn Brandmeir
Director of Procurement and Contracts
At the address listed above
Phone: (615) 532-4598
Facsimile: (615) 253-8556
E-Mail: 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,

Sachin Shah (May 11, 2021 15:30 CDT) 05/11/2021

United Behavioral Health d/b/a Optum **Date:**

Howard H. Eley Digitally signed by Howard H. Eley
Date: 2021.05.11 12:11:00 -05'00'

Howard H. Eley, Commissioner of Finance & Administration **Date:**